

THE ORISSA HOUSING BOARD ACT, 1968

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ORISSA ACT 11 OF 1968
[THE ORISSA HOUSING BOARD ACT, 1968]

[Received the assent of the President on the 19th June 1968, first published in an extraordinary issue of the Orissa Gazette, dated the 3rd July 1968]

AN ACT TO PROVIDE FOR MEASURES TO DEAL WITH AND SATISFY THE NEED OF HOUSING ACCOMMODATION

Whereas it is expedient to provide for suitable measures for making of schemes and carrying out of works necessary for dealing with and satisfying the need of housing accommodation and for that purpose to establish a Housing Board for the State of Orissa and to provide for matters ancillary or incidental thereto ;

It is hereby enacted by the Legislature of the State of Orissa in the Nineteenth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Orissa Housing Board Act, 1968. Short title, extent and commencement.

(2) It extends to the whole of the State of Orissa.

(3) It shall come into force on such date as the State Government may, by notification, appoint in that behalf.

2. In this Act, unless the context otherwise requires :— Definitions

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

(b) "Board premises" means any premises belonging to or vested 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 ;

1. For Statement of Objects and Reasons, see *Orissa Gazette, Extraordinary* dated the 27th March 1968 (No. 246).

2. It came into force with effect from the 4th July, 1968 by notification No. 8197—11H—21/68—L. E. H., dated the 4th July 1961 [vide *Orissa Gazette, Extraordinary*, dated the 4th July 1968 (No. 736).]

(*Sec. 2-contd.*)

- (c) "building materials" means such commodities or articles as are specified by the State Government by notification to be building materials for the purposes of this Act ;
- (d) "bye-laws" means bye-laws made under section 64 ;
- (e) "Chairman" means the Chairman of the Board ;
- (f) "competent authority" means any person authorised by the State Government, by notification, to perform the functions of the competent authority under Chapter VI within such area as may be specified in the notification;
- (g) "Grama Sasan" means a Grama Sasan constituted under the Orissa Grama Panchayat Act, 1964; Orissa Act 1 of 1965.
- (h) "housing scheme" means housing scheme made under this Act and includes schemes entrusted to the Board by the State Government from time to time;
- (i) "land" includes benefits to arise out of land and thing attached to the earth or permanently fastened to anything attached to the earth;
- (j) "member" means a member of the Board;
- (k) "Municipal Council" means a Municipal Council or Notified Area Council constituted under the Orissa Municipal Act, 1950; Orissa Act 23 of 1950.
- (l) "Panchayat Samiti" means a Panchayat Samiti constituted under the Orissa Panchayat Samiti and Zilla Parishad Act, 1959; Orissa Act 7 of 1960.
- (m) "premises" means any building or part of a building and includes—
- (i) gardens, grounds and out-houses, if any, appertaining to such building or part of a building,

(Sec. 3)

- (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof, and
- (iii) any vacant land vesting in the Board;
- (n) "prescribed" means prescribed by rules;
- (o) "programme" means the annual housing programme prepared by the Board under section 19;
- (p) "regulations" means regulations made under section 63;
- (q) "rent" means the amount payable to the Board in respect of the occupation of a Board premises and includes the charges for water and electricity payable in respect of water and electricity used or consumed in the premises;
- (r) "rules" means rules made under this Act;
- (s) "Secretary" means the Secretary to the Board;
- (t) "Tribunal" means the Tribunal specified under section 40; and
- (u) "year" 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 notification, appoint in this behalf, there shall be established for the purposes of this Act, a Board by the name of the Orissa State Housing Board which shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall subject to the provisions of this Act, be competent to acquire, hold and dispose of property both movable and immovable and to contract and do all things necessary for the purposes of this Act.

1. See Notification No. 8199—IIIH—21/68—L.E.H., dated the 4th July 1968, published in Orissa Gazette, Extraordinary, dated the 4th July, 1968 (No. 736.)

(Sec. 4)

(2) The Board shall consist of the Chairman appointed by the State Government and of the following other members, namely:—

(a) the Housing Commissioner, *ex-officio* Member; and

(b) seven persons appointed by the State Government of whom four shall be officers of the State Government and one shall be a member of the Orissa Legislative Assembly nominated by the Speaker of the said Assembly.

(3) The names of the Chairman and other members appointed under sub-section (2) shall be published in the Gazette.

[(4) The Chairman and other members of the Board shall hold office during the pleasure of the State Government.]

(5) 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.

(6) For the purpose of this Act and the Land Acquisition Act, 1894, the Board shall be deemed to be a local authority.

1 of 1894

Leave of
absence of
Chairman

4. 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 may appoint 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.

1. Substituted by the Orissa Housing Board (Amendment) Act, 1980 (Or. Act 4 of 1980), s. 2.

(Sec. 5)

5. (1) A person ¹[shall be disqualified for being appointed as] the Chairman or any other member of the Board, if he—

Disqualifica-
tion for
appointment
on Board.

- (a) holds any office or place of profit under the Board;
- (b) is of unsound mind and stands so declared by a competent Court;
- (c) is 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;
- (e) is a Director or a Secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of the Board; or
- (f) has been convicted of any offence involving moral turpitude:

Provided that nothing contained in clause (a) shall apply to the Housing Commissioner.

(2) A person shall not 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 the said 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 newspaper in which any advertisement relating to the affairs of the Board is published.

(3) A person shall not 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.

¹ Substituted by the Orissa Housing Board (Amendment) Act, 1980 (Or. Act 4 of 1980), s. 3.

(Secs. 6—8)

Term of office and conditions of service.

6. ¹[(1) The Chairman and every other member, other than the *ex-officio* member, shall, unless sooner removed, hold office for a period of three years from the date of his appointment as Chairman or, as the case may be, other member:]

Provided that the State Government may extend the said period by a further period not exceeding one year:

Provided further that after the expiry of the term of office as aforesaid a person shall, unless disqualified, be eligible for reappointment.

(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.

Vacancy in membership.

7. If a member—

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

(b) tenders his resignation in writing to the State Government and the resignation is accepted; or

(c) is absent without the permission of the Board from three successive ordinary meetings,

he shall ceased to be a member.

Filling up casual vacancy and validity of actions during such vacancy.

8. (1) Any vacancy in the office of a member due to death, resignation, removal or otherwise shall be filled up by the State Government, by appointment of a person thereto, who shall hold office for the unexpired period of the term of the member in whose place he is so appointed.

(2) Notwithstanding anything contained in this Act, the continuing members may during such vacancy act, as if no vacancy had occurred.

1. Substituted by the Orissa Housing Board (Amendment) Act, 1980 (Or. 4 of 1980), s. 4.

(Secs. 9—11)

9. 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 proceedings of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act. Proceedings presumed to be good and valid.

10. (1) The Board shall have a Housing Commissioner, one or more Assistant Housing Commissioners, a Chief Accounts Officer and such other officers and employees as the Board may consider necessary for the efficient performance of its functions. Officers and employees of the Board.

(2) The Housing Commissioner shall be the Secretary to the Board.

(3) The appointment of the Housing Commissioner, Assistant Housing Commissioners and the Chief Accounts Officer shall be made by the State Government and the appointment of other officers and employees of the Board shall be made by the Board:

Provided that the Board shall not appoint any officer in the scale of pay the maximum of which exceeds five hundred rupees a month without obtaining previous sanction of the State Government.

(4) Subject to the rules made in that behalf the Board shall have power to create any post on its establishment:

Provided that no new post in the scale of pay the maximum of which exceeds five hundred rupees shall be created by the Board without the previous sanction of the State Government.

(5) The salary and other conditions of service of the Housing Commissioner, Assistant Housing Commissioners, Chief Accounts Officer and other officers and employees of the Board shall be such as may be prescribed.

11. 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 employee thereof, shall be eligible to be appointed or continue as an officer or employee of the Board. General disqualification of officers and employees.

(Secs. 12—14)

Appointment of Committees. 12. Subject to any rules made under this Act, the Board may, from time to time, and for any particular local area appoint one or more committees for the purpose of discharging such duties or performing such functions as it may delegate to them and any such Committee may discharge such duties or perform such functions with due regard to the circumstances and requirements of that particular area.

Meetings of the Board. 13. (1) The Board shall meet at least six times in a year to transact its business and a period of more than two months shall not elapse between two consecutive ordinary meetings of the Board.

(2) The business at the meetings of the Board shall, subject to the following clauses, be transacted in accordance with such regulations as the Board shall make in that behalf—

(a) the Chairman may whenever he thinks fit call for special meetings ;

(b) quorum for every meeting shall be five;

(c) every meeting shall be presided over by the Chairman and in his absence, by any member elected by the members present at the meeting to preside for the occasion ;

(d) if at any special or ordinary meeting of the Board a quorum is not present, the person presiding over the meeting shall adjourn the meeting to any other day, not being later than seven days from the date of adjournment and no quorum shall be necessary for such adjourned meeting ;

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

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

Power to make contracts.

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

(Secs. 15—17)

15. (1) Every contract shall be made on behalf of ^{Execution of contracts.} the Board by the Chairman :

Provided that—

- (a) no contract involving an expenditure of rupees ten lakhs and above shall be made without the previous sanction of the State Government;
- (b) (i) no contract involving an expenditure of rupees three thousand and above shall, subject to clause (a), be made without the previous sanction of the Board ;
- (ii) no estimate or tender involving an expenditure of rupees three thousand and above shall, subject to clause (a) be sanctioned or accepted, as the case may be, without the previous sanction of the Board.

(2) The provisions contained in sub-section (1) shall also apply in respect of every variation or abandonment of a contract or estimate.

(3) Every contract made 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.

(4) A contract not made or executed as provided in this section and the rules made in that behalf shall not be binding on the Board.

16. (1) Subject to any rules that may be made ^{Delegation of Board's power to sanction contracts.} in that behalf, the Board may, by order, delegate any of its powers under section 15 to the Chairman or to any other officer of the Board.

(2) The exercise of any powers delegated under this section shall be subject to such restrictions, limitations and conditions and to such control by the Board as may be specified in the order.

CHAPTER III

HOUSING SCHEME

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

(Sec. 18)

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

(3) The Board may, on such terms and conditions as may be agreed upon and with the previous approval of the State Government, take over for execution any housing scheme on behalf of a local authority or co-operative society or on behalf of an employer when the houses are to be built mainly for the residence of the employees of the concerned local authority, co-operative society or the employer and any such scheme shall be executed by the Board as if it had been provided for by this Act.

Matters to
be provided
or by hous-
ing schemes.

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

- (a) the acquisition by purchase, exchange or otherwise of any property necessary for or affected by the execution of the scheme ;
- (b) the laying or relaying out of any land comprised in the scheme and development thereof ;
- (c) the distribution or redistribution of site belonging to owners of property comprised in the scheme ;
- (d) the improvement and clearance of slums in the area included in the scheme ;
- (e) the closure or demolition of dwellings or portions of dwellings unfit for human habitation ;
- (f) the demolition of obstructive buildings on portions of buildings ;
- (g) the construction and reconstruction of buildings ;

(Sec. 18—contd.)

- (h) the sale, letting or exchange of any property comprised in the scheme ;
- (i) the construction and alteration of streets and back lanes ;
- (j) provision for the draining, water-supply and lighting of the area included in the scheme ;
- (k) the provision of parks, playing-fields and open space for the benefit of any area comprised in the scheme or any adjoining area, and the enlargement of existing parks, playing-fields, open space and approaches ;
- (l) the reclamation or reservation of lands for markets, gardens, playing-fields, schools, dispensaries, hospitals and other amenities in the scheme ;
- (m) the letting out, management and use, of the Board premises ;
- (n) the provision of sanitary arrangements required for the area comprised in the scheme, including the conservation and prevention of any injury or contamination to rivers or other sources and means of water-supply ;
- (o) the provision of accommodation for any class of inhabitants ;
- (p) the advance of money for the purposes of the scheme ;
- (q) the provision of facilities for communication and transport ;
- (r) the collection of such information and statistics as may be necessary for the purposes of this Act ;
- (s) any other matter for which, in the opinion of the State Government, it is expedient to make provision with a view to the improvement or development of any area comprised in the scheme or any adjoining area or the general efficiency of the scheme.

(Secs. 19—21

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

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

19. (1) Before the first day of December in each year, the Board shall prepare and forward—

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

to the State Government in such form as may be prescribed.

(2) The programme shall contain—

- (a) the prescribed particulars in respect of housing schemes which the Board proposes to execute whether in part or whole during the next year ;
- (b) the particulars of any undertaking or work which the Board proposes to organise or execute, as the case may be, during the next year for the purposes of 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.

Sanction of programme, budget and establishment schedule.

20. After receipt of the programme, budget and the schedule of the staff the State Government may approve the same with such modifications as they deem fit.

Publication of sanctioned programme.

21. The State Government shall publish the programme as sanctioned by them under section 20 in the Gazette.

(Secs. 22—25)

22. The Board may, at any time, during the year, in respect of which a programme has been sanctioned under section 20 submit a supplementary programme and budget and the additional schedule of the staff, if any, to the State Government and the provisions of sections 20 and 21 shall apply to such supplementary programme, budget or schedule, as the case may be.

23. The Board may, at any time, vary any programme as sanctioned by the State Government or any part thereof:

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

24. After the programme has been sanctioned by the State Government under section 20 the Board shall, subject to the provisions of section 23, proceed to execute the housing scheme included in the programme.

25. (1) Whenever any land or part thereof vested in any Improvement Trust, Municipal Council, Panchayat Samiti or Grama Sasan is included in the programme sanctioned by the State Government and is required for the purposes of carrying out the housing scheme in accordance with the programme, the Board shall give notice accordingly to the Improvement Trust, Municipal Council, Panchayat Samiti or Grama Panchayat, as the case may be.

(2) Where the Improvement Trust, Municipality, Panchayat Samiti or Grama Sasan concurs, such land or part thereof, shall vest in the Board.

(3) Where the Improvement Trust, Municipal Council, Panchayat Samiti or Grama Sasan concerned, refuses to give any such land for the purposes of sub-section (1), the matter may be referred to the State Government by the Board, and the State Government shall, after hearing the parties concerned, decide the matter and if they decide that such land or part thereof shall vest in the Board, it shall vest accordingly.

(Secs. 26—27)

(4) Nothing in this section shall affect the rights or power of the Improvement Trust, Municipal Council, Panchayat Samiti or Grama Sasan in or over any drain or water work in such land.

Compensation in respect of land vested in the Board.

26. (1) When any land vests in the Board under the provision of section 25 and the Board makes a declaration that such land shall be retained by the Board only until it reverts in the Improvement Trust, Municipal Council, Panchayat Samiti or Grama Sasan, as the case may be, as part of a street or open space under section 29, no compensation shall be payable by the Board to the Improvement Trust, Municipal Council, Panchayat Samiti or Grama Sasan, as the case may be, in respect of the land.

(2) Where any land vests in the Board under section 25 and no declaration is made under sub-section (1) in respect of the land, the Board shall pay to the Improvement Trust, Municipal Council, Panchayat Samiti or Grama Sasan, as the case may be, as compensation a sum equal to the value of such land.

(3) If, 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 Improvement Trust, Municipal Council, Panchayat Samiti or Grama Sasan, as the case may be, the Board shall pay to the Improvement Trust, Municipal Council, Panchayat Samiti or Grama Sasan, compensation in respect of such land in accordance with the provisions of sub-section (2).

Power of Board to divert or close public street vested in it.

27. (1) The Board may 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 in lieu thereof for the use, by those entitled to the use of such 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.

(Secs. 28-29)

(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 out so much of the same as is no longer required.

28. If there is any dispute as to whether any compensation is payable or as to the amount of compensation payable under section 26 or section 27 the matter shall be referred to the Tribunal.

Reference to Tribunal in case of dispute under section 26 or section 27.

29. (1) Whenever the State Government are satisfied—

Vesting in the Improvement Trust, Municipal Council, etc., of streets laid out or altered and open space provided by the Board.

(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 20; and

(b) that such lamps, lamp-posts and other apparatus as the Improvement Trust, Municipal Council, Panchayat Samiti or Grama Sasan, as the case may be, considers necessary for the lighting of such streets and as ought to be provided by the Board have been so provided; and

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

the State Government may declare the street to be a public street, and the street shall thereupon vest in the Improvement Trust, Municipal Council, Panchayat Samiti or Grama Sasan, as the case may be.

(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

(Sec. 30)

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 Improvement Trust, Municipal Council, Panchayat Samiti or Grama Sasan, in respect of any matter referred to in the preceding sub-sections the matter shall be referred to the State Government whose decision thereon shall be final.

Other duties
of the Board.

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

(2) The Board may,—

- (a) provide technical advice to the State Government and scrutinise projects under housing schemes in the area to which this Act extends when required by the State Government to do so ;
- (b) undertake research on various problems connected with housing in general and find out in particular the economical methods of constructing houses suited to local conditions ;
- (c) undertake comprehensive surveys of problems of housing ; and
- (d) do all things for—
 - (i) unification, simplification and standardisation of building materials;
 - (ii) encouraging pre-fabrication and mass production of house components;
 - (iii) organising or undertaking the production of building materials for residential for non-residential houses;
 - (iv) securing a steady and sufficient supply of workmen trained in the work of construction of buildings.

(Secs 31—33)

31. A housing scheme may provide —

(a) for the formation of a reconstituted plot by alternation 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 severality or in joint ownership shall, with or without alteration of boundaries be held in ownership in common as a reconstituted plot; and

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

Reconstitu-
tion of plots.

32. The State Government may, by general or special order published in the Gazette exempt any housing scheme entrusted to the Board by the State Government from all or any of the provisions contained in sections 18 to 24, subject to such conditions, if any, as they may impose or they may direct that any such provision shall apply to such scheme with such modifications as may be specified in the order.

Powers to
exempt
schemes from
provisions of
Section 18
to 24.

CHAPTER IV

ACQUISITION AND DISPOSAL OF LAND

33. (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:

Power to
purchase or
take lease by
agreement.

Provided that the previous approval of the State Government shall be obtained in case of purchase or exchange involving land worth more than rupees ten thousand and in the case of a lease for more than five year.

(2) The Board may with the previous approval of the State Government also take steps for the compulsory acquisition of any land or any interest therein required for the execution of any housing scheme in the manner provided in the Land Acquisition Act.

[53—73(a) Law]

(Secs. 34-35)

1894, and the acquisition of any land or any interest therein for the purposes of this Act shall be deemed to be acquisition for a public purpose within the meaning of the said Act.

Betterment charges.

34. (1) When by the execution of any housing scheme any land in the area comprised in the scheme will in the opinion of the Board be increased in value, the Board in framing the scheme may with the prior approval of the State Government declare that betterment charges shall be payable to the Board by the owner of the land or any person having an interest therein in respect of such increase in value of the land.

(2) Such increase in value shall be deemed to 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 not exceed one-half of such increase in value.

(3) Notwithstanding anything contained in subsection (1), in respect of any land used for agricultural purposes at the time of the execution of the scheme the betterment charges shall be leviable by the Board in such manner as may be prescribed, only after such land is used, or converted for use, for non-agricultural purposes.

Notice to persons liable for betterment charges.

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

(2) After hearing such person or, if such person fails to appear, after the expiry of the period within which 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.

(Secs. 36—39)

(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.

36. (1) Any person liable to pay betterment charges in respect of any land may at his option instead of paying the said charges in lump sum to the Board, execute an agreement with the Board to pay the same in such number of instalments as may be determined by the Board at such interest 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 a first charge on the interest of such person in such land.

37. All sums payable in respect of any land by any person on account of betterment charges under section 34 or by any person under an agreement under section 36 shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue.

Recovery of Betterment charges.

38. Subject to any rules made in that behalf, the Board may retain, lease out, 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 permitted under this Act.

Power to dispose of land.

39. (1) Where by the execution of a housing scheme, any plots comprised in the area included in the scheme are reconstituted or any person is dispossessed, from any land the Board shall, after making such inquiry as it thinks fit, award to the person affected by such reconstitution or dispossession such compensation as it deems reasonable. If the person is dissatisfied with the decision of the Board in the matter, he may inform the Board accordingly and the Board shall thereupon refer the matter to the Tribunal.

Disputes regarding reconstitution of plots.

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

(Secs. 40—44)

CHAPTER V

TRIBUNAL

District Judge to be the Tribunal,
Duties of the Tribunal.

40. The District Judge having jurisdiction in the area concerned shall be the Tribunal.

41. The Tribunal shall decide—

- (a) whether any compensation is payable under section 26;
- (b) the amount of compensation in matters referred to it under section 28;
- (c) disputes relating to betterment charges referred to it under section 35;
- (d) disputes and the amount of compensation to be awarded under section 39; and
- (e) such other matters as may be prescribed.

Powers of and procedure before Tribunal.

42. (1) In making enquiries the Tribunal shall have and exercise, as far as may be, the same powers and follow the same procedure as under the Code of Civil Procedure, 1908.

5 of 1908

(2) Every order made by the Tribunal for the payment of money or for the delivery of the possession of any property or for removal of any structure shall be enforced by the District Court as if it were the decree of the said Court.

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

45 of 1860

Decision of Tribunal to be final.

43. The decision of the Tribunal on any matter referred to it under this Act shall, subject to the provisions of section 44, be final.

Appeal to the High Court.

44. The Board or any person aggrieved by the decision of the Tribunal may, within three months from the date of the decision or such further period as the High Court may for sufficient cause allow, prefer an appeal before the High Court.

(Sec. 45)

CHAPTER VI

POWER TO EVICT PERSONS FROM BOARD PREMISES

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

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

Power to
evict certain
persons from
Board
Premises.

(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) made, or is making, material additions to, or alterations in, such premises without the previous written permission of the Board; or

(iv) 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,

he 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 such 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 from the date of the service of the notice:

Provided that no such order shall be passed unless the person has been afforded an opportunity to show-cause why such order should not be made.

(2) 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 reasonable force as may be necessary.

(Sec. 46)

(3) If a person, who has been ordered to vacate any premises under sub-clause (i) or (iv) of clause (a) of sub-section (1) pays, within thirty days of the date of service of the notice or such longer time as the competent authority may allow, to the Board the rent in arrears or, as the case may be, carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent authority, he shall, instead of evicting such person under sub-section (2) cancel the order made under sub-section (1) and there upon such person shall hold the Premises on the same term on which he held them immediately before such notice was served on him.

Explanation—For the purposes of this section and section 46, the expression “unauthorised occupation”, in relation to any person authorised to occupy any Board premises, includes the continuance in occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the Premises has expired or has been duly determined.

P woer to
recover rent
or damages
as arrears
of land.
revenue

46. (1) Subject to any rules made by the State Government in that behalf and without prejudice to the provisions contained in section 45, 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 that person to pay the same within such time, not being less than thirty days from the date of service of the notice, as may be specified therein.

(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 he 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, not being less than thirty days from the date of service of the notice, as may be specified therein.

(Secs. 47-48)

(3) If any person, who is served with a notice under sub-section (1) or under sub-section (2), refuses or fails to pay the amount in accordance with such notice, the amount shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue.

47. (1) Without prejudice to the provisions contained in sections 45 and 46 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 Board 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 towards the rent due from him in respect of the Board premises allotted to him.

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

(2) On the execution of such agreement, the State Government or 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 in accordance with the agreement and pay the amount so deducted to the Board.

48. (1) Any person aggrieved by an order of the competent authority under section 45 or section 46 may, within one month of the date of the service of notice under section 45 or section 46, as the case may be, prefer an appeal to the District Judge of the district in which the premises are situate:

Appeal

Provided that the appellate authority may entertain the appeal after the expiry of the said period of one month, if he 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 appellate authority may, after calling for a report from the competent authority and after making such further enquiry, as may be necessary, pass such orders as he thinks fit.

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

(Secs. 49—51)

Finality of orders.

49. All orders passed by a competent authority under this Chapter shall, subject to orders, if any passed in an appeal under section 48, be final and shall not be called in question in any Court.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

Board's Fund.

50. (1) The Board shall have a fund called the Housing Board Fund.

(2) The Board may accept grants, subventions, donations and gifts from the Central Government 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) The State Government may, from time to time, make grants to the Board to enable it to meet its administrative expenses.

(4) All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board all rents and all interest, profits and other moneys accruing to the Board shall be credited to the Housing Board Fund.

(5) Except as otherwise directed by the State Government, all moneys 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.

(6) 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 a² of 1934 bank included in the Second Schedule to the said Act.

Application of the Fund.

51. All property, the Housing Board 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.

(Secs. 52—55)

52. Subject to the prior sanction of the State Government, the Board may, within the budget sanctioned by the State Government, make an appropriation of an amount not exceeding ten thousand rupees, from one sub-head to another or from one minor head to another under the same major head.

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

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

(2) The rules made by the State Government for the purposes of this section may empower the Board to borrow by the issue of debentures and to enter into financial arrangements with Banks and other financial institutions including the Life Insurance Corporation of India.

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

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

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

55. (1) The Board shall cause to be maintained proper books of account and such other books as may be required under the rules and shall prepare an annual statement of accounts containing such particulars as may be prescribed.

(Secs. 56—57)

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

(3) As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together with a copy of the report of the auditor thereon on 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.

Concurrent
and special
audit of
accounts.

56. (1) Notwithstanding anything contained in Section 55, the State Government may order that there shall be concurrent audit of the accounts of the Board by such person as they think fit. The State Government may also direct a special audit to be made by a Chartered Accountant appointed by them of the accounts of the Board relating to any particular transaction or a class or series of transactions or to a particular period.

(2) When an order is made under sub-section (1), the Board shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purposes of audit and remedy or cause to be remedied the defects pointed out by such person, unless they are condoned by the State Government and shall also meet the cost, if any, of such audit.

CHAPTER VIII

MISCELLANEOUS

Reports

57. The Board shall, before such date and in such form and at such intervals as may be prescribed, submit to the State Government reports on such matters as may be prescribed, and the State Government may, if considered necessary, cause such report to be published in the Gazette.

(Secs. 58-59)

58. The Board shall also submit to the State Government such statistics, returns, particulars or statements in regard to any proposed or existing housing scheme or relating to any matter or proceedings connected with the working of the Board at such time and in such form and manner as may be prescribed or as the State Government may, from time to time, direct.

Other
statements
and return

59. 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—

Power 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 lines of work ;
- (e) to make such levels, boundaries and lines of work and cutting trenches ; or
- (f) to do any other thing.

whenever it is necessary to do so, for any of the purposes of this Act or any rules made or 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, except 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 occupied

(Secs. 60—62)

by women to remove themselves to some part of the premises where their privacy will not be disturbed ;

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

Notice of
Suit against
Board.

60. No person shall commence any suit against the Board or against any officer or employee of the Board or any person acting under the orders of the Board, for anything done or purporting to be done in pursuance of this Act, without giving to the Board, officer or employee or person concerned 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.

Valuation of
Assets and
Liabilities
of the
Board.

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

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

Power to
make Rules.

62. (1) The State Government may, by notification 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 matters, namely :—

- (a) the allowances of members and remuneration and conditions of service under section 6 ;
- (b) the manner and form in which contracts shall be entered into under section 15 ;
- (c) the form of annual housing programme, budget and schedule of staff of officers and employees particulars of housing scheme and other particulars to be contained in the programme under section 19;

(Sec. 62—contd.)

- (d) the form of notice under section 35 ;
- (e) the rate of interest under section 36 ;
- (f) other matters to be decided by the Tribunal under section 41 ;
- (g) the forms of notices under sections 45 and 46 and any other manner in which they may be served ;
- (h) the procedure to be followed in taking possession of any Board premises under section 45 ;
- (i) the manner in which damages under section 46 may be assessed ;
- (j) the manner in which appeals may be preferred under section 48 and the procedure to be followed in such appeals ;
- (k) the conditions subject to which the Board may borrow any sum under section 54 ;
- (l) the manner of preparation, maintenance and publication of accounts under section 55 ;
- (m) the date before which, the form in which the interval at which and the matters on which reports shall be submitted under section 57 ;
- (n) the time at which and the form and manner in which statistics, returns, particulars and statements shall be submitted under section 58 ;
- (o) the manner in which the Board shall be superseded and reconstituted under section 74 ;
- (p) specifying the bye-laws contravention of any of which shall be an offence ; and
- (q) any other matter which is to be or may be prescribed under this Act.

(Secs. 63—66)

(3) All rules made under this section shall be laid as soon as may be after they are made before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and if during the said period the State Legislature makes modifications, if any, therein, the rules shall thereafter have effect only in such modified form, so however that such modifications shall be without prejudice to the validity of any thing previously done under the rules.

Regulations

63. The Board may, from time to time with the previous approval of the State Government, by notification, make regulations not inconsistent with this Act or the rules made thereunder—

- (a) for the management and use of buildings constructed under any housing scheme ;
- (b) laying down the principles to be followed in allotment of tenements and premises ; and
- (c) for regulating its procedure and the disposal of its business.

Power to make Bye-laws.

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

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

(3) All bye-laws made under this section shall be published in the gazette.

Penalty for contravention of Bye-laws.

65. Whoever contravenes a bye-law made under section 64 the contravention of which is prescribed as an offence shall, on conviction, be punishable with imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees or with both.

Penalty for obstruction etc.

66. If any person—

- (a) obstructs 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

(Secs. 67—71)

(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 punishable with imprisonment for a term which may extend to two months or with fine which may extend to one thousand rupees or with both.

67. Any person who contravenes any provision of Chapter VI or any rule or order made thereunder or obstructs the lawful exercise of any power conferred by or under that Chapter shall, on conviction, be punishable with fine which may extend to one thousand rupees.

Penalty for contravention of any provision of Chapter VI and for obstructing lawful exercise of powers thereunder.

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

Authority for Prosecution.

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

Certain persons to be public servants.

45 of 1860

70. 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.

Protection of action taken under this Act.

Orissa Act 4 of 1968.

71. The Orissa House Rent Control Act, 1967—

Applicability of Orissa House Rent Control Act.

(a) shall not apply to any house belonging to or vesting in the Board under or for the purpose of this Act ;

(b) shall not apply as against the Board to any tenancies or other like relationship created by the Board in respect of such house ; but

(c) shall apply to any house let to the Board.

(Secs. 72—75)

Gov e r n-
ment's power
to give dire-
ctions to
Board.

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

Registration
of documents
executed on
behalf of
Board.

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

(2) Where any instrument is so executed, the registration officer to whom such instrument is presented for registration may, if he thinks fit, refer to the Chairman for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

Default in
performance
of duty.

74. (1) If the State Government are satisfied that the Board has made default in performing any duty imposed on it by or under this Act, they 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 6, 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.

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

(Sec. 76)

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 and realisable by the Board shall vest in and be realisable by the State Government ; and

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

(3) Nothing in this section shall affect the liability of the State Government in respect of loans or debentures guaranteed under sub-section (5) of section 54.

76. Notwithstanding anything contained in section 6, if a member of the State Legislature is appointed as a member of the Board (including the Chairman thereof), he shall not be entitled to receive any remuneration other than travelling allowance, daily allowance, or such other allowance which is paid to a member of the Board for the purpose of meeting the personal expenditure incurred in attending the meetings of the Board or in performing any other functions as such member.

Member of
the Legisla-
tive Assem-
bly not to
receive re-
muneration