

The Bihar State Housing Board Act, 1982

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Act 57 of 1982

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The Bihar State Housing Board Act, 1982Bihar Act 57 of 1982Published in Bihar Gazette (Extraordinary) dated 8.10.1983.An Act to provide for housing for the establishment of a State Housing Board and for certain other matters connected therewith.Be it enacted by the Legislature of the State of Bihar in the Thirty-third Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Bihar State Housing Board Act, 1982.(2)It extends to the whole of the State of Bihar:Provided that house-building activities of the Coal Mines Labour Housing Board under the Coal Mines Labour Welfare Funds Act, 1947 (Act 32 of 1947) and similar house-building activities of the Mica Mines and Iron Ore Mines Welfare Funds will remain outside the scope of the Housing Board.(3)It shall come into force at once.

2. Definitions.

- 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 29;(2)"appointed day" in relation to any area, means the day on which this Act comes into force in that area;(3)"Board" means the Bihar State 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 any premises which is entrusted to the Board under this Act for management and use for the purposes of this Act;(5)"building" means a house, outhouse, stable, shed, hut (other than a hut made of mud appurtenant to or situated in a cultivated field in any area outside the limit of a city, municipality, town area or notified area) or other enclosure or structure, whether or masonry, bricks, wood, mud,

metal or any other material whatsoever, and whether used as a human dwelling or otherwise and includes any verandah, platform, plinth, staircase, doorstep or wall including compound wall other than a boundary wall of a garden or of agricultural land not appurtenant to a house but does not include a tent or other such portable temporary shelter;(6)"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;(7)"bye-laws" means bye-laws made under Section 116;(8)"Chairman" means the Chairman of the Board;(9)"Managing Director" means the Managing Director of the Board;(10)"Committee" means any committee appointed under Section 13;(11)"competent authority" means any person or authority authorised by the Government by notification to perform the functions of the competent authority under Chapter IX for such area as may be specified in the notification;(12)"Government" means the State Government;(13)"housing or improvement scheme" means a scheme framed under this Act and includes any one of the types of schemes referred to in Section 28;(14)"land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;(15)"member" means the member of the Board, and includes the Chairman of the Board;(16)"municipality" means any area to which the Bihar and Orissa Municipal Act, 1922 (B. & O. Act VII of 1922) applies and includes any area comprised within the limits of a Municipal Corporation established and constituted under any law for the time being in force; and a notified area constituted under Chapter XIV of the Bihar and Orissa Municipal Act, 1922 (B. O. Act VII of 1922);Explanation.-A Municipality includes a notified area constituted under Chapter XIV of the Bihar and Orissa Municipal Act, 1922 (B. O. Act VII of 1922);(17)"owner" includes the person for the time being receiving or entitled to receive, whether on his own account or as agent, trustee, guardian, manager or receiver for another person or for any religious or charitable purpose the rents or profits of the property in connection with which the word is used;(18)"premises" means any land or building or part of a building and includes-(i)the garden, grounds and outhouses, if any, appertaining to such building or part of a building;(ii)any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof; and(iii)roadside land adjoining park, garden, roads, drains, water lines, sewer lines or area or vacant plot adjoining thereto;(19)"prescribed" means prescribed by Rules made under this Act;(20)"Regulations" means the Regulations made under this Act;(21)"Rules" means the Rules made under this Act;(22)"Secretary" means the person for the time being appointed by the State Government to discharge the functions of the Secretary to the Board;(23)"State" means the State of Bihar;(24)"Tribunal" means the tribunal constituted under section 52;(25)"Unit" means a Housing Unit established under section 21;(26)"Year" means the financial year; and(27)excepting clauses (6) and (17) references to a "City" or "Municipality" shall be construed as including references to areas lying within a distance of five kilometres beyond the limits of such City or Municipality.

Chapter II

Establishment of The Board

3. Creation and incorporation of the Board.

(1)The duty of carrying out the provisions of this Act shall, subject to the restrictions, conditions and limitations therein contained, be vested in a Board to be called : "The Bihar State Housing Board", and such Board shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued.(2)For the purposes of the Land Acquisition Act, 1894 (Act I of 1894), the Local Authorities Loans Act, 1914 (Act 9 of 1914), any other law for the time being in force the Board shall be deemed to be a local authority.(3)The Board shall have its head office at a place to be specified by the State Government and also an office at the headquarters of each unit and may have offices at such other places as it may consider necessary or be directed by the State Government.

4. Constitution of the Board.

(1)The Board shall consist of the following members, namely:- (a) a Chairman appointed by the State Government, (b) a Managing Director appointed by the State Government, (c) a Secretary appointed by the State Government, who shall be the Member-Secretary of the Board, (d) Secretary to Government of Bihar, Housing Department or the representative-ex-officio. (e) Finance Commissioner or a representative nominated by him who will not be an officer below the rank of Special Secretary or Additional Secretary-ex-officio, (f) Special Secretary to Government of Bihar, Planning Department-ex-officio, (g) Chief Engineer, Public Health Engineering Department-ex-officio, (h) Chief engineer, Housing Board-ex-officio, (i) Chief Town Planner, Bihar-ex-officio, (j) four non-official members, having knowledge of Housing problems in the State and special qualification in this respect, appointed by the State Government. (2) The appointment of Chairman and members specified in clauses (a) to (j) of sub-section (1) shall be notified in the Bihar Gazette.

4A. Constitution of an Executive Committee. - There shall be an Executive Committee consisting of five members including the Managing Director who shall be the Chairman of the Committee. Other four members shall be the following:-

(i) One non-official member nominated by the State Government out of the non-official members of the Board. (ii) Chief Engineer of the Housing Board; and (iii) Two members nominated by the State Government out of the remaining ex-officio members of the Board.

5. Disqualification for appointment as a member of the Board.

(1) A person shall be disqualified for being appointed as, and for being a member of the Board, if he- (a) has been convicted by a criminal court for an offence involving moral turpitude, unless, such conviction has been set aside. (b) is an applicant to be adjudicated a bankrupt or insolvent or is an un-certificated bankrupt or undischarged insolvent. (c) holds any office or place of profit under the Board. (d) has, directly or indirectly, by himself or by any partner, employer or employee and share

or interest in any contract or employment or with, by or on behalf of, the Board.(e)is a director, or a secretary, manager or other salaried officer or any incorporated company which has any share or interest in contract or employment with, by or on behalf of the Board, or(f)is of unsound mind:Provided that nothing contained in clause (c) shall apply to the Chairman.(2)A person shall not however, be disqualified under clause (d) or clause (e) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of those clauses, by reason only of his or the incorporated company of which he is a director, secretary, manager or other officer, having a share or interest in-(i)any sale, purchase, lease or exchange of immovable property or any agreement for the same,(ii)any agreement for the loan of money or any security for the payment of money only,(iii)any newspaper in which any advertisement relating to the affairs of the Board is inserted, and(iv)the occasional sale to the Board to a value not exceeding two thousand rupees in any one year, of any article in which he or the incorporated company regularly trades.(3)A person shall not also be disqualified under clause (d) or clause (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 will, by, or on behalf of the Board, by reason only of his being a share holder of such company:Provided that such person discloses to the Government the nature and extent of the shares held by him.

6. Terms of office of Chairman and non-official members.

(1)Subject to the provisions of Section 10 the term of office of members including the Chairman but not including the ex-officio members shall be three years commencing on the date on which their appointment is notified:Provided in case of an Official Chairman he shall be deemed to have vacated his office on transfer, resignation or retirement:Provided further that the State Government may by notification extend the said period by an another period not exceeding six months.(2)A member shall, if not disqualified for any of the reasons mentioned in Section 5, be eligible for re-appointment at the end of his terms of office.(3)Any non-official member may resign his office by giving notice in writing to the Government but he shall continue in office until his resignation is accepted by the Government.

7. Terms of pay and allowances of the Chairman and the Managing Director.

(1)Chairman and Managing Director shall be paid such salary and allowances as may be fixed by the Government:Provided in the event of non-official person being appointed as Chairman, he shall be part time officer and his chief function shall be to preside over meetings of the Board.

8. Leave of absence of the Chairman and Managing Director and appointment of Acting Chairman.

(1)The Government may, from time to time, grant to the Chairman and Managing Director such leave as may be admissible under the Rules.(2)Whenever the Chairman is out of the State and the period of his absence exceeds 15 days or the Chairman for some reasons, is unable to perform his duties or for some reasons the post of Chairman is vacant, or the Chairman has resigned from his

post, the Managing Director shall perform all the duties of the Chairman till such time that regular appointment is not made to the post of the Chairman under the provisions of this Act.(3)The Chairman and Managing Director shall draw their tour programme with the approval of the State Government.

9. Removal of the Chairman and other non-official members.

(1)If at any time it appears to the Government that the Chairman has shown himself to be unsuitable for his office, or has been guilty of any misconduct or neglect which renders his removal expedient, they may by notification, remove the Chairman from office.(2)The Government may, by notification, remove any non-official members from office,-(a)if he has, without the permission of the Board, been absent for more than three consecutive meetings of the Board, or(b)if he has been absent from the meetings of the Board for any period exceeding that permitted under Section 10, or(c)if he being a legal practitioner, acts or appears on behalf of any person other than the Board in any civil, criminal or other legal proceedings in which the Board is interested, either as a party or otherwise, or(d)if he has, in the opinion of the Government contravened the provisions of Section 14, or(e)if he, in the opinion of the Government, is unsuitable or has become incapable of acting as a member, or has so abused his position as a member as to render his continuance as such member detrimental to the public interest.(3)A non-official member removed,under any of the provisions of clauses (a) to (c) of sub-section (2) shall be disqualified for appointment as a member for a period of three years from the date of his removal unless otherwise ordered by the Government.(4)A non-official member removed under clause (e) of sub-section (2) shall not be eligible for reappointment until he is declared by an order of the Government to be no longer eligible.

10. Filling of casual vacancies in certain case.

- If any member other than the ex-officio member is permitted by the Board to absent himself from its meeting for a period exceeding six months, or if any such member dies, resigns his office, or is removed from office under Section 9, the vacancy shall be filled within two months by a fresh appointment and any person appointed to fill such vacancy shall enter upon office forthwith but shall hold office only so long as the vacancy lasts in case of absence, and for, the unexpired portion of the term of office in other cases:Provided that the person so appointed is eligible for being appointed as a member to the provisions of Section 4 of the Act and is not disqualified under Section 5.

Chapter III

Conduct of Business of the Board and its Committees.

11.

(1)The Board and the Executive Committee shall meet at such times and places and shall observe such Rules of procedure in regard to transaction to business at its meetings as may be provided by Regulations made under this Act.(2)All questions at a meeting shall be decided by a majority of

votes of the members present, and, in the case of equality of votes, the Chairman or in his absence, any other person presiding, shall have a second or casting vote.(3)If for any reason the Chairman of the Board or the Chairman of the Executive Committee is unable to attend any meeting of the Board or, as the case may be, of the Executive Committee-(a)in the case of the meeting of the Board, a Director, not being the managing Director, authorised by the Chairman of the Board in writing, shall preside at such meeting but if the Director so authorised is absent or if, no such authorisation has been made, the Board may elect a Director to preside at that meeting; and(b)in the case of the meeting of the Executive Committee a member authorised in writing by the Chairman of that Committee shall preside at the meeting but if the member so authorised is absent or if no such authorisation has been made, the Committee may elect any of its members to preside at that meeting.

11A.

(i)Subject to such general or special directions as the Board may from time to time give, the Executive Committee may deal with any matter within the competence of the Board.(ii)The minutes of every meeting of the Executive Committee shall be laid before the Board at the next following meeting of the Board.

12. Temporary association of persons with the Board for particular purposes.

(1)The Board may associate with itself in such manner and for such purpose as may be prescribed by Regulations, any person whose assistance or advice it may desire for the purpose of carrying into effect any of the provisions of the Act:Provided that the number of persons so associated shall not be more than five.(2)A person associated with the Board under sub-section (1) for any purpose shall have the right to take part in the deliberations of the Board relevant to that purpose but shall not have the right to vote.(3)The Government may by order depute one or more of its officers to attend any meeting of the Board and to take part in the deliberations of the Board but such officer or officers shall not have the right to vote.

13. Appointment and functions of the Committee.

(1)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 areas:Provided that no Committee shall consist of less than three and more than seven members.(2)The Managing Director or such other person, as he may nominate in this behalf, shall be the President of the Committee and the Committee shall observe such rules of procedure in regard to transactions of business at its meetings as may be prescribed by Regulations.(3)Every Committee shall carry out any instructions given to it by the Board and every final decision of such Committee shall subject to any rule to the contrary be laid before the Board for confirmation.(4)The Board may at anytime, for reasons to be recorded in writing, dissolve or subject to the provisions of sub-section (1) after the constitution of any such Committee to modify or set aside "the decision of

the Committee.(5)No business shall be transacted at any meeting of the Committee unless there be present at least one half of the number of members constituting the Committee.

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

(1)A member or a person associated with the Board under Section 12 or a member of any Committee who-(a)has, directly or indirectly by himself or by any partner, employee or employees any such share or interest as is described in sub-section (2) of Section 5 in respect of any matter, or(b)has acted professionally, in relation to any matter, on behalf of any person having therein any such share or interest as aforesaid, shall not vote or take part in any proceedings of the Board or any Committee relating to such matter.(2)If any member or any person associated with the Board under Section 12 or any member of a Committee appointed under Section 13 has, directly or indirectly, any beneficial interest in any land situated in an area comprised in any housing or improvement scheme framed under this Act or in an area in which it is proposed to acquire land for any of the purposes of this Act-(i)he shall at a meeting relating to such area of the Board or any Committee inform the person presiding of the nature of such interest, and(ii)he shall not take part in any proceedings relating to such area at a meeting of the Board or any Committee.(3)Nothing in sub-section (2) shall prevent any member or any person associated with the Board under Section 12 or any member of a Committee appointed under Section 13 from voting on or taking part in, the discussion of any resolution or question relating to any subject other than a subject referred to in that sub-section.

15. Acts of the Board or Committee not to be invalidated by any infirmity, etc.

- No act done or proceedings taken under the Act by the Board or any Committee shall be invalidated merely on the ground-(a)of any vacancy or defect in the constitution of the Board or the Committee; or(b)of any defect or irregularity in the appointment of a person acting as a member thereof; or(c)of any defect or irregularity in such act or proceeding not affecting the merits of the case.

Chapter IV

Officers and Employees

16. Appointment of officers and employees.

(1)The Board shall have a Chairman, a Managing Director, a Secretary, a Housing Chief Engineer, a Chief Accounts Officer and such other officers and employees, as it considers necessary for the efficient performance of its functions.(2)(a)The appointment of the Chairman, Managing Director, Secretary, the Housing Chief Engineer and 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.(b)The Secretary to the Board shall perform the following functions:-(i)Submission of matters for considerations or orders of the Board,(ii)Communication of orders and resolutions of the

Board.(iii)Control over the general administration of the Board, and(iv)Functions prescribed by the State Government from time to time,(3)Subject to the provision of sub-section (1)-(i)the Board may, with the previous approval of the State Government sanction the creation of any post the maximum scale of which exceeds rupees one thousand five hundred and eighty per month provided appointment to such a post will be made in consultation with the Public Service Commission of the State, and prior approval of the Government.(ii)the Board shall have power to create posts in its establishment the maximum pay-scale of which does not exceed rupees one thousand five hundred and eighty per month:Provided the appointment to a post above the monthly income of rupees eight hundred and forty will be made in consultation with the Public Service Commission of the State.(iii)(a)The Managing Director may appoint temporarily for a period not exceeding three months, such officers or employees, as may, in his opinion, be required for the purposes of this Act, and the employment of whom for any particular work has not been prohibited by any resolution of the Board. The Managing Director shall not appoint or extend the services of any such officer beyond three months without the prior approval of the Board and the prior sanction of the Government.(b)every appointment made under clause (a) shall be reported by the Managing Director to the Board at its next meeting.

17. Conditions of service of officers and employees of the Board.

- The remuneration and other conditions of service of the Managing Director, Secretary, Housing Chief Engineer, Chief Accounts Officer and other Officers and employees of the Board shall be such as may be prescribed by Regulations approved by the Government.

18. Promotions and punishment of the Officers and employees of Board.

(1)Subject to any Regulations made under Section 19 the power of making promotions to posts in the service of the Board, fining, withholding promotions from, reducing, suspending, removing or dismissing such Officers and employees for any breach of departmental Rules or discipline or for carelessness, unfitness, neglect of duty or misconduct, and of discharging such officers and employees from the service of the Board for any other sufficient reasons shall be exercised by the following authorities, namely:-(a)by Managing Director in the case of posts, the maximum monthly pay scale of which does not exceed [eight hundred and forty rupees] [See now New Pay Scale.] and the employees holding such posts;(b)by the Board after consultation with the Public Service Commission of the State, in the case of post, the maximum monthly pay-scale of which exceeds eight hundred and forty rupees but does not exceed [one thousand five hundred and eighty rupees] [See now New Pay Scale.] and Officers and employees holding such posts;(c)by the Board after consultation with the Public Service Commission of the State and with the previous sanction of the Government in the case of posts, the maximum salary of which exceeds [one thousand five hundred eighty rupees] [See now New Pay Scale.] and Officers and employees holding such posts:Provided that any officer or employees of the Central or State Government or a local authority, whose services have been lent to the Board, shall not be so punished except by an authority which would have been competent to do so, if his services, had not been so lent, but the Managing Director or the Board, as the case may be, shall be entitled to make an enquiry and to report with a recommendation in that behalf against such employees to such authority:Provided further that in consultation with the

Public Service Commission under clause (b) or (c) shall not be necessary in the case of appointment of technical personnel made for a period not exceeding six-months: Provided further also that it shall not be necessary to consult State Public Service Commission in case of censuring, fining or suspending and further that the provision of this section shall not apply in case of reverting back to original post from officiating promotions and termination of service from after completion of term of temporary appointment. (2) Any Officer or employee of Board who is aggrieved by an order passed under sub-section (1) may, within two months from the date of receipt by him of such order, appeal-(a) to the Board, if the order was passed by the Managing Director, and (b) to the Government, if the order was passed by the Board: Provided that in all cases the order of the Government shall be final. (3) For the purposes of this Section, an order of suspension only shall not be deemed to be an order of punishment.

19. Service Regulations.

- Subject to the provisions of this Act, the Board shall with the previous approval of the Government, make Regulations-(a) fixing the salary and allowances of the Chairman, Managing Director, Secretary, Chief Engineer, Chief Accounts Officer and other officers and employees of the Board; (b) fixing the amount and nature of the security to be furnished by an officer or employee of the Board from whom it may be deemed expedient to require security; (c) for regulating the grant of leave of absence, leave allowances and acting allowances to the officers and employees of the Board: Provided that employee of the Central or State Government employed as an Officer or employee of the Board shall not be entitled to leave or leave allowances, otherwise than as laid down in the conditions of his service under the Central or State Government relating to transfer to Foreign service; (d) for establishing and maintaining a Provident and Annuity Fund, for compelling all or any of the officers or employees of the Board other than any employee of the Central or State Government in respect of whom a contribution is paid under Section 105 to subscribe to such fund at such rates and subject to such conditions as may be prescribed, and for supplementing such subscription out of the funds of the Board; and (e) for determining the conditions under which the officer and employees of the Board or any of them shall on retirement receive gratuities or compassionate allowances and the amount of such gratuities and compassionate allowances: Provided that it shall be at the discretion of the Board to determine whether all such officers and employees or any of them and if so which of them shall become entitled on retirement to any such gratuities or compassionate allowances as aforesaid.

20. Statement of strength and remuneration of staff.

- On the first day of May every year the Board shall prepare and maintain a schedule of establishment as on the first day of April of the year showing-(a) the number, designations and grades of the officers and employees other than employees who are paid by the day or whose pay is charged to temporary work, whom it considers necessary and proper to employ for the purposes of the Act, (b) the amount and nature of the salary, fees and allowances to be paid to each such officer and employee, and (c) the contributions payable under Section 105 in respect of each such officer and employee.

21. Housing Units.

(1)The Board may with the previous approval of Government establish by resolution a Housing Unit for any city or for any other area for the efficient performance of its function in that area.(2)Every Housing Unit shall form part of the establishment of the Board and shall consist of such officers and servants as may be admissible according to standards prescribed by the Government.(3)Every Housing Unit shall be under the charge of an Officer who shall exercise such powers and perform such duties and functions which may be assigned to him by the Managing Director under Section 22 of the Act. Such officer shall be under administrative control of the Managing Director.

22. Control and delegation by Managing Director.

(1)The Managing Director shall exercise supervision and control over the acts and proceedings of all officers and employees of the Board, and, subject to the foregoing Sections and subject also to such control and revision as may be prescribed, shall decide all questions relating to the service of the said officers and employees and their salaries, allowances, benefits and privileges.(2)The Managing Director may, by general or special order in writing delegate to any officer of the Board, any of his powers, duties or functions under this Act, or any rules or Regulations made thereunder, except those under Sections 11, 90 and 93:Provided that-(a)the Managing Director shall not delegate his powers under Sections 24 and 65 to incur expenditure and to approve estimates for any single work or scheme, the value of which exceeds fifty thousand rupees;(b)the Managing Director shall not delegate his power under Section 16 to make appointments on posts the maximum monthly pay-scale of which exceeds three hundred seventy-five rupees; and(c)the Managing Director with the prior approval of the Board may delegate any of his powers, duties and functions under Section 18.(3)The exercise of discharge by any officer of any powers, duties or functions delegated to him under sub-sections (2) shall be subject to such restrictions and limitations as may be imposed by the Managing Director and shall also be subject to his control and revision.(4)Against any order of the nature, referred to in sub-section (2) of Section 18 passed by Officer to whom the Managing Director's powers in that behalf has been delegated, an appeal shall lie to the Board, and if the Managing Director has himself revised the order of such officer, an appeal shall lie to the Board against the order of the Managing Director.

23. Power to set aside resolution or order of the Board.

- The Government may stay or set aside any resolution of the Board or any order of the Managing Director or of the Board, if in the opinion of the Government the resolution or order is in excess of the power conferred by law, or is not in consonance with the public interest.

Chapter V

Execution of Contracts

24. Execution of contracts and approval of estimates.

(1)The Board may enter into and perform such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.(2)Every contract shall be accepted and executed on behalf of the Board by the Managing Director or if so, authorised by the Board, by the Chief Engineer, Superintending Engineer or Executive Engineer provided that the Board shall determine the maximum value of contracts to be executed and sanctioned by such authorised officers.(3)Administrative approval for execution of schemes or for the expenditure for carrying out any of the purposes of this Act, shall be accorded-(a)by the Managing Director-amount not exceeding rupees fifty thousand,(b)by the Board-amount exceeding rupees fifty thousand but administrative approval for schemes as per expenditure exceeding rupees two hundred lakhs shall not be accorded without the prior approval of the State Government.(4)Sub-sections (2) and (3) shall apply to every variation or abandonment of a contract or estimate, as well as to original contract or estimate.

25. Delegation of Board's power to sanction contracts.

(1)Subject to any Rules that may be made in that behalf, the Board may, by order delegate any of its powers under Section 24 to the Managing Director 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.

26. Further provisions as to execution of contracts.

(1)Every contract by the Managing Director 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.(2)A contract not executed as provided in this Section and the Rules made thereunder shall not be binding on the Board.

Chapter VI

Functions and Powers of The Board

27. Powers and duties of the Board to undertake housing improvement schemes and their expenditure.

(1)Subject to the provisions of this Act and subject to the control of the Government, the Board may from time to time incur expenditure and undertake work, in any area in which this Act is in force for the framing and execution of such housing schemes as it may consider necessary.(2)Government may, on such terms and conditions as it may think fit to impose, entrust to the Board the framing and execution of any housing or improvement 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 or improvement 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, members of the cooperative society or the employees of the employers and the Board shall execute such scheme as it had been provided for by this Act.

28. Types of Schemes.

(1)The Board shall undertake the following types of housing and improvement schemes:- (a)The Integrated Subsidised Housing Scheme for industrial worker and the economically weaker sections of the community; (b)The Low Income Group Housing Scheme; (c)The Middle Income Group Housing Scheme; (d)The Rental Housing Scheme; (e)The Land Acquisition and Development Scheme; (f)The Slum Clearance and Improvement Scheme; (g)The Rural Housing Scheme; and (h)A general town improvement Scheme and such other Schemes as may be entrusted to it by the State or Central Government. (2)The Schemes specified in clauses (a) to (d), clauses (f) to (g) of subsection (1) may provide for the construction of houses for outright sale, leasing out on rent or sale on hire purchase basis of any house so constructed. (3)The Board may provide for renting out, leasing out, outright sale or sale on hire purchase of houses or house-sites, constructed under the schemes specified in sub-section (1). However, the Board shall prepare Regulations for the allotment of houses/flats/sites with the approval of the Government and allotments shall be made in accordance with these Regulations. In case the allotments are not in accordance with such regulations the allotment shall be considered to be illegal. (4)The Board may provide in the area where the Scheme mentioned in subsection (1) is in force, roads, streets, drainage, water-supply, street lighting and other amenities as necessary.

29. Matters to be provided by housing or improvement Schemes.

- Notwithstanding any thing contained in any other law for the time being in force, the aforesaid housing or improvement Scheme may provide for all or any of the following matters; namely:- (a)the acquisition by purchase, exchange, or otherwise of any property necessary for or affected by the execution of the Scheme; (b)the laying or re-laying out of any land comprised in the Scheme; (c)the distribution or re-distribution of sites belonging to owners of the property comprised in the Scheme; (d)the closure or demolition of dwellings or portions of dwelling unfit for human habitation; (e)the demolition of obstructive buildings or portion of buildings; (f)the construction and re-construction of building; (g)the sale, lease or exchange of any property comprised in the scheme; (h)the construction and alteration of roads, streets, back lane, bridges, culverts, and causeways; (i)the draining, water-supply and lighting of the streets included in the Scheme; (j)the provision of open parks, playing fields and open spaces for the benefit of any area comprised in the scheme or adjoining area and the enlargement of existing parks, playing fields open spaces and approaches; (k)the provision of sanitary area arrangements record the area comprised in the Scheme, including the conservation and prevention of injury or contamination to rivers or other sources and means of water-supply; (l)the provision of accommodation for any class of inhabitants; (m)the advance of money for the purposes of Scheme; (n)the provision of facilities for communication and transport; (o)the collection of such information and statistics as may be

necessary for the purposes of this Act;(p)the reclamation or reservation of land for markets, gardens, playing fields and afforestations;(q)the provision of schools, parks, swimming pools, restaurants, shops, markets, fuel depots, laundries, hair dressing saloons and other amenities in the scheme; and(r)any other matter for which in the opinion of the Government is expedient to make provision with a view to provide house accommodation and to the improvement of any area comprised in the scheme, or of any adjoining area or the general efficiency of the Scheme.Explanation.-For the purposes of this Section, the Government may, on the recommendation of the Board, by notification, specify such area surrounding or adjoining the area included in a housing or improvement schemes to be the adjoining area.

30. No housing or improvement scheme to be inconsistent with the Master Plan.

(a)No housing or improvement Scheme made under this Act, shall contain anything which is inconsistent with any of the matters included in a Master Plan sanctioned by Government under the Bihar Town Planning and Improvement Trust Act, 1951 (Bihar Act XXXV of 1951).(b)If any dispute arises whether a housing or improvement Scheme made under this Act contains anything inconsistent with any matter included in a Master Plan sanctioned under the Bihar Town Planning and Improvement Trust Act, 1951 (Bihar Act XXXV of 1951), the decision of the Government shall be final.

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

(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 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 estimate receipts and expenditure on capital and revenue accounts for the next year and such other particulars as may be prescribed and shall make provision for the due efficient administration of this Act.(4)The schedule of the staff and establishment shall contain the information as mentioned in Section 20.

32. Sanction of programme and establishment schedule.

- After receipt of the programme and budget, the State Government may, if it so desires give direction for its modification.

33. Publication of programme.

- The State Government shall publish the programme of Housing Board in the Official Gazette for information.

34. Supplementary programme and budget.

- The Board may, at any time, during the year, submit a supplementary programme and budget and an additional schedule of the staff, if any, and the provisions of Sections 31 to 33 shall apply to such supplementary programme, budget and schedule.

35. Variation in programme and budget.

- The Board may, at any time vary any programme or any part thereof: Provided that if the variation of any housing Scheme/Schemes involves any expenditure in excess of ten per cent of the amount as originally sanctioned for the execution of the Scheme/Schemes or if it effects its/their scope or purpose, such variation shall be done by following provisions under Sections 31 to 33.

36. Sanctioned housing Scheme to be executed.

- The Board shall, subject to the provisions of Sections 32 and 35, proceed to execute the housing scheme included in the programmes made under Sections 31 and 34.

37. Transfer to Board for purposes of housing or improvement scheme or land vested in Local Authority.

(1) Whenever any building or land or any street or any part thereof, which is situated within the jurisdiction of a Local Authority and is vested in such Local Authority is included within the area of any housing or improvement scheme the Board shall issue notice accordingly to such Local Authority after obtaining the approval of the Government. (2) Where such Local Authority concurs, such building or land or any street or any part thereof, shall vest in the Board. (3) Where there is any dispute between the Board and such Local Authority the matter shall be referred to the Government and the Government shall after hearing the Board and the Local Authority concerned, decide the matter and decision of the Government shall be final.

38. Compensation in respect of land vested in the Board.

(1) Where any land situated within the jurisdiction of Local Authority vests in the Board under the provisions of Section 37 and the Board makes a declaration that such land will be retained by the Board only until it reverts in the Local Authority as part of a street or an open space under Section 43, no compensation shall be payable by the Board to the Local Authority in respect of that land. (2) Where any land or building vests in the Board under the provisions of Section 37 and no declaration is made under sub-section (1) in respect of the land, the Board shall pay the Local

Authority as compensation a sum equal to the value of such land or building.(3)If, in any case, where the Board has made a declaration in respect of any land under sub-section (1) and the Board retains or disposes of the land contrary to the terms of the declaration and the land does not revert in the Local Authority, the Board shall pay to the Local Authority, compensation in respect of such land in accordance with the provisions of sub-section (2).

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

(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 closure.(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 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 (2), the Board may sell or lease out so much of the same as is no longer required.

40. Reference to Tribunal in case of dispute.

- If there is any dispute as to whether any compensation is payable or as to the amount of compensation payable under Section 38 or Section 39 the matter shall be referred to the Tribunal, whose decision shall be final.

41. Bar to application of certain laws of a Local Authority regarding closure.

(1)Such of the provisions of the Bihar and Orissa Municipal Act, 1922 (B & O. Act VIII of 1922), the Patna Municipal Corporation Act, 1951 (Bihar Act 13 of 1952) and Bihar Panchayat Raj Act, 1947. (Bihar Act 4 of 1947) as relate to maintenance or repairs of public streets, closure of public street or parts thereof, diverting or turning public street or parts thereof, and to disposal of the land which is no longer required when any public street is permanently closed shall not apply to any street which is vested in the Board.(2)Such of the provisions of the enactments, specified in sub-section (1) as relate to temporary closure of streets, precautions during repairs of streets and prosecution against removal of bars and lights shall not apply to the Board when any drain or premises vested in the local authority is opened or broken up by the Board or any public street is under construction by the Board.

42. Repairs of streets vested in the Board.

- Whenever the Board allows any street vested in it to be used for public traffic it shall keep the

street in good repair and do all things necessary for the safety and convenience of persons using it.

43. Transferring streets laid out or altered and open space provided by the Board under a housing or an improvement scheme.

(1)The Board may hand over any road or street to the Local Authority concerned after giving a month's notice, when-(a)any such road or street laid out or altered by the Board has been duly levelled, metalled, flagged channeled, sewered, and drained in the manner provided in the Scheme sanctioned by the Board or the Government;(b)lamp posts necessary for the lighting of street have been provided by the Board; and(c)water and other sanitary conveniences have duly been provided in such streets.(2)The Local Authority concerned may after receiving the notice from the Board under sub-section (1) declare the street to be a public street, and the street shall thereupon vest in the Local Authority, and shall henceforth be maintained, kept in repair, lighted and cleansed by the Local Authority.(3)When any open space for the purposes of ventilation or recreation has been provided by the Board in executing a housing or improvement scheme, it shall, on completion, be transferred to the Local Authority concerned by a resolution of the Board and, it shall thereupon vest in the Local Authority concerned and thereafter be maintained by that Local Authority at its expense;Provided that the local authority may require the Board before and such open space is so transferred to enclose, level, turf, drain and lay out such space and provide footpath therein and, if necessary to provide lamps and other apparatus for lighting it.(4)If any difference of opinion arises between the Board and the Local Authority in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the Government whose decision shall be final.

44. Prevention or restriction of traffic in street vested in the Board during progress of work.

(1)When any work which may lawfully be done, is being executed by the Board in any street vested in it the Board may direct that such street shall during the progress of such work, be either wholly or partially closed to traffic generally or to traffic of any specified description.(2)When any such direction has been given the Board shall set up in a conspicuous position in or near the street an order prohibiting traffic to the extent so directed, and fix such bars, chains, or posts across or in the street as it may think proper for preventing or restricting traffic therein.

45. Other duties of the Board.

- It shall also be the duty of the Board to take measures with a view-(1)to plan and co-ordinate all housing activities in the State and to ensure expeditious and efficient implementation of housing or improvement Schemes in the State;(2)to provide technical advice and scrutinise all projects under housing or improvement Schemes sponsored or assisted by the Central or State Government;(3)to maintain, allot, lease and otherwise use plots, buildings, and other properties of the Board or the Government, and to collect rents from the properties under the control and management of the Board, and repay loans to the State and Central Governments;(4)to set up a research section for the

purpose of expediting the construction of and cheapening the cost of buildings;(5)to organise and run workshops and stores for manufacture, sale, stock piling and supply of building materials, required for housing or improvement schemes;(6)to undertake comprehensive survey of problems of housing, and(7)to do all things for-(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 for residential or non-residential housing, and(d)securing a steady and sufficient supply of work mentioned in the work of construction of building.

46. Reconstitution of Plots.

- A housing scheme may provide-(a)for the formation of a reconstituted plot by the alteration 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 separately or jointly shall, with or without alteration of boundaries be held in ownership in common as a reconstituted plot;(c)for the allotment of 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 with the consent of such persons.

47. Supervision and centage charge.

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

48. Power to exempt.

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

Chapter VII

Acquisition and Disposal of Land

49. Power to acquire land.

- Any land or any interest therein required by the Board for any of the purposes of this Act may be acquired under the provisions of the Land Acquisition Act, 1894 (Act I of 1894) as amended in its application to the State which for this purpose shall be subject to the modification specified in the Schedule to this Act, and the acquisition of any land or interest therein for the purpose of this Act, shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act.

50. Power to purchase or lease by agreement.

- The Board may enter into agreement with any person for the acquisition from him by purchase, lease or exchange, or any land or any interest therein which may be acquired under Section 49: Provided that if the value of such land interest exceeds fifty thousand rupees, the Board shall not enter into such agreement without the previous approval of the Government.

51. Power to dispose of land.

- Subject to any Rules made by the Government under this Act, the Board may retain, or may lease, sell, exchange or otherwise dispose of any land, building or other property vesting in it and situated in the area comprised in Housing Scheme.

Chapter VIII

Constitution of Tribunal and its Functions

52. Constitution of a Tribunal for certain purposes.

(1) Notwithstanding anything contained in the Land Acquisition Act 1894 (Act I of 1894) the Government may constitute Tribunal for the purpose of performing the functions of the Court with reference to the acquisition of land for the Board under the said Act to and for deciding such other matters as may be prescribed. (2) The Tribunal shall consist of one member only who shall be a judicial officer not below the rank of a District Judge appointed by the Government in this behalf. (3) The Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, (Act 5 of 1908). (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 (Act 45 of 1860).

53. Officers and servants of the Tribunal.

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

54. Payments by Board on account of Tribunal.

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

55. Power to make Rules for Tribunal.

(1)The Tribunal may, from time to time, with the previous sanction of the State Government, make Rules not repugnant to the Code of Civil Procedure, 1908 (Act 5 of 1908) for the conduct of business by the Tribunal.(2)All such Rules shall be published in the Official Gazette.

56. Appeals from award of Tribunal.

(1)Notwithstanding anything to the contrary in the Land Acquisition Act, 1894 (Act 1 of 1894), the Award of the Tribunal in relation to the acquisition of land shall be deemed to be the Award of the court under the said Act.(2)Any person who does not agree to the amount of the compensation awarded by the Tribunal for the land acquired for the Board under the Land Acquisition Act, 1894 (Act. 1 of 1894) or to the persons to whom it is payable or to the apportionment of the compensation among these persons may, within sixty days from the date of the Award of the Tribunal, prefer an appeal to the High Court:Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.(3)Any Award of the Tribunal referred to in sub-section (1) subject to subsection (2) and any decision of the Tribunal on any matter referred to it under this Act shall be final and shall not be liable to be questioned in any court of law.

57. Enforcement of the Award or order of the Tribunal.

- Every Award of the Tribunal and every order made by the Tribunal for the payment of money, for the delivery of possession or removal of any structures shall be enforced by the District Court in the jurisdiction of which the land, comprised in the scheme is situated as if it were a decree of that Court.

Chapter IX

Eviction From and Recovery of Rent and Damages Relating to Board Premises

58. Exclusion of the Bihar Buildings (Lease, Rent and Eviction) Control Act 1947 [Bihar Act III of 1947] [Now Act 4 of 1983.].

- The provision of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947 (Bihar Act III of 1947), or any law corresponding therein for the time being in force in any area to which this Act extends-(a)shall not apply nor shall be deemed to have ever applied to any land or building belonging to or vesting in the Board under or for the purposes of this Act;(b)shall not apply nor shall be deemed to have ever applied as against the Board to any tenancies or other like relationship created by the Board in respect of such land or buildings;(c)but shall apply to any-land or building based to the Board:Provided that nothing in this Section shall permit the eviction of a person in occupation of any accommodation from before the date of its acquisition by the Board save in

accordance with the provisions of that Act or of Section 59.

59. Summary procedure for eviction and recovery of rents.

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Act I of 1882), the Code of Civil Procedure, 1908 (Act 5 of 1908) or any other law for the time being in force, if the competent authority is of opinion—(a) that the person authorised to occupy Board premises and has—(i) not paid rent lawfully due from him in respect of such premises for a period of not less than three months; or (ii) sub-let, without the permission in writing of the Board, the whole or any part of such premises, or (iii) committed, or is committing any act contrary to the provisions of clause (o) of Section 108 of the Transfer of Property Act, 1882 (Act 4 of 1882); or (iv) made or is making material alteration to, alteration in, such premises without the previous written permission of the Board, or (v) otherwise acted in contravention of any of the terms, expressed or implied, under which he is authorised to occupy such premises, or (b) that any person is in unauthorised occupation of any Board premises. The competent authority may issue in the manner hereafter provided a notice in writing calling upon the person, if any, authorised to occupy as well as any other person who may be in occupation of the whole or any part of the premises to show cause why order of eviction and recovery of arrears of rent and damages, if any should not be made. (2) The notice under sub-section (1) shall specify—(a) the grounds on which the order of eviction or of recovery of arrears of rent or damages is proposed to be made; and (b) the date by which cause against the proposed order may be shown, such date being not earlier than fifteen days from the date of issue of the notice provided that the competent authority may on application allow further time on such terms as to payment of the amount claimed in the notice otherwise, as it deems fit. (3) The competent authority shall cause the notice under sub-section (1) to be served by having it affixed on outer door or some other conspicuous part of the Board premises and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned. (4) Where the competent authority knows or has reason to believe that any person is in occupation of the Board premises, then, without prejudice to the provisions of sub-section (3) it shall cause copy of the notice to be served on him by registered post or delivery or tender to him or in such other manner as may be prescribed. (5) If, after considering the cause, if any, shown by any person in pursuance of the notice under sub-section (1) and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the competent authority is satisfied that any of the circumstances mentioned in sub-section (1) exists, or existed on the date of the issue of the notice, it may on a date to be fixed for the purpose make an order stating reasons therein directing that the Board premises shall be vacated by all persons who may be in occupation thereof or any part thereof and may further order that any person shall pay such amount of arrears of rent or damages as may be specified in the order. (6) If a person who has been asked to show cause under sub-clause (i) or sub-clause (iii) of clause (a) of sub-section (1) pays to the Board within the time allowed, the rent in arrears together with interest thereon as fixed by the Board and such costs as may be prescribed, or as the case may be remedies to the satisfaction of the competent authority the breach of the term violated by him, the competent authority shall, in lieu of evicting such person under sub-section (5) discharge the notice, and whereupon such person shall continue to hold the premises on the same term on which he held them immediately before such notice was served on him. (7) The competent authority shall for the purpose of holding any inquiry under this chapter,

have, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act 5 of 1908), when trying a suit, in respect of the following matter, namely:-(a)summoning and enforcing the attendance of any person and examining him on oath;(b)requiring the discovery and production of documents; and(c)any other matter which may be prescribed, be deemed to be a Civil Court within the meaning of Sections 345 and 346 of the Code of Criminal Procedure, 1973 (Act 2 of 1974), and any proceeding in such inquiry shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code (Act 45 of 1860).(8)If any person refuses or fails to comply with an order of eviction under subsection (5) within thirty days from the date of the order or such longer time as the competent authority may allow, the competent authority or any other officer duly authorised by it in this behalf, may evict him from, and take possession of, the Board premises, and may for that purpose use such force as may be necessary.(9)Any arrears of rent or damages ordered to be paid under sub-section (5) may be recovered as arrears of land revenue.Explanation.-For the purposes of this Section, a person continuing in occupation of any Board premises after the authority under which or the capacity in which he was allowed to occupy the premises has been duly determined or as the case may be, has ceased shall also be deemed to be an "unauthorised occupation", and a person shall not merely by reason of the fact that he had paid any amount as rent be deemed to be in authorised occupation.

59A. Recovery of rent, premium or any kind of dues, or damages.

- Any amount due to the Board by way of rent, premium, instalment, recovery of damages, or any other dues be recoverable under the Bihar and Orissa Public Demands Recovery Act, 1914 (Act 4 of 1914).

59B.

Prior to the enforcement of this section cases filed under Bihar Government Premises (Rent, Recovery and Eviction) Act, 1956 (Bihar Act 20 of 1956) will be deemed to have been filed under the provisions of this Section.

60. Appeal.

(1)Any person aggrieved by an order of the Competent Authority under Section 59 may, within one month from the date of service of the notice of such order, prefer an appeal to the Government or any officer duly authorised by the Government:Provided that the Government or any officer duly authorised by the Government may entertain the appeal after the expiry of the said period of one month if they are satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.(2)On receipt of an appeal under sub-section (1), the Government or any officer duly authorised by the Government may, after calling for a report from the Competent Authority and after making such further inquiry, if any, as may be necessary pass such orders as they think fit and such orders shall be final.(3)On such appeal being preferred, the Government or any officer duly authorised by the Government may stay the execution of the Competent Authority, for such period and on such conditions as they think fit.

61. Recovery of rent through deduction from salary or wages.

(1) If any Board premises are let out to a person who is employed by the Government or a local authority or in a factory or industrial establishment, he may execute an agreement in such form as may be prescribed in favour of the Board providing that the Government or the local authority or other employer as the case may be, 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 to him in respect of such premises. (2) On the execution of such agreement, the Government or local authority or other employer, as the case may be, shall, if so required by the Board in writing, make the deduction from the salary or wages of the employee in accordance with the agreement and pay the amount so deducted to the Board, notwithstanding anything contained in the Payment of Wages Act, 1936 (Act 4 of 1936). (3) The deduction of any amount under sub-section (2) shall operate as a complete discharge of the liability of the employee to the Board in respect of the amount so deducted. Explanation.-The terms "factory" and "industrial establishment" shall have the meaning respectively assigned to them by the Payment of Wages Act, 1936 (Act 4 of 1936).

62. Bar of jurisdiction of Courts.

- No order made by the Government or the Competent Authority in the exercise of any power conferred by or under this Chapter shall be called in question in any Court and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.

Chapter X

Finance

63. Debts and expenditure, etc., till the Board is established.

(1) All debts and expenditures incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Government for the purposes of Department of Housing, Government of Bihar, created by Appointment Department Government Resolution No. Camp.243/55A-135, dated Ranchi, the 27th July, 1955, before and upto the date of the establishment of the Board under this Act shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board and all suits and other legal proceedings instituted or which may be instituted by or against the Government shall be continued or instituted by or against the Board, as the case may be. (2) All expenditure which the Government shall, not later than six months from the date of the establishment of the Board, declare to have been incurred on capital account in connection with the purposes of this Act shall be deemed to be a loan advanced to the Board on the date of such declaration: Provided that Government may extend the said period of six months to a period not exceeding two years by a notification in the Official Gazette. (3) All the properties, rights, assets and liabilities of the Department of Housing, Government of Bihar, referred to in sub-section (1) for the purposes referred to in the Government Resolution specified in the said sub-section and all assets

acquired by the expenditure referred to in sub-section (2) shall upon the declaration made by the Government under sub-section (2) shall stand transferred to the Board for the purposes of this Act.(4)All proceedings under the Land Acquisition Act, 1894 (Act 1 of 1894) pending on the date of the coming into force of this Act in any area for the acquisition of land situated in the said area for the purposes of the Department of Housing, Government of Bihar, referred to in sub-section (1) shall be deemed to be proceedings for acquisition of such land for the purposes of the Board under this Act.Explanation.-For the purposes of this "legal proceeding" includes any proceeding under the Land Acquisition Act, 1894 (Act 1 of 1894).

64. Board's Fund.

(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 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 Government may every year make a grant to the Board to enable it to meet the deficit in its administrative expense:Provided that the grant so made, as may be specified by the notification by the Government, shall not exceed the amount incurred by the Government on the administrative set-up of the Housing Department immediately preceding the year of the constitution of the Board.(4)All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all rents, and all interests, profits and other moneys accruing to the Board, shall constitute the Housing Board-Fund.(5)Except as otherwise directed by the Government, all moneys forming part of the Fund of the Board shall be deposited in the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (Act 2 of 1934) or the State Bank of India constituted under the State Bank of India Act, 1955 (Act No. 23 of 1955) or a Bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (Act 5 of 1970) as amended from time to time or invested in such securities as may be approved by the Government.(6)Such account shall be operated upon by such officers as may be authorised by the Board.

65. Application of the Fund.

(1)All property, the Housing Board Fund, and all other assets vesting in the Board shall be held and applied by it, and repayment of loans, payment of interest on the market borrowing of the Board and Government and other loan shall be the first charge on the Board Funds.(2)Subject to the budget provision and availability of funds, expenditure shall be incurred out of Board's Fund by the Board or by any authority empowered by the Board for execution of schemes or carrying out any purpose of this Act which has been duly sanctioned under the provision of this Act.

66. Expenditure in case of urgency.

(1)Where in the opinion of the Board circumstances of extreme urgency have arisen, it shall be lawful for the Board to make, for the purposes of this Act in any year expenditure not exceeding five thousand rupees notwithstanding the fact that such expenditure has not been included in its annual programme or supplementary programme mentioned by the Government.(2)Where any sum is

spent under circumstances of extreme urgency as provided in sub-section (1), 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 Government.

67. Appropriation from one head to another.

- The Board may within the Budget sanctioned by the Government approved appropriations not exceeding five thousand rupees from one sub-head to another and from one minor head to another under the same major head and submit a statement of such re-appropriations to the Government.

68. Subventions and loans to the Board.

(1)The Government may, from time to time, make subventions to the Board for the purposes of this Act on such terms and conditions as the Government may determine.(2)The 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 Government may determine.

69. Powers of the Board to borrow and lend.

(1)The Board may, from time to time, with the previous sanction of the Government and subject to the provisions of this Act and to such conditions as may be prescribed on this behalf may borrow any sum required for the purposes of this Act on guarantee of the State Government or on Bank guarantee or by mortgaging its properties.(2)The Rules made by the Government for the purposes of this Section may empower the Board to borrow by the issue of debenture 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 Government may from time to time determine.(4)Every debenture shall be signed by the Managing Director and one other member of the Board.(5)Loans borrowed and debentures issued under this Section shall be guaranteed by the Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the Government.(6)Subject to the provisions of this Act, and to such conditions and limitation as may be prescribed, the Board may out of its funds grant loans and advances on such terms and conditions as it may determine, to any Co-operative society registered or deemed to be registered under the law relating to Co-operative societies for the time being in force in the State or to any other person for the construction of houses.

70. Establishment and maintenance of sinking funds.

(1)Whenever a loan has to be repaid from a sinking fund, the Board shall establish such a fund and shall pay into it every year until the loan is repaid, a sum so calculated that if regularly paid throughout the period agreed upon by the Board, it would, with accumulations in the way of compound interest be sufficient after payment of all expenses, to pay of the loan at the end of that period.(2)The rate of interest on the basis of which the sum referred to in sub-section (1) shall be calculated shall be such as may be prescribed.

71. Power to discontinue payments into sinking fund.

- Notwithstanding anything contained in Section 70, if at any time, the sum standing at credit of the sinking fund established from repayment of any loan is of such amount that if allowed to accumulate at the rate of interest prescribed under sub-section (2) of that Section, it will be sufficient to repay the loan at the end of period agreed upon by the Board, then the Board may, with the permission of the Government, discontinue further annual payment into such fund.

72. Investment of sinking Fund.

- All moneys paid into any sinking Fund shall, as soon as possible, be invested by the Board in-(a)Government securities, or(b)securities guaranteed by the Central or State Government, or(c)debentures issued by any local authority, or(d)debentures issued by the Board; or(e)fixed deposit in the State Bank of India or in any Bank specified in column 2 of the first schedule to the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (Act V of 1970) as amended from time to time in the name of the Housing Board to be held by it in trust for the repayment of the loan for which the sinking fund was established.(2)All dividends and other sums received in respect of any such investment shall as soon as possible after receipt, be paid into the sinking Fund and invested in the manner laid down in sub-section (1).(3)Any investment made under this Section may, from time to time, subject to the provision of sub-section (1) be varied or transposed.

73. Payment by cheque.

(1)No payment shall be made by the Bank, out of account of the "Housing Board Fund" referred to in Section 64 except upon a cheque signed-(a)by the Managing Director and Secretary to the Board or(b)in the event of the illness or occasional absence by any reason or leave Of the Managing Director by any member or any authority empowered by Managing Director in his place and in the event of illness, or occasional absence or leave of the Secretary, by Chief Accounts Officer appointed by the State Government.(2)Payment of any sum due by the Board exceeding one hundred rupees in amount shall be made by means of a cheque, and not in any other form.

74. Duty of Managing Director and others before signing cheque.

- Before the Managing Director or any member or the Secretary to the Board signs a cheque under Section 73 he must satisfy himself that the sum for which such cheque is drawn is required for a purpose or work specifically sanctioned by the Board.

75. Keeping of capital account and revenue account.

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

76. Accounts and audit.

(1)The Board shall cause to be maintained proper books of accounts and such other books as the Rule may require and shall prepare in accordance with the Rule and annual statement of account.(2)The Board shall cause its accounts to be audited annually by such person as the Government may direct, and that person shall have the right to demand the production of books, accounts, and connected vouchers, documents and papers and to inspect any of the offices of the Board.(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 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 Government may after perusal of the report of the auditor think fit of issue.

77. Concurrent and special audit of accounts.

(1)Notwithstanding anything contained in Section 76 the Government may order that there shall be a concurrent audit of the account of the Board by such person as it thinks fit.(2)The 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 transactions of to a particular period.(3)When an order is made under sub-section (1) or (2) the Board shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) or (2) such, information as the said person may require for the purpose of audit and remedy or cause to be remedied the defects pointed out by such person, unless they are condoned by the Government.

Chapter XI

Penalties and Procedures

78. Penalty for unauthorised construction without approval or construction in violation of provision of Rules/Regulations.

(1)No person shall in the area in which the Board undertakes a housing scheme or execution of any of the schemes under Section 28, erect, re-erect, construct, add to or alter any building or wall or commence to do so either on land or building owned by him or allotted to him by the Board without prior sanction of the Managing Director by submitting a plan showing the proposed construction and provided that the proposed construction is in conformity with Rules, Regulations and bye-laws framed under the provision of this Act.(2)The Managing Director may raise objections if any under the provisions of Rules, Regulations or bye-laws constituted under the Act on any plan showing the proposed construction received for his approval under the provisions of sub-section (1) within 3 months from the date of receipt of such plan and approve after the objections are met:Provided that the maximum time limit for approval of plan shall not exceed period of six months from the date of its receipt.Should the Managing Director neglect or omit for six months after the objections under sub-section (2), if any, are met to approve such plan, the Managing Director shall be deemed to have

sanctioned the proposed plan absolutely.(3)Any person, who either himself or for any other person, or institution, erects, re-erects, adds to or alters any wall or building without obtaining the sanction under sub-section (1) or in contravention to the terms, and conditions attached to the sanction or in violation to the Rules and Regulations or bye-laws made in this connection, or if the construction project into the street alignment or beyond the building line prescribed under any of the schemes mentioned in this Act, or prescribed for different regions areas, in the Regulations, bye-laws shall be punishable with a fine of Rs. 2,000 and if the said unauthorised erection, re-erection, addition and alteration, projection into the street alignment or beyond the building line made without or construction without sanction or contrary to the prescribed Rules, Regulations and bye-laws continue shall be punishable by an additional fine of rupees two hundred lot each day till it continues.(4)Where such building or construction work is not discontinued even after enforcement of sub-section (3) of this Section, the Managing Director may require any Police officer to remove the person by whom the construction is being done, and all his assistants and workmen from place of building or construction work, and such Police officer shall comply with the requisition, within the time specified in the requisition.(5)If any building or construction work is done without obtaining sanction under sub-section (1) of this Section or in contravention of the terms and conditions of the sanction if contravenes the provisions of this Act or Rules, Regulations and bye-laws framed under the provision of the Act the Managing Director may in addition to the prosecution that may be instituted under this Act, make an order, directing that such building or construction work shall be removed by demolition, filling or otherwise by the owner thereof or by person or persons at whose instance the building or construction work was commenced or is being carried out or has been completed within a prescribed period which shall not be less than thirty days from the date of notice and in the event of failure of compliance in the order within the specified period the Board may, through its officers, remove or cause to be removed such unauthorised building or construction work and the expenses of such removal shall be recovered from the person by whom or at whose instance the unauthorised building or construction work was commenced or was being carried out or was completed as arrears of land revenue:Provided that no such order shall be made unless the owner or the person concerned has been given reasonable opportunity to show cause why the orders should not be made.(6)Any person aggrieved by the order passed under Section 78 (5) may within 30 days from the date of the notice of such order prefer an appeal to the Tribunal constituted under Section 52 and the Tribunal may, after hearing the parties to the appeal, dispose of the appeal and the decision of the Tribunal shall be final and conclusive.(7)If any person obstructs or molests any officer or employee of the Board or any other person authorised under the Act in the performance or execution by such person of his duty or of any thing which he is empowered or required to do by virtue of or in consequence of this Act, or any Rule or Regulation made thereunder, he shall on being proved guilty, be punished with imprisonment which may extend up to six months, or with fine, which may extend upto rupees two thousand or with both.

79. Penalty for failure to comply with requisition made by auditor.

- If any person fails to comply with any requisition made by the auditor under Section 76, he shall be punishable-(a)with fine which may extend to one hundred rupees, and(b)in case of a continuing failure, with fine which may extend to fifty rupees for each day, after the first day, during which the failure continues.

80. Penalty for obstructing contractor or removing mark.

- If any person-(a)obstructs or molests any person with whom Managing Director has entered into a contract on behalf of the Board, in the performance or execution by such person of his duty or of any thing which he is empowered or required to do by virtue of or in consequence of this Act or any Rule or Regulation made thereunder, or(b)removes, any mark set up for the purpose of indicating any level or direction necessary to the execution or works authorised by this Act or any Rule or Regulation made or scheme sanctioned thereunder, he shall on correction 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.

81. Penalty for breach of the provisions of this Act.

- Whoever contravenes any of the provisions of this Act or any Rule, Regulation or bye-laws made or scheme sanctioned thereunder shall if no other penalty is provided for such contravention, be punishable-(a)with fine which may extend to two hundred rupees, and(b)in case of a continuing contravention, with fine which may extend to one hundred rupees for each day after the first day during which the contravention continue.

82. Compensation to be paid by offenders for damage caused by them.

(1)When any person is convicted of any offences under this Act or any Rule or Regulation made thereunder the magistrate convicting such person may, on application, made in this behalf, by the Board or by its officer or employee authorised by it in this behalf call upon person forthwith to show cause as to why he should not pay compensation to the Board for the damage caused by his act or omission in respect of which he is convicted.(2)The magistrate shall record and consider any cause which such person may show and if the magistrate, after making such inquiry as he may think fit is satisfied that such person is liable to pay compensation, may direct that compensation to such amount not exceeding three thousand rupees as he may determine, be paid by such person to the Board.(3)The amount of compensation directed to be paid under sub-section (2), shall, if it be not paid forthwith be recovered as if it were as fine imposed by the magistrate on such person.

83. Penalty for contravention of bye-laws.

- Whoever contravenes a bye-law made under Section 116 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.

83A. In addition to and without prejudice to the rights available to the Board under the provisions of this Act or any other law or Rules in force the Board shall be entitled to the following by way of damages.

(1) Any person who without any right or written permission of the Board continues in possession of a building belonging to the Board after termination of his tenancy in respect to it shall be liable to pay damages equal to three times of rent payable immediately before the termination of the tenancy. (2) Any person who without any right or written permission of the Board continues in possession of any land of the Board after termination of his tenancy in respect of it, shall be liable to pay damages at the rate of rupees twenty per hundred square metre of the area of land per day until delivery of possession of the vacant land to the Board. (3) Any person who takes possession of any land or building of the Board without any right or written permission of the Board and/or continues with such possession shall be liable to pay damages at the rate of rupees twenty per day for each one hundred square metre of land area, in case of land and at the rate of rupees fifty per day for each hundred square metres of built up area of each floor of the building, in case of building. (4) Where the tenant sublets the building or any part thereof belonging to the Board in contravention of the terms of tenancy his tenancy shall stand terminated with effect from the date of subletting and both the tenant and sub-tenant shall be liable to pay damages jointly and severally to the Board at a rate equal to three times the rate of rent payable for the building immediately before the termination.

84. Penalty for obstructing exercise of powers.

- Any person who obstructs the lawful exercise of any power conferred by or under Chapter IX shall, on conviction, be punished with imprisonment of six months or a fine extending to rupees two thousand or with both.

85. Punishment for acquiring share or interest in contract, etc. with the Board.

- If any member, or any officer or employees of the Board acquires, directly or indirectly, by himself or by any partner, employer, or employee, otherwise than as such member, officer or employee any share or interest in any contract on employment by or on behalf of, the Board not being a share or interest which under Section 5 is permissible for a member to have without being, thereby disqualified for being appointed as a member be deemed to have committed the offence made punishable by Rule 168 of the Indian Penal Code (Act 45 of 1860).

86. Offence by Companies.

(1) If the person committing an offence punishable under this Act is a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1) where any such offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any negligence on the part of, any

director, manager, secretary or other officer of the company, such director, manager, secretary and other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.-For the purposes of the section-(a)"Company" means a body corporate and includes a firm or other association of individuals, and (b)"director" in relation to a firm, means a partner in the firm.

87. Procedure.

(1) No court shall take cognizance of any offence punishable under this Act or any Rule or Regulation made thereunder unless complaint of such offence is made within twelve months next after the commission thereof: Provided that the court may take cognizance even after expiry of twelve months if it is satisfied that the complainant was, due to sufficient reasons, prevented from filing the complaint in time. (2) No court inferior to that of a Judicial Magistrate of the First Class shall try any offence punishable under this Act.

88. Duties of police officers.

- It shall be the duty of every police officer-(a) to co-operate with Managing Director for carrying into effect and enforcing the provisions of this Act or any Rule made thereunder. (b) to communicate without delay to the proper officer or servant of the Board any information which he receives of a design to commit or of the commission of any offence against the Act or any Rule made thereunder, and (c) to assist the Managing Director or any officer or servant of the Board reasonably demanding his aid for the lawful exercise of any power vesting in the Managing Director or in such officer or servant under this Act or any Rule made thereunder.

89. Arrest of offenders.

(1) Every police officer shall arrest any person who commits in this view any offence against this Act or any Rule made thereunder if the name and address of such person be unknown to him or if such person on demand declines to give his name and address or gives a name or address which such officer has reason to believe to be false. (2) The person so arrested shall without unavoidable delay, be produced before the Magistrate authorised to try the offence for which the arrest has been made, then no person so arrested shall be detained in custody for a period exceeding twenty-four hours without an order from the aforementioned Magistrate.

90. Power of the Managing Director as to institution, composition etc. of legal proceedings and obtaining legal advice.

- The Managing Director may, subject to the control of the Board-(a) institute, defend or withdraw from legal proceeding under this Act or any Rules or Regulations made thereunder; (b) compound any offence against this Act or any Rules or Regulations made thereunder which under any law for the time being in force or the Rule prescribed by the Government, may lawfully be compounded; (c) admit, compromise or withdraw any claim made under this Act or any Rules or

Regulations made thereunder;(d)obtain such legal advice and assistance as he may, from time to time think it necessary or expedient to obtain or as may be desired by the Board to obtain for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Board or any officer or servant of the Board.

91. Protection of action taken in good faith.

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

92. Notice of suit against Board, etc.

- No suit shall be instituted against the Board, or any member, or any officer or employee of the Board or any person acting under the direction of the Board or of the Managing Director or of any officer or employee of the Board in respect of any act done or intended to be done under this Act or any Rule or Regulation made thereunder until the expiration of sixty days next after written notice has been delivered left at the Board's Office or the place of abode of such officer, servant or person, stating the cause of action, the name and place of abode of the intending plaintiff, and the relief which he claims, and the plaint must contain a statement that such notice has been so delivered or left.

93. Proof of consent, etc. of Board or Managing Director, Officers or employees of the Board.

- Whenever, under this Act or any Rule or Regulation made thereunder, the doing or the omission to do anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion, or satisfaction of-(a)the Board or the Managing Director, or(b)any officer or servant of the Board, a written document signed in case (a) by the Managing Director, and in case (b) by the said officer or servant, conveying or setting forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion, or satisfaction.

94. Mode of proof of documents of the Board.

(1)A copy of an entry in any register, or of any receipt, application, plan, notice, order, or other document in the possession of the Board shall, if duly certified by an officer authorised in this behalf received as prima facie evidence of the entry or document and be admitted as evidence of the matter of transaction therein recorded in every case where, and to the same extent as the original entry of document would, if produced, have been admissible to prove such matters.(2)No member, officer or servant of the Board shall, in any legal proceeding to which the Board is not a party, be required to

produce any register or document, the contents of which can be proved under sub-section (1) by a certified copy or to appear as a witness to prove the matter or transaction recorded therein unless the court, for reasons to be recorded considers it necessary to make such an order.

95. Copies from assessment books to be furnished by Local Authorities to Board.

- The Chief Executive Officer of a local authority shall, at the request of the Managing Director, furnish him with a copy of or an extract from any assessment list of the local authority.

96. Power of Managing Director to direct removal of unauthorised erection etc., within street alignment, etc.

- (1) The Managing Director may, by a written notice require the owner for the time being of the wall or building referred to in Section 78 to stop further work on such wall or building and to alter or demolish the same in such manner and within such time as may be specified in the notice. (2) Where the alteration or demolition directed by any such notice is not carried out as directed therein, the Managing Director may cause the wall or building or portion thereof to be altered or demolished, as the case may be, and he may recover the expenses incurred in so doing from the owner for the time being in such manner as may be prescribed.

97. General power of the Board to pay compensation.

- In any case not otherwise expressly provided for in this Act the Board may pay reasonable compensation to any person who sustains damages by reasons of the exercise of any of the powers vested by or under this Act in the Board or the Managing Director or any officer or servant of the Board.

98. Public notices how to be made known.

- Even public notice given under this Act or any Rule or Regulation made hereunder shall be in writing over the signature of the Managing Director and shall be widely made known in the locality to be affected thereby affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum or any advertisement in leading daily newspapers or by any two or more of these means and also by affixture in the notice board of the Board's office or sub-office and by any other means that the Managing Director may think fit.

99. Newspapers in which advertisements or notice are to be published.

- Whenever it is provided by this Act or any Rule or Regulation made thereunder the notice shall be given by advertisement in leading daily newspapers or that a notification of an information shall be published in leading daily newspapers such notice, notification or information shall be inserted if practicable in at least two English daily newspapers and one daily newspaper published in Hindi.

100. Stamping signature on notices or bills.

- Every notice or bill which is required by this Act or by any Rule or Regulation made thereunder to bear the signature of the Managing Director or any other member or of any officer or servant of the Board shall be deemed to be properly signed if it bears a facsimile of the signature of the Managing Director or such other member or of such officer or servant, as the case may be, stamped thereunder.

101. Service how to be effected.

- When any notice, bill or other documents is required by the Act or any Rule or Regulation made thereunder to be served upon or issued or presented to any person, such service, issue or presentation shall be effected-(a)by giving or tendering such document to such person, or(b)if such person is not found, by leaving such document at his last known place of abode or by giving or tendering the same to some adult member or servant of his family, or(c)if his address elsewhere is known, by forwarding such document to him by registered post under cover bearing the said address; or(d)if none of the means aforesaid be available, by causing a copy of such document to be affixed on some conspicuous part of the building or land, if any, to which the document relates; or(e)such person may be informed through advertisement in one important Hindi or English dailes of Bihar.

102. Power to make surveys, or contribute towards their cost.

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

103. Power of entry.

(1)The Managing Director or any person either generally or specially authorised by the Managing Director in this behalf may with or without assistants or workmen, enter into or upon any land, in order-(a)to make any inspection, survey, measurement valuation or enquiry.(b)to take levels.(c)to dig or, bore into the sub-soil.(d)to set out boundaries and intended lines of work.(e)to mark such levels, boundaries and lines by placing marks and cutting trenches, or(f)to do any other thing, whenever it is necessary to do so for any of the purposes of this Act or any Rule or Regulation made or scheme sanctioned thereunder or any scheme which the Board intends to frame thereunder:Provided as follows:-(a)no such entry shall be made between sunset and sunrise.(b)no dwelling house, and no public building or hut which is used as dwelling place, shall be so entered, except with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours previous written notice of the intention to make such entry,(c)sufficient notice shall in every instance, be given even when any premises may otherwise be entered without notice to enable the inmates of any apartment appropriated to women to remove themselves to some part of the premises where their privacy will not be disturbed,(d)due regard shall always be had so far as may

be compatible with the exigencies of the purpose for which the entry is made to the social and religious usages of the occupants of the premises entered.(2)Whenever the Managing Director or a person authorised under subsection (1) enters into or upon any land in pursuance of that sub-section he shall, at the time of such entry, pay or tender payment of all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Board, whose decision shall be final.

Chapter XII

Miscellaneous

104. Members, officers and employees of the Board, Committees and Tribunals deemed to be public servants.

- All members, officers and employees of the Board, the members of committees, the Tribunal and all other persons entrusted with the execution of any function under this Act shall be deemed when acting or purporting to act in pursuance of the provisions of this Act to be public servants within the meaning of Section 21 of the Indian Penal Code (Act 45 of 1860).

105. Contributions by the Board towards leave, allowances and pension of servants of the Central or State Government employed under this Act.

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

106. The Board and Managing Director to exercise powers and functions under the Bihar and Orissa Municipal Act, 1922.

- In any area in respect of which a housing or an improvement scheme is in force the Government may, by notification, declare that for the period during which such scheme remains in force and subject to such restrictions and notification, if any, as may be specified in the notification-(i)the powers and functions of the Municipal Commissioners under the Bihar and Orissa Municipal Act 1922 (B. O. Act 7 of 1922) shall be exercised and discharged, by the Board, and(ii)the powers and functions of the Chairman of Municipality under the said Act shall be exercised and discharged by the Managing Director.(2)The Board or the Managing Director may delegate any of the function exercisable by it or him under sub-section (1) to any officer or employee of the Board.(3)The exercise or discharge of any of the powers or functions delegated under sub-section (2) shall be subject to such limitations, conditions and control as may be laid down by the Board or the Managing Director, as the case may be.

107. Supply of documents and information to the Government.

- The Managing Director, shall if so directed by the Government, forward to them a copy of all the papers which were laid before the Board for consideration at any meeting and furnish any return, statement, estimate statistics, or other information regarding any matter under the control of the Board, a report of any such matter and copy of any document in charge of the Managing Director.

108. Submission of administration report to Government.

(1)As soon as may be after the first day of April in every year and not later than such date as may be fixed by the Government the Board shall submit to the Government a detailed report of the administration during the preceding year in such form as the Government may direct.(2)The Managing Director shall prepare such report and the Board shall consider the report and forward the same to the Government with its resolution thereon if any.

109. Powers of Government to give directions to the Board and Local Authorities.

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

110. Supersession of the Board.

(1)If the Government are of opinion that the Board is unable to perform, or has persistently made default in performance of the duty imposed on it by or under this Act or has exceeded or abused its powers, they may, by notification supersede the Board for such period as may be specified in the notification:Provided that before issuing a notification under this sub-section, the Government shall by notice require the Board to show cause within such period as may be specified in the notice why it should not be superseded and shall consider the explanations and objections, if any, of the Board.(2)Upon the publication of a notification under sub-section (1) dissolving the Board-(a)the Chairman, and all the members of the Board shall, as from the date of supersession, vacate their offices as such,(b)all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Board and the Chairman shall during the period of supersession, be exercised and performed by such authority or person as the Government may direct,(c)all funds and other property vested in the Board shall during the period of supersession vest in the authority or person referred to in clause (b), and(d)all liabilities legally subsisting and enforceable against the Board shall be enforceable against the authority or person referred to in clause (b) to the extent the funds and properties vested in it or him.(3)On the expiration of the

period of supersession specified in the notification issued under sub-section (1), the Government may-(a)extend the period of supersession for such further period as they may consider necessary; or(b)reconstitute the Board in the manner provided in Section 4.

111. Dissolution of the Board.

(1)If the Government are of opinion that the Board has failed to carry out its functions under this Act or that for any other reason it is not necessary to continue the Board, they may, by notification, dissolve the Board from such date as may be specified in the notification.(2)Upon the publication of a notification under sub-section (1) dissolving the Board-(a)the Chairman and all the members of the Board shall from the date of dissolution, vacate their offices as such;(b)all the powers and duties which may, by or under the provisions of this Act, be exercised and performed by or on behalf of the Board and the Chairman shall from the date of dissolution be exercised and performed by the Government or such authority or person as they may appoint in this behalf;(c)all funds and other property vested in the Board shall vest in the Government; and(d)all liabilities, legally subsisting and enforceable against the Board shall be enforceable against the Government to the extent of the funds and properties vested in them.

112. The Board to be a local authority under Act 1 of 1894 and Act 9 of 1914.

- The Board shall be deemed to be a local authority for the purposes of the Land Acquisition Act, 1894 (Act I of 1894) and the Local Authorities Loans Act, 1914 (Act 9 of 1914).

113. Execution and registration of contracts, etc.

(1)Every contract or assurance of property on behalf of the Board shall be in writing and executed by such authority and in such manner as may be prescribed.(2)Notwithstanding anything contained in the Indian Registration Act, 1908 (Act 16 of 1908), it shall not be necessary for the Managing Director or any officer of the Board authorised to execute on behalf of the Board any agreement or other instrument to appear in person or by agent at any registration office in any proceedings connected with the registration of any such agreement or instrument or to sign as provided in Section 58 of that Act:Provided that the registering officer to whom such instrument is presented may, if he thinks fit refer to the Managing Director or such officer for information respecting the same and shall, on being satisfied of the execution thereof, register the instrument.

Chapter XIII

Rules and Regulations

114. Power to make Rules.

(1)The Government may by notification in the Official Gazette and subject to the condition of previous publication, make Rules for carrying into effect the provisions of this Act.(2)In particular

and without prejudice to the generality of the foregoing powers, such Rules may provide for-(a)the salary, allowances and conditions of service of the Chairman and Managing Director under Section 7;(b)the manner and form in which contracts shall be entered into under Section 26;(c)the form of the annual budget to be laid before the Board under Section 31 and the other particulars to be contained therein;(d)the manner of publication of housing schemes included in the budget under Section 33;(e)the other matters to be decided by the Tribunal under Section 52;(f)the procedure to be followed by the tribunal under Section 55;(g)the form of notices under Sections 59 and 60 and any other manner in which they may be served;(h)the manner in which damages under Section 59 may be assessed;(i)the conditions subject to which the Board may borrow any sum under Section 69;(j)all matters relating to sinking fund established and maintained under Section 70;(k)all matters relating to capital and revenue accounts maintained under Section 75;(l)the manner of preparation, maintenance and publication of accounts under Section 76;(m)the manner in which the Board shall be superseded and reconstituted under Section 110; and(n)other matter which is or may be prescribed under this Act.

115. Power to make Regulations.

(1)The Board may by notification, make Regulations not inconsistent with this Act and the Rules made thereunder for the purpose of giving effect to the provisions of this Act.(2)In particular and without prejudice to the generality to the foregoing power, such Regulations may provide for-(a)all matters expressly required or allowed by this Act to be prescribed by Regulations;(b)the association of persons with the Board under Section 12;(c)the appointment of persons to be members of Committee under Section 13;(d)the delegation of powers or duties of the Board to Committees or to the Managing Director;(e)the duties, and conduct of officers and employees of the Board and of other persons employed by the Board under this Act for carrying out any of the purposes of this Act;(f)the welfare and recreation of the staff of the Board and the contribution to be made therefor;(g)the fees payable for the copies of documents, estimate and plans furnished by any of its officers and employees under this Act;(h)the management, use and regulation of dwelling constructed under any housing or improvement scheme; and;(i)the efficient conduct of the affairs of the Board.(3)No Regulation or its cancellation or modification shall have effect until the same shall have been approved and confirmed by the Government.

116. Power to make Bye-laws.

- The Board may make Bye-laws, not inconsistent with this Act and the Rules and Regulation, which may be necessary or expedient for the purpose of carrying out its duties and functions under this Act.(2)A Bye-law made under this Section may provide that 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 Government with or without modification.(4)All Bye-laws made under this Section shall be published in the Official Gazette.

117. Power of Government to cancel Rules, Regulations and Bye-laws made under Sections 114, 115 and 116.

- The Government may, after previous publication of their intention, rescind any Rule, Regulation or Bye-law made by them under Section 114 made to the Board under Sections 115 and 116 and thereupon such Rule, Regulation or Bye-law, as the case may be, shall cease to have effect.

118. Power to remove difficulties.

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

119. Repeal and saving.

(1)The Bihar State Housing Board Ordinance 1982 (Bihar Ordinance No. 31 of 1982) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of powers conferred by or under this Act as if this Act were in force on the day on which such thing or action was done or taken.The Schedule(See Section 49)Further modification in the Land Acquisition Act, 1894 (Act 1 of 1894) in its application to the State.

1. Amendment of Section 3 of the said Act.-After clause (ee) of Section 3 of the Land Acquisition Act, 1894 (1 of 1894) (hereinafter in this schedule referred to as "the said Act") in its application to the State, the following shall be deemed to be inserted, namely:-

"(eee) the expression 'local authority' includes the Bihar State Housing Board established under Section 3 of the Bihar State Housing Board Third Ordinance, 1974".

2. In Section 15 of the said Act, for the word and figures "and 24" the figures, word and letter "24 and 24-A" shall be deemed to be substituted.

3. Amendment of Section 17 of the said Act.-In Section 17 of the said Act-

(i)for the existing sub-section (1) the following sub-section shall be deemed to be substituted, namely:-(i)Whenever the Government so directs in the interest of the expeditious execution of a housing or improvement scheme under the Bihar State Housing Board Ordinance, 1974 the Collector, though no such award has been made, may on the expiration of fifteen days from the publication of the notice mentioned in sub-section (1) of Section 3 take possession of any land needed for this purpose of the said Act and such land shall thereupon vest absolutely in the Government free from all encumbrances,"(ii)in sub-section (3) after the word and figures "Section

24" the words, figures and letter "or Section 24-A" shall be deemed to be inserted;(iii)sub-section (4) shall be deemed to be omitted.

4. After Section 17 of the said Act, the following Section shall be deemed to be inserted namely:-

17.

-A. Transfer of land to Board.-In every case referred to in Section 16 or Section 17 the Collector shall, upon payment of the cost of acquisition, make overcharge of the land to the Board and the land shall thereupon vest in the Board, subject to the liability of the Board to pay any further costs which may be incurred on account of its acquisition".

5. In Section 23 of the said Act, to sub-section (2), the following proviso shall be deemed to be added, namely:

"Provided that this sub-section shall not apply where the land acquired as situated in area which is declared by the Government to be a congested or slum area and the land is not in the actual possession of the owner."

6. For clause seventhly of Section 24 of the said Act, the following clause shall be deemed to be substituted, namely:-

"Seventhly, any outlay on additions or improvements to land acquired which was incurred after the date with reference to which the market value is to be determined unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair."

7. After Section 24 of the said Act, the following Section shall be deemed to be inserted, namely:-

24A. Further provision for determining compensations.-In determining the amount to be awarded for any land, acquired for the Board under this Act, regard shall also be had to the following provisions namely:-

(1)When any interest in any land acquired under this Act has been acquired after the date with reference to which the market value is to be determined, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land.(2)If, in the opinion of the Court, any building is in a defective state from a sanitary point of view or is not in a reasonably good state of repair, the amount of compensation shall not exceed the sum which the Court considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, minus the estimated cost of putting it into such condition or state.(3)If, in the opinion of the Court, any building which is used or is intended or is

likely to be used for human habitation, is not reasonably capable of being made fit for human habitation the amount of compensation shall not exceed the value of the materials of the building, minus the cost of demolishing the building."

8. Amendment of Section 49 of the said Act. - After sub-section (1) of Section 49 of the said Act, the following sub-section shall be deemed to be added, namely:-

"(1-A) For the purposes of sub-section (1), land which is held with and attached to a house and is reasonably required for the enjoyment and use of the house shall be deemed to be part of the house."