

# Assam State Housing Board Act, 1972

ASSAM

India

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### Rule ASSAM-STATE-HOUSING-BOARD-ACT-1972 of 1972

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Assam State Housing Board Act, 1972Last Updated 12th February, 2020An act to provide for measures to be taken to deal with and satisfy the need of housing accommodationPreambleWhereas it is expedient to take such measures, to make such schemes and to carry out such works as are necessary for the purpose of dealing with and satisfying the need of housing accommodation and whereas with that object in view, it is necessary to establish a Board and to make certain other provisions hereinafter appearing;It is hereby enacted in the Twenty-third Year of the Republic of India, as follows, namely: -

## Chapter I Preliminary

### 1. Short title, extent and commencement.

(1)This Act may be called the Assam State Housing Board Act, 1972.(2)It extends to the whole of the State of Assam.(3)It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

### 2. Definition.

- In this Act, unless the context otherwise requires-(1)"Betterment charge" means the charge declared to be payable under Section 42 in respect of an increase in the value of land resulting from the execution of a housing or improvement scheme;(2)"Board" means the Assam State Housing Board constituted under Section 3;(3)"Board Premises" means any premises belonging to, or vesting in the Board, or taken on lease by the Board or any premises which is entrusted to or in the possession or control of the Board for the purposes of this Act;(4)"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 a notification in the official Gazette;(5)"Committee" means any committee

appointed under Section 16;(6)"Competent Authority" means any person or authority authorised by the Government, by notification, to perform the functions of the Competent Authority under Chapter VI for such area as may be specified in the notification;(7)"Government" means the State Government;(8)"Chairman" means the Chairman of the Board;[(8-A) "Vice-Chairman" means the Vice-Chairman of the Board;] [Inserted by Assam Act No. 5 of 2018, dated 16.3.2018.](9)"Housing Scheme" means Housing Scheme made under this Act;(10)"Land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;(11)"Member" means Chairman [Vice-Chairman] [Inserted by Assam Act No. 5 of 2018, dated 16.3.2018.] and other members of Board;(12)"Prescribed" means prescribed by rules made under this Act;(13)"Premises" means any land or building or part of a building and includes-(i)The garden, grounds and out houses if any, appertaining to such building or part of building; and(ii)Any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;(14)"Regulations" means the regulations made under this Act;(15)"Rules" means the rules made under this Act;(16)"Tribunal" means the Tribunal constituted under Section 48;(17)"Year" means the financial year;

## **Chapter II**

### **Establishment of the Board**

#### **3. Incorporation.**

(1)The State Government shall by notification in the official Gazette establish for the purposes of this Act a Board by the name of the Assam State Housing Board.(2)The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both movable and immovable and to contract and do all things necessary for the purpose of this Act.(3)For the purposes of this Act and the Land Acquisition Act, 1894, the Board shall be deemed to be a local authority.

#### **4. Constitution of the Board.**

- [(1) The Board shall consist of a Chairman and a Vice-Chairman appointed by the Government, and the following members, namely :-(a)Secretary, Urban Development Department;(b)Secretary, Finance Department or his representative ;(c)Chief Engineer, Public Works Department (Road and Buildings) or his representative;(d)Chief Engineer, Public Health Engineering Department;(e)Director, Town and Country Planning, Assam;(f)Commissioner of Panchayat and Rural Development, Assam and Director of Municipal Administration, Assam;(g)Three members to be elected by the Assam Legislative Assembly from amongst its members.](2)The State Government may, by notification in the official Gazette, remove from office the Chairman [Vice-Chairman] [Inserted by Assam Act No. 5 of 2018, dated 16.3.2018.], or any other member who in the opinion of the State Government, has been guilty of any misconduct or negligence or has so abused his position as to render his continuance as member detrimental to the interest of the Board or of the general public:Provided that no person shall be so removed from office unless he has been given an opportunity to show cause against his removal.

## **5. Leave of absence of Chairman.**

(1)The State Government may from time to time grant to the Chairman such leave as may be admissible under the rules and any person whom the State Government appoints to act for the Chairman during such absence or leave shall, while so acting, be deemed for all purposes of this Act to be the Chairman.(2)[ The Chairman may from time to time, grant to the Vice- Chairman such leave as may be admissible under the rules and any person whom the Chairman appoints to act for the Vice- Chairman during such absence or leave shall while so acting be deemed for all purposes of this Act to be the Vice- Chairman.] [Inserted by Assam Act No. 5 of 2018, dated 16.3.2018.]

## **6. Disqualification for appointment on Board.**

(1)A person shall be disqualified for being appointed or continuing as the Chairman [Vice-Chairman] [Inserted by Assam Act No. 5 of 2018, dated 16.3.2018.] or member of the Board, if he-(a)Holds any office of profit under the Board,(b)Is of unsound mind,(c)In an uncertificated bankrupt or an undischarged insolvent.(d)Has directly or indirectly by himself or by any partner, any share or interest in any contract-with, by or on behalf of the Board, or(e)Is a Director or a Secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract with, by or on behalf of the Board, or(f)Has been or is convicted of any offence involving moral turpitude.(2)A person shall not however, be disqualified under clause (d) or (e) of sub-section (1) or be deemed to have any share or interest in any contract within the meaning of these clauses, be reason only of his or the incorporated company of which he is a Director, Secretary, Manager or other salaried officer having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board is inserted.(3)A person shall not also be disqualified under clause (d) or (e) or sub-section (1) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with by or on behalf of the Board by reason only of his being a share-holder of such company:Provided that such person discloses to the State Government the nature and extent of the shares held by him.

## **7. [ [Substituted by Assam Act No. 5 of 2018, dated 16.3.2018.]**

(1)The Chairman, Vice- Chairman and every other member (not being an ex-officio member) shall hold office during the pleasure of the Government.(2)The Chairman or the Vice-Chairman may hold office in a honorary capacity or on payment of remuneration. If any, remuneration is to be paid to the Chairman or the Vice- Chairman, such remuneration and other conditions of service shall be such as may be prescribed.(3)The allowances to the members and the remuneration if any, to the Chairman or the Vice-Chairman shall be paid from the fund of the Board.] [Substituted by Assam Act No. 5 of 2018, dated 16.3.2018.]

## **8. Vacancy of a member.**

- If a member: -(a)Becomes subject to any of the disqualifications mentioned in Section 6;(b)tenders his resignation in writing to the State Government; or(c)Is absent without the permission of the

Board, he shall cease to be a member.

## **9. Vacancy to be filled as early as practicable.**

- Any vacancy in the membership of the Board shall be filled in as early as practicable: Provided that during any such vacancy the continuing members may act as if no vacancy had occurred.

## **10. Proceedings presumed to be valid.**

- No disqualification of, or defect in the appointment, of any person acting as Chairman [Vice-Chairman] [Inserted by Assam Act No. 5 of 2018, dated 16.3.2018.] or a member of the Board shall be deemed to vitiate any act or proceeding of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act.

## **11. Temporary absence of members.**

- If any member of the Board other than the Chairman [Vice-Chairman] [Inserted by Assam Act No. 5 of 2018, dated 16.3.2018.] is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise not involving the vacation of his appointment, the State Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder.

## **12. Appointment of officers and employees and creation of posts.**

(1) The Board shall have such officers and employees as the Board may consider necessary for the efficient performance of its function: Provided that the Board shall not appoint any officer in the scale of pay the maximum of which exceeds one thousand and two hundred rupees a month without obtaining the previous sanction of the State Government. (2) The Board shall have power to create any post on its establishment: Provided that no new post the scale of pay of which exceeds one thousand and two hundred rupees per month shall be created by the Board without the previous sanction of the State Government.

## **13. Conditions of service of officers and employees.**

- The remuneration and other conditions of service of the officers and employees of the Board shall be such as may be determined by regulations.

## **14. Preparation and maintenance of Schedule of establishment.**

- Before the first day of May of every year, the Board shall prepare and maintain a schedule of establishment as on the first day of April of that year showing, -(i) The number, designations and grades and scales of pay of the officers and employees (other than the 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 this Act;(ii)The amount and nature of the salary fees and allowances to be paid by the Board to each such officer of employee;(iii)The amount to be paid by the Board towards leave salary pension, provident fund or any other purpose in respect of each such officer or employee.

## **15. General disqualification of all officers and employees.**

- No person who has directly or indirectly by himself or his partner or agent any shares or interest in any contract, by or on behalf of the Board otherwise than as an officer or employee thereof, shall become or remain an officer or employee of the Board.

## **16. Appointment of Committee.**

(1)Subject to any rules made in this behalf, the Board may from time to time appoint one or more Committees for the purpose of securing the efficient discharge of its functions, and in particular for the purpose of securing that the said functions are exercise with due regard to the circumstances and requirements of particular local areas.(2)Any Committee appointed under sub-section (1) shall meet to discharge the functions assigned to it in such manner as may be directed by the Board.  
Conduct Of Business

## **17. Meetings of Board.**

- The Board shall meet from time to time and shall make such arrangements with respect to the day, time, notice, management and adjournment of its meetings as it thinks fit, subject to the following provisions, namely: -(a)An ordinary meeting shall be held once at least every two months and five members shall form the quorum;(b)The Chairman may whenever he thinks fit, call special meetings;(c)[ every meeting shall be presided over by the Chairman and in his absence, the Vice-Chairman to preside over the meeting;] [Substituted by Assam Act No. 5 of 2018, dated 16.3.2018.](d)All questions at any meeting shall be decided by a majority of the votes of the members present and in case of equality of votes, the person presiding shall have the right to exercise a second or casting vote;(e)The minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

## **18. Temporary association of persons with Board for particular purpose.**

(1)The Board may associate with itself, any person whose assistance or advice it may desire for carrying into effect any of the provisions of this Act:Provided that the number of persons so associated shall not be more than three.(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 State Government may, by order, depute its representatives to attend any meeting of the Board and to take part in the deliberations of the Board, on such items or subjects as the State Government may specify but such representatives shall not have the right to vote.  
Contracts

## **19. Power to make contracts.**

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

## **20. Execution of Contract.**

(1) Every contract shall be made on behalf of the Board by the Chairman: Provided that - (a) No contract involving an expenditure of rupees twenty lacs and more shall be made without the previous sanction of the State Government; (b) No contract involving an expenditure of five thousand rupees and more shall, subject to clause (a) above, be made without the previous sanction of the Board. (2) Sub-section (1) shall apply to every variation or abandonment of a contract or estimate as well as to an original contract or estimate.

## **21. Delegation of Board's power to sanction contracts.**

- Subject to any rule which the State Government may, make in this behalf, the Board may, by order direct that the power conferred on it under section 20 to sanction a contract shall be exercised by the Chairman or any other officer specified by it in the order.

## **22. Further provisions as to execution of contracts.**

(1) Every contract by the Chairman on behalf of the Board shall, subject to the provisions of this section, be entered into in such manner and form as may be prescribed. (2) A contract not executed as provided in this section and the rules made thereunder shall not be binding on the Board.

## **Chapter III**

## **Housing Schemes**

## **23. Power and duties of Board to under take Housing Schemes.**

(1) Subject to the provisions of this Act and subject to the control of the State Government, the Board may, from time to time incur expenditure and undertake works 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) The State 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 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, on such terms and conditions as may be agreed upon and with the previous approval of the State Government, take over for executing any housing scheme on behalf of a local authority or cooperative society or on behalf of an employer when the houses are to be built mainly for the residence of his employees, and the Board shall execute such scheme as if it had been provided for by this Act.

## **24. Mattes to be provided for by Housing Scheme.**

- Notwithstanding anything contained in any other law for the time being in force, a Housing Scheme may provide for all or any of the following matters, namely: -(a)The acquisition by purchase, exchange or otherwise of any property for necessary or affected by the execution of the scheme;(b)The laying or relaying out of any land comprised in the Scheme;(c)The distribution or redistribution of site belonging to owners or property comprised in the Scheme;(d)The closure or demolition of dwellings or portions of dwellings unfit for human habitation;(e)The demolition of obstructive buildings or portions of buildings;(f)The construction and reconstruction of buildings;(g)The sale, letting out or exchange of any property comprised in the Scheme;(h)The construction and alteration of streets and back lanes;(i)Provision of the draining, water supply and lighting of the area included in the Scheme;(j)The provision of parks, playing fields and open space for the benefit of any area comprised in the Scheme or any adjoining areas and the enlargement and improvement of existing parks, playing-fields, open spaces and approaches;(k)The reclamation or reservation of lands for markets, gardens, playing fields, schools, dispensaries, hospitals and other amenities in the Schemes;(l)The letting out, management and use of the Board premises;(m)The provision of sanitary arrangements required for the area comprised in the Scheme, including the conservation and prevention of any injury or contamination to rivers or other sources and means of water supply;(n)The provision of accommodation for any class of inhabitants;(o)The advance of money for the purpose of the Scheme;(p)The provision of facilities for communication and transport;(q)The collection of such information and statistics as may be necessary for the purposes of this Act;(r)Any other matter for which, in the opinion of the State Government, it is expedient to make provision with a view to provide housing accommodation and to the improvement on development of any area comprised in the Scheme or any adjoining area or the general efficiency of the Scheme;Explanation: - For the purposes of this section the State Government may, on the recommendation of the Board, by notification in the official Gazette, specify such areas surrounding or adjoining the area included in a housing scheme to be the adjoining area.

## **25. No Housing Scheme to be made for area included in an improvement Scheme or be inconsistent with Town Planning Schemes.**

(1)No housing scheme shall be made under this Act for any area for which an improvement Scheme has been sanctioned by the State Government under any enactment for the time being in force for the constitution of a municipal corporation for any area in the State to which this Act extends, nor any Housing Scheme made under this Act contain anything which is inconsistent with any of the matters included in a Town Planning Scheme sanctioned by the State Government under the Assam Town and Country Planning Act, 1959 or in any town planning scheme duly made by or under any corresponding law for the time being in force.(2)If any dispute arises whether a housing scheme made under this Act includes any area included in an improvement scheme sanctioned under any such enactment as aforesaid or contains anything inconsistent with any matter included in Town planning Scheme sanctioned under the Assam Town and Country Planning Act, 1959 or in any Town Planning Scheme duly made by or under any corresponding law for the time being in force, the decision of the State Government shall be final.

## **26. Submission of budget Board.**

(1)The Chairman shall at a special meeting to be held in the month of February in each year, lay before the Board, a budget of the Board for the next year.(2)Every such budget shall be prepared in such form as may be prescribed and shall make provision for -(i)The housing schemes which the Board proposes to execute whether in part or whole during the next year.(ii)The due fulfilment of all the liabilities of the Board, and(iii)The efficient administration of this Act, and shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the next year and such other particulars as may be prescribed.

## **27. Board's sanction to Budget.**

- The Board shall consider the budget laid before it under the 1st preceding section and sanction it with or without modification.

## **28. Submission of sanctioned budget to State Government for approval.**

(1)Every budget sanctioned by the Board shall be submitted to the State Government for approval. At any time after the receipt of the Budget, the State Government may approve the budget as sanctioned by the Board or return it to the Board for making such modifications therein as the State Government may deem fit.(2)Where a budget is returned to the Board by the State Government for making any modification therein, the Board shall forthwith make such modifications and submit the budget as so modified to the State Government, which may then approve it.

## **29. Supplementary budget.**

- The Chairman may, at any time during the year for which a budget has been approved by the State Government, lay before the board a supplementary budget and the provisions of sections 26, 27 and 28 shall apply to such supplementary budget.

## **30. Publication and execution of housing schemes.**

- After the budget is approved by the State Government, the Board shall cause the housing schemes, in respect of which provision is made in the budget, to be published in the official Gazette in such manner as may be prescribed, and proceed to execute the new schemes.

## **31. Variation of housing schemes.**

- The Board may at any time vary and housing scheme or any part thereof included in the budget approved by the State Government:Provided that no such variation shall be made if it involves an expenditure in excess of 10 per cent of the amount as included in the budget approved by the State Government for the execution of any housing scheme or if it affects the scope or purpose of such scheme.



### **32. Transfer to the Board for purposes of housing scheme of land rested in a Corporation, Municipality or Mohkuma Parishad.**

(1)Whenever any street, square or other land, or any part thereof, situated in any area of a Corporation, Municipality or Mohkuma Parishad and vested in the Corporation, Municipality or Mohkuma Parishad constituted therefore, is required for the purpose of any housing scheme included in the budget approved by the State Government, the Board shall give notice accordingly to the Corporation, Municipality or Mohkuma Parishad as the case may be.(2)Where the Corporation, Municipality or Mohkuma Parishad concurs, such street, square or other land, or part thereof, shall vest in the Board.(3)Where there is any dispute, the matter shall be referred to the State Government. The State Government shall, after hearing the Corporation, Municipality or Mohkuma Parishad concerned, decide the matter and the decision of the State Government shall be final. If the State Government decides that such street, square or land, or part thereof, shall vest in the Board, it shall best accordingly.(4)Nothing in this section shall affect the rights or powers of the Corporation, Municipality or Mohkuma Parishad in or over any drain or water works in such streets, square or land

### **33. Compensation in respect of land vested in the Board.**

(1)Where any land vests in the Board under the provisions of section 32 and the Board makes a declaration that such land shall be retained by the Board only until it revests in the Corporation, the Municipality or the Mohkuma Parishad, as part of a street or open space under section 36, no compensation shall be payable by the Board to the Corporation, the Municipality or the Mohkuma Parishad, as the case may be, in respect of that land.(2)Where any land vests in the Board under section 32 and no declaration is made under sub-section (1) in respect of the land, the Board shall pay to the Corporation, the Municipality or the Mohkuma Parishad, as the case may be, as compensation a sum equal to the value of such land.(3)If, in any case where the Board has made a declaration in respect of any land under sub-section (1), the Board retains or disposes of the land contrary to the terms of the declaration so that the land does not revest in the Corporation, the Municipality or the Mohkuma Parishad, compensation in respect of such land in accordance with the provisions of sub-section (2).

### **34. Power of Board to turn or close Public Street vested in it.**

(1)The Board may turn, divert, discontinue the public use of, or permanently close, any public street vested in it or any part thereof.(2)Whenever that Board discontinues the public use of or permanently closes, any public street vested in it or any part thereof, it shall, as far as practicable, provided some other reasonable means of access to be substituted in lieu of the use, by those entitled, of the street or part thereof and pay reasonable compensation to every person who is entitled, otherwise than as mere member of the public, to use such street or part as a mean of access and has suffered damage from such discontinuance or closing.(3)In determining the compensation payable to any person under sub-section (2) the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street at or about the

same time that the public street or part thereof, on account of which the compensation is paid, is discontinued or closed.(4)When any public street vested in the Board is permanently closed under sub-section (1), the Board may sell or lease so much of the said street as is no longer required.

### **35. Reference to Tribunal in case of dispute under section 33 or 34.**

- If there is any dispute as to whether any compensation is payable under section 33 or as to the amount of compensation payable under section 33 or section 34, as the case may be, the matter shall be referred to the Tribunal.

### **36. Vesting in Corporation, Municipality or Mohkuma Parishad, of street laid out or altered and open space provided by the Board under Housing Scheme.**

(1)Whenever the State Government is satisfied -(a)That any street laid out or altered by the Board has been duly levelled, paved, metalled, flagged, channelled, sewered and drained as required for any housing scheme included in the Budget approved by the State Government under section 28, and(b)That such lamps, lamp-posts and other apparatus as the Corporation, the Municipality or Mohkuma Parishad, as the case may be, considers necessary for the lighting of such street and as ought to be provided by the Board have been so provided, and(c)That water and other sanitary conveniences have been duly provided in such street, the State Government may declare the street to be a public street and the street shall there upon vest in the Corporation, Municipality or Mohkuma Parishad as the case may be, and shall thenceforth be maintained, kept in repair, lighted and cleaned by the Corporation, Municipality or Mohkuma Parishad.(2)When any open space for purposes of ventilation or recreation has been provided by the Board in executing any housing scheme, the Board may at its option by resolution transfer such open space to the local authority concerned on completion of the scheme and thereupon such open space shall vest in, and be maintained at the expense of the local authority:Provided that the local authority may require the Board before any such open space is so transferred to enclose, level, turf, drain and lay-out such space and provide footpaths therein and if necessary to provide lamps and other apparatus for lighting it.(3)If any difference of opinion arises between the Board and the Corporation, Municipality or Mohkuma Parishad in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the State Government whose decision shall be final.

### **37. Other duties of the Board.**

(1)It shall be the duty of the Board to take necessary measures to maintain, allot, lease or otherwise use the Board premises and to collect rents, compensation and damages in respect thereof.(2)The Board may, -(i)Provide technical advice to the State Government and scrutinize projects under housing schemes in the area to which this Act extends when required by the State Government to do so;(ii)Undertake research on various problems connected with housing in general and find out in particular the economical methods of constructing houses suited to local conditions;(iii)Undertake comprehensive surveys of problems of housing;(iv)Grant loans to individuals or body of individuals for building houses under different schemes either at their own instance or under the direction of

the State Government and recover the loans in such manner and in such procedure as may be prescribed;(v)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 house;(d)Securing a steady and sufficient supply of workmen trained in the work of construction of buildings.

### **38. Bar to assume management of requisitioned lands.**

- The Board shall, subject to the general control of the State Government, assume management of all such lands requisitioned or continued to be subject to requisition, by or under the authority of the State Government under the Assam Requisition and Acquisition Act, 1964 or by or under any corresponding law for the time being in force, as the State Government may direct.

### **39. Reconstitution of plots.**

- A housing scheme may provide -(a)For the formation of a reconstituted plot by the alterations of the boundaries of an original plot;(b)With the consent of the owners that two or more original plots each of which is held in ownership in severally or in joint ownership shall, with or without alteration of boundaries be held in ownership in common as a reconstituted plot;(c)For the allotment of a plot to any owner 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.

### **40. Power to exempt Schemes from provisions of Sections 26 to 31.**

- The State Government may, by general or special order published in the official Gazette, exempt any housing scheme undertaken by the Board from all or any of the provisions of sections 26 to 31 subject to such conditions, if any, as it may impose or may direct that any such provision shall apply to such scheme with such modifications as may be specified in the order.

## **Chapter IV**

## **Acquisition and Disposal of Land**

### **41. Power to purchase or lease by agreement.**

(1)The Board may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land which is needed for the purposes of a housing scheme or any interest in such land or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith.(2)The Board may also take steps for the compulsory acquisition of any land or any interest therein required for the execution of a housing scheme in the manner provided in the Land Acquisition Act and the acquisition of any land or any interest thereto for the purposes of this Act shall be deemed to be acquisition for a public purpose within the

meaning of the Land Acquisition Act.

## **42. Betterment charges.**

(1)When by the making of a housing scheme any land in the area comprised in the scheme will, in the opinion of the Board be increased in value, the Board in framing the scheme may declare that betterment charges shall be payable by the owner of the land or person having an interest therein in respect of the increase in value of the land from the execution of the scheme.(2)Such increase in value shall be the amount by which the value of the land on the completion of execution of the scheme estimated as if the land were clear of the buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner and the betterment charges shall be one half of such increase in value.(3)Such betterment charges shall also be leviable in respect of any land not comprised in the scheme but adjacent to the area comprised in the scheme.Explanation: - For the purpose of this sub-section the State Government may on the recommendation of the Board, by notification in the official Gazette, declare such land which is situated near or contiguous or adjacent to any land comprised in a scheme to be adjacent to the area comprised in such scheme.

## **43. Notice to persons liable for betterment charges.**

(1)The Board shall give notice in the prescribed form to any person who is the owner of or has interest in the land in respect of which the betterment charges are to be levied and shall give such person an opportunity to be heard.(2)After hearing such person or if such person fails to appear after the expiry of the period within which such person is required to appear before the Board, the Board shall proceed to assess the amount of betterment charges.(3)Where the assessment of betterment charges proposed by the Board is accepted by the person concerned within the period prescribed, the assessment shall be final.(4)If the person concerned does not accept the assessment proposed by the Board the matter shall be referred to the Tribunal.(5)The Tribunal shall, after holding an inquiry and after hearing the person concerned, assess the amount of the betterment charges payable by the person.

## **44. Agreement for payment of betterment charges.**

(1)Any person liable to pay betterment charges respect of any land may at his option, instead of paying the same to the Board, execute an agreement with the Board to leave the payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at such rate as may be prescribed.(2)Every payment due from any person in respect of betterment charges and every charge referred to in sub-section (1) shall notwithstanding anything contained in any other enactment and notwithstanding the execution of any mortgage or charge created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

#### **45. Recovery of betterment charges.**

- All sums payable in respect of any land by any person in respect of betterment charges under section 42 or by any person under an agreement under section 44 shall be recoverable on behalf of the Board as an arrear of land revenue.

#### **46. Power to dispose of land.**

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

#### **47. Disputes regarding reconstitution of plots.**

(1)Where by the making of a housing scheme, any plot comprised in the area included in the scheme are reconstituted or any person is dispossessed, any person affected by such reconstitution or dispossession may apply to the Board for compensation. The Board may, after making such inquiry as it thinks fit, decide whether the applicant is entitled to any compensation and if so to what extent. If the person is dissatisfied with the decision of the Board in the matter, he may inform the Board accordingly. The Board shall thereupon refer the matter to the Tribunal.(2)The Tribunal shall then after making an inquiry determine the amount of compensation and direct the Board to pay the same to the person entitled.

### **Chapter V**

### **Tribunal**

#### **48. Constitution of a Tribunal for certain purpose.**

(1)Notwithstanding anything contained in the Land Acquisition Act, 1894 the Government may constitute a Tribunal for the purpose of performing the functions of the court with reference to the acquisition of land for the Board under the said Act, for deciding disputes relating to levy or assessment of betterment charge and for deciding such other matters as may be prescribed. (Central Act 1 of 1894)(2)The Tribunal shall consist of one person only who shall be a judicial officer not below the rank of District Judge or possessing qualifications to be appointed as a District Judge.(3)The Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908. (Central Act V of 1908)

#### **49. Officers and Board on employees of the Tribunal.**

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

## **50. Payments by accounts of Tribunal.**

- The amount necessary for the payment of remuneration, salaries, allowances and other contributions payable to the Tribunal and the officers and employees of the Tribunal shall be paid out of the funds of the Board, with the prior approval of the Government.

## **51. Appeals from awards Tribunal.**

(1)Notwithstanding anything to the contrary in the Land Acquisition Act, 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. (Central Act 1 of 1894)(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 or to the persons to whom it is payable or to the apportionment of the compensation among those persons may within sixth days from the date of the award of the Tribunal prefer an appeal to the Gauhati High Court: (Central Act I of 1894)Provided that the High Court may entertain the appeal after the expiry of the said period if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

## **52. Awards and orders of Tribunal to be executed by Civil Courts.**

- Every award of the Tribunal and every order made by the Tribunal for the payment of money, for the delivery of possession or removal of any structure shall be enforced by the Assistant District Judge's Court having jurisdiction over the area in which the land concerned in the proceeding of the Tribunal is situated as if it were the decree of the said Court.

# **Chapter VI**

## **Power to Evict Persons From Board Premises**

### **53. Appointment of competent authorities.**

- The State Government may, by notification in the official Gazette, appoint an officer who holds or has held office which, in its opinion, is not lower in rank than that of a Deputy Commissioner or an Executive Engineer, to be the competent authority for performing the functions of the competent authority under this Chapter in such area, or in respect of such premises or class of premises, as may be specified in the notification, and more than one officer may be appointed as competent authority in the same area in respect of different premises or different classes of premises.

### **54. Power to evict certain persons from Board premises.**

(1)If the competent authority is satisfied -(a)That the person authorised to occupy any Board premises has,(i)Not paid rent lawfully due from him in respect of such premises for a period of more than two months, or(ii)Sub-let, without the permission of the Board, the whole or any part of such

premises, or (iii) Committed, or is committing any act contrary to the provisions of clause (o) of section 108 of the Transfer of Property Act, 1882, or (iv) Made, or is making, material additions to or alterations, in such premises without the previous written permission of the Board, or (v) Otherwise acted in contravention of any of the terms express or implied, under which he is authorised to occupy such premises, or (b) That any person is in unauthorised occupation of any Board premises, the competent authority may, notwithstanding anything contained in any law for the time being in force, by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the date of the service of the notice. (2) Before an order under sub-section (1) is made against any person the competent authority shall inform the person by notice in writing of the grounds for which the proposed order is to be made and give him a reasonable opportunity of tendering an explanation and producing evidence, if any, and to show cause why such order should not be made, within a period to be specified in such notice. If such person makes an application to the competent authority for extension of the period specified in the notice, the competent authority may grant the same on such terms as to payment and recovery of the amount claimed in the notice as he deems fit. Any written statement put in by such person and documents produced in pursuance of such notice shall be filed with the record of the case and such person shall be entitled to appear before the Officer proceeding in this connection by advocate, attorney or pleader. Such notice in writing shall be served in the manner provided for service of notice under sub-section (1). (3) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may evict that person from, and take possession of, the premises and may for that purpose use such force as may be necessary. (4) If a person, who has been ordered to vacate any premises under sub-clause (i) or (v) or clause (a) of sub-section (1) within one month of the date of service of the notice or such longer time as the competent authority may allow, pays to the Board the rent in arrears or carries out or otherwise complies with the terms contravened by him, to the satisfaction of the competent authority, as the case may be, the competent authority shall, in lieu of evicting such person under sub-section (3), cancel its order made under sub-section (1) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him. Explanation: - For the purposes of this section and section 55 the expression "unauthorised occupation", in relation to any person authorised to occupy any Board premises, includes the continuance in occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the premises has been duly determined.

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

(1) Subject to any rules made by the State Government in this behalf and without prejudice to the provisions of section 54 where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that person to pay the same within such time not less than fifteen days as may be specified in the notice. If such person refuses or fails to pay the arrears of rent within the time specified in the notice, such arrears may be recovered as arrears of land revenue. (2) Where any

person is in unauthorised occupation of any Board premises, the competent authority may, in the manner, and having regard to the principles of assessment of damages, prescribed in this behalf, assess such damages on account of the use and occupation of the premises as it may deem fit, and may by notice served (i) by post, (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue.(3)No order shall be made under sub-section (2) until after the service of a notice in writing to the person calling on him to show cause, within a reasonable period to be specified in such notice, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same have been considered by the competent authority.

## **56. Rent to be recovered from deductions from salary of wages in certain cases.**

(1)Without prejudice to the provisions of section 55, any person who is an employee of the State Government or a local authority and who has been allotted any Board premises, may execute an agreement in favour of the State Government or any local authority, as the case may be, providing that the State Government or the local authority, as the case may be, under or by whom he is employed, shall be competent to deduct from the salary or wages payable to him such amount as may be specified in the agreement and to pay the amount so deducted to the Board in satisfaction of the rent due by him in respect of the Board premises allotted to him,(2)On the execution of such agreement, the State Government or local authority, as the case may be, shall, if so required by the Board by requisition in writing make the deduction of the amount specified in the requisition from the salary or wages of the employee specified in the requisition in accordance with the agreement and pay the amount so deducted to the Board:Provided that no such agreement in favour of the local authority by the employee concerned shall be valid unless such local authority has agreed in writing to make such deduction on account of rent from the salary or wages of the employee.

## **57. Appeal.**

(1)Any person aggrieved by an order of the competent authority under section 54 or section 55 may, within one month of the date of the service of the notice under section 54 or section 55, as the case may be, prefer an appeal to the State Government:Provided that the State Government may entertain the appeal after the expiry of the said period of one month, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.(2)On receipt of an appeal under sub-section (1) the State Government may, after calling for a report from the competent authority, and after hearing the appellant and making such further inquiry, if any, as may be deemed necessary, pass such orders as it thinks fit and the order of the State Government shall be final.(3)Where an appeal is preferred under sub-section (1), the State Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.



## **58. Bar of Jurisdiction of civil Courts.**

- No order made by the State Government or the competent authority in the exercise of any power conferred by or under this Chapter shall be called in question in any civil 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 VII**

### **Finance, Accounts and Audit**

#### **59. Board's Fund.**

(1)The Board shall have its own fund.(2)The fund of the Board shall consist of -(i)All grants, subventions, donations and gifts received 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; and(ii)All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all rents, betterment charges and all interest, profit and other moneys accruing to the Board.(3)Except as otherwise directed by the State Government, all moneys, and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the Reserve Bank of India or in any scheduled bank or invested in such securities as may be approved by the State Government.(4)Such amounts shall be operated upon by such officers as may be authorised by the Board.Explanation: - For the purposes of this section the Reserve Bank of India shall mean the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 and a scheduled bank shall mean a bank included in the Second schedule to the said Act.

#### **60. Application of the fund.**

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

#### **61. 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 in any year, -(a)Recurring expenditure not exceeding twenty-five thousand rupees,(b)Non-recurring expenditure not exceeding one lac of rupees.(2)Where any sum is expended under circumstances of extreme urgency as provided in sub-section (1), a report thereof indicating the source from which it is proposed to meet the expenditure shall be made by the Board as soon as practicable to the State Government.

## **62. Subvention and loans to the Board.**

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

## **63. Expenditure of the State Government to be treated as loan or grant to the Board.**

(1)The State Government may, with prior consultation with the Board at any time, declare that any expenditure incurred by it and any proceeding initiated by it, either before or after the constitution of the Board, shall be expenditure incurred or proceedings initiated, on behalf of the Board and upon such declaration, amount equivalent to such expenditure shall be deemed to have been given by the Government to the Board as loan with effect from such date as the State Government may appoint, provided that the State Government may give such amount as grant to the Board instead of as loan.(2)On a declaration being made under sub-section (a) above, such assets and liabilities as may have been created or as may have accrued as a result of the expenditure in respect of which a declaration have been made under sub-section (4), shall vest in the Board.

## **64. Power of Board to borrow.**

(1)The Board may, from time to time, with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions, as may be prescribed in this behalf, borrow any sum required for the purposes of the Act.(2)The rules made by the State Government for the purposes of this section may empower the Board to borrow by the issue of debentures and to make arrangements with bankers.(3)All debentures issued by the Board shall be in such form as the Board, with the sanction of the State Government, may from time to time determine.(4)Every debenture shall be signed by the Chairman and one other member of the Board.(5)Loans borrowed and debentures issued under this section may be guaranteed by the State Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the State Government.

## **65. Account and audit.**

(1)The Board shall cause to be maintained proper books of accounts and such other books as the rules may require and shall prepare in accordance with the rules an annual statement of accounts.(2)The Board shall cause its accounts to be audited annually by such person as the State Government may direct. The person so directed shall have the right to demand the production of books, accounts, and connected voucher, 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 State Government and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at a

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

## **66. Concurrent and special audits of accounts.**

(1)Notwithstanding anything contained in Section 65, the State Government may order that there shall be a concurrent audit of the accounts of the Board by such person as it thinks fit. The State Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Board relating to any particular transaction or a class or series of transactions or to a particular period.(2)When an order is made under sub-section (1), the Board shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit and remedy or cause to be remedied the defects pointed out by such person, unless they are condoned by the State Government.

## **Chapter VIII Miscellaneous**

### **67. Reports.**

- The Board shall, before such date and in such form and at such interval as may be prescribed, submit to the State Government a report on such matters as may be prescribed and the State Government shall cause such report to be published in the official Gazette. Every such report shall be laid before the House of the State Legislature as soon as may be after it is published.

### **68. Other statement and returns.**

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

### **69. Power and Entry.**

- The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistants or workmen, enter into or upon any land, in order-(a)To make any inspection, survey, measurement, valuation or inquiry;(b)To take levels;(c)To dig or bore into the sub-soil;(d)To set boundaries and intended lines of work;(e)To make such levels, boundaries and lines of works and cutting trenches; or(f)To do any other thing;whenever it is necessary to do so for any of the purposes of this Act or any rules made or scheme sanctioned thereunder:Provided as follows:(a)No such entry shall be made between sunset and sunrise;(ii)No dwelling house and no public building which is used as a dwelling place, shall be so entered except with the consent of the

occupier thereof, and without giving the said occupier at least twenty-four hours previous written notice of the intention to make such entry;(iii)Sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice to enable the inmates of any apartment appropriate to females to remove themselves to some part of the premises where their privacy will not be disturbed;(iv)Due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

## **70. Notice of suit against Board.**

- No person shall file any suit against the Board or against any officer or employee of the Board or any person acting under the orders of the Board, for anything done or purporting to have been done in pursuance of this Act, without giving to the Board, officer or employee or person two month's previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of.

## **71. Valuation of assets and liabilities of the Board.**

- The Board shall at the end of every five years have a valuation of its assets and liabilities made by a valuer appointed with the approval of the State Government:Provided that it shall be open to the State Government to direct a valuation to be made at any time it may consider necessary.

## **72. Power to make rules.**

(1)The State Government may, by notification in the official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matter, namely: -(a)The allowances of members and remuneration and conditions of service of the Chairman under Section 7;(b)The manner and form in which contracts shall be entered into under section 22;(c)The form of the annual budget to be laid before the Board under section 26 and the other particulars to be contained therein;(d)The manner of publication of housing schemes included in the budget under section 30;(e)The form of notice under section 43;(f)The rate of interest under section 44;(g)The other matters to be decided by the Tribunal under section 49;(h)The forms of notices under sections 54 and 55 and any other manner in which they may be served;(i)The procedure to be followed in taking possession of any Board premises under section 54;(j)The manner in which damages under section 55 may be assessed;(k)The manner in which appeals may be preferred under section 57 and the procedure to be followed in such appeals;(l)The conditions subject to which the Board may borrow any sum under section 64;(m)The manner of preparation, maintenance and publication of accounts under section 65;(n)The date before which, the form in which, the interval at which and the matters on which reports shall be submitted under section 67;(o)The time at which and the form and manner in which statistics, returns, particulars, statements, documents and papers shall be submitted under section 68;(p)The manner in which the Board shall be superseded and reconstituted under section 83;(q)Any other matter, which is or may be prescribed under this Act;(3)All rules made under this section shall be

laid as soon as may be, after they are made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that no rules should be made, the rules shall thereafter, have effect only in such modified form or be of no effect, as the case may be; provided that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rules.

### **73. Regulations.**

(1)The Board may from time to time, with the previous sanction of the State Government, make regulations consistent with this Act and rules -(a)For the management and use of buildings constructed under any housing scheme;(b)The principles to be followed in allotment of tenements and premises;(c)The remuneration and conditions of service of the other officers and employees of the Board under section 14;(d)For regulating its Procedure and disposal of its business.(2)If it appears to the State Government that it is necessary or desirable for carrying out the purposes this Act to make any regulation in respect of matters specified in sub-section (1) or to amend any regulation made under that sub-section, it may call upon the Board to make such regulation or amendment within such time as it may specify. If the Board fails to make such regulation or amendment within the time specified, the State Government may itself make such regulation or amendment and the regulation or the amendment so made shall be deemed to have been made by the Board under sub-section (1).

### **74. Power to make bye-laws.**

(1)The Board may make bye-laws, not inconsistent with this Act, which may be necessary or expedient for the purpose of carrying out its duties and functions under this Act.(2)A bye-law made under this section may provide that a contravention thereof shall be an offence.(3)No bye-laws made by the Board shall come into-force until it has been confirmed by the State Government with or without modification.(4)All bye-laws made under this section shall be published in the official Gazette.

### **76. Penalty for contravention of bye-laws.**

- If any person -(a)Obstructs, or molests any person with whom the Board has entered into a contract, in the performance or execution by such person of his duty or of anything which he is empowered or required to do under this Act, or(b)Removes any marks set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Act.He shall, on conviction, be punished with imprisonment for a term, which may extend to three months or with fine, which may extend to five hundred rupees or with both.

## **77. Penalty for obstructing exercise of powers under Chapter VI.**

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

## **78. Authority for prosecution.**

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

## **79. Members, officers and employees of the Board to be public servants.**

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

## **80. Protection of action taken under this Act.**

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

## **81. Government's power to give directions to Board.**

- The State Government may give the Board such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act. It shall be the duty of the Board to comply with such directions.

## **82. Power to order inquiries.**

(1) The State Government with a view to satisfy itself that the powers and duties of the Board are being exercised and performed properly may, at any time, appoint any person or persons to make inquiries. (2) The Board shall give to the person or persons so appointed all facilities for the proper conduct of the inquiries and shall produce before the person or persons any document, account or information in the possession of the Board, which such person or persons demand for the purposes of the inquiries.

## **83. Default in performance of duty and supersession.**

(1) If the State Government is satisfied that the Board has made default in performing any duty imposed on it by or under this Act, it may fix a period for the performance of that duty. (2) If in the opinion of the State Government the Board fails or neglects to perform such duty within the period so fixed for its performance, it shall be lawful for the State Government, notwithstanding anything

contained in Section 8, to supersede and reconstitute the Board in the prescribed manner.(3)After the supersession of the Board and until its is reconstituted the powers, duties and functions of the Board under this Act shall be carried on by the State Government or by such officer or officers as the State Government may appoint for this purpose.

## **84. Dissolution of the Board.**

(1)The State Government may, if it is satisfied in public interest to do so, by a notification, in the Official Gazette, declare that with effect from such date, as may be specified in the notification, the Board shall stand dissolved.(2)With effect from the date specified in the notification under sub-section (1),-(a)All properties, funds and dues, which are vested in or realizable by the Board shall vest in and be realizable by the State Government;(b)All liabilities enforceable against the Board shall be enforceable against the State Government to the extent of the properties, funds and dues vested in and realised by the State Government.(3)Nothing in this section shall affect the liability of the State Government in respect of loans or debentures guaranteed under sub-section (5) of Section 64.