

The Gujarat Housing Board Act, 1961

GUJARAT

India

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Act 28 of 1961

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The Gujarat Housing Board Act, 1961 Gujarat Act No. 28 of 1961 [Dated 1st July, 1961] For the Statement of Objects and Reasons, see Gujarat Government Gazette, 1961 Part V, P. 262. This Act was assented to by the President on the 22nd June, 1961. [An Act to consolidate and amend the law relating to the Housing Board in the State of Gujarat and its functions] [The long title was substituted for the original by Gujarat 29 of 1964, section 2 (w.e.f. 03-11-1964).] It is hereby enacted in the Twelfth Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title, extent and commencement.

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

2. Definition.

- In this Act, unless there is anything repugnant in the subject or context,-(1) "adjoining area" means such area as may be specified to be an adjoining area under section 25; (1A) ["apartment" means an apartment within the meaning of the Gujarat Ownerships Flats Act, 1973 (Gujarat 13 of 1973);] [Clause (1A) was inserted by Gujarat 13 of 1973, Schedule, item (1) (a).] (2) "betterment charges" means the charges leviable under section 45; (3) "Board" means the Housing Board constituted under section 3; (4) "Board premises" means any premises belonging to or vesting in the Board or taken on lease by the Board or entrusted to the Board under this Act for management and use for the purposes of this Act; (5) "building materials" means such commodities or articles as are specified to be building materials for the purposes of this Act by the State Government by notification in the

Official Gazette;(5A)["building" includes a building within the meaning of the Gujarat Ownership Flats Act, 1973 (Gujarat 13 of 1973);] [Clause (5A) was inserted, by Gujarat 13 of 1973, Schedule Item (1) (b).](6)"bye-laws" means bye-laws made under section 75;(7)"Chairman" means the Chairman of the Board;(8)"competent authority" means any person authorised by the State Government by notification in the Official Gazette to perform the functions of the competent authority under Chapter VI for such area as may be specified in the notification and shall be a person who is holding or has held an office, which is not lower in rank than that of a Deputy Collector or the Assistant Commissioner under the Board;(9)"Housing Scheme" means a Housing Scheme made under this Act;(10)"land" includes benefits to arise out of land and things attached to the earth or permanently fastened and things attached to the earth or permanently fastened to anything attached to the earth;(10A)["land acquisition law" means the Land Acquisition Act, 1894 (I of 1894) as in force in the State of Gujarat;] [This clause was inserted by Gujarat 13 of 1973, section 2(1).](11)"local board" means a local board constituted under the Bombay Local Boards Act, 1923 (Bombay VI of 1923);(12)"member" means a member of the Board;(13)"municipal body" means-(1)a corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949 (Bombay LIX of 1949), or(2)[a municipality or a notified area committee constituted under the Gujarat Municipalities Act, 1963 (Gujarat 34 of 1964);] [This sub-clause was substituted by Gujarat 13 of 1973, section 2(2).](14)"premises" means any land or building or part of a building [including any apartment therein] [These words were inserted by Gujarat 13 of 1973, Schedule, item (1) (e).] and includes-(i)gardens, grounds and outhouses, if any, appertaining to such building or part of a building, and(ii)any fitting affixed to such building or part of a building for the more beneficial enjoyment thereof;(15)"prescribed" means prescribed by rules;(16)"programmed" means the annual housing programme prepared by the Board under section 27;[* * * * *] [Clause (17) was deleted by Gujarat 1 of 1973, section 2(3).](18)["regulations" means regulations made under section 74; [These clauses were substituted by Gujarat 1 of 1973, section 2(4).](19)"Rent act" means the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bombay LVII of 1947) as in force in the State of Gujarat;](20)"rules" means rules made under section 73;(21)"Secretary" means the Secretary of the Board;(22)"Tribunal" means the Tribunal constituted under section 51;[(22A) "urban area" means an area which for the time being is within the limits of- [This clause was inserted by Gujarat 1 of 1973, section 2(5).](1)a city constituted under the Bombay Provincial Municipal Corporation Act, 1949 (Bombay LIX of 1949) alongwith a peripheral area of five kilometres, or(2)a municipal borough constituted or deemed to be constituted under the Gujarat Municipalities Act, 1963 (Gujarat 34 of 1964) alongwith a peripheral area of five kilometres, or(3)a notified area constituted under the Gujarat Municipalities Act, 1963 (Gujarat 34 of 1964) alongwith a peripheral area of five kilometres, or(4)a nagar constituted under the Gujarat PanchAyats Act, 1961 (Gujarat VI of 1962) alongwith a peripheral area of three kilometres, or(5)a development area or an urban development area declared under section 3 or 22 of the Gujarat Town Planning and Urban Development Act, 1976 (President's Act No. 27 of 1976)],].(23)"year" means the year commencing on the 1st day of April and ending on the 31st day of March.

Chapter II

Establishment of the Board

3. Incorporation.

(1)With effect from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf there shall be established for the purposes of this Act a Board by the name of the Gujarat Housing Board.(2)The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both movable and immovable and to contract and do all things necessary for the purposes of this Act.(3)For the purposes of this Act and the [* * *] [The word 'relevant' was deleted by Gujarat 1 of 1973, section 3.] land acquisition law the Board shall be deemed to be a local authority;Explanation. - The purposes of this Act referred to in sub-section (3) include the management and use of lands and buildings belonging to or vesting in the Board under or from purposes of this Act and the exercise of its rights over and with respect to such lands and buildings for the purposes of this Act.

4. Non applicability of [* * *] [The word 'relevant' was deleted by Gujarat 1 of 1973, Section 4.] Rent Act.

- The [* * *] [The word 'relevant' was deleted by Gujarat 1 of 1973, Section 4.] Rent Act,-(a)notwithstanding anything contained therein shall not apply-(i)to any land or building belonging to or vesting in the Board under or for the purposes of this Act;(ii)as against the Board to any tenancies or other like relationship created by the Board in respect of such land or building;(b)shall apply to any land or building let out to the Board.

5. Constitution of the Board.

(1)The Board shall consist of the Chairman and [ten] [This word was substituted for the word 'six', by Gujarat 1 of 1973, section 5(1).] other members appointed by the State Government:[Provided that out of such ten other members two members shall be persons who possess technical knowledge and experience in the matter of construction of buildings.] [This proviso was inserted by Gujarat 1 of 1973, section 5(2).](2)Any member of the Board may at any time resign his office by submitting his resignation to the State Government:Provided that the resignation shall not take effect until it is expected.

6. Grant of leave of absence to Chairman.

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

7. Disqualification for appointment on Board.

(1)A person shall be disqualified for being appointed or continuing as the Chairman or member of the Board, if he-(a)holds any office or place of profit under the Board,(b)is of unsound mind,(c)is an uncertificated bankrupt or an undischarged insolvent,(d)has directly or indirectly by himself or by any partner, any share or interest in any contract or employment with, by or on behalf of the Board, or(e)is a director, secretary, manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of the Board.[(2-A) For the purposes of clause (a) of sub-section (1), a person shall not be deemed to hold office or place of profit under the Board by reason only that he is a Housing Commissioner.] [Sub-section (1-A) was inserted by Gujarat 8 of 1985, section 2 (w.r.e.f. 01-12-1982).](2)A person shall not, however, be disqualified under clause (d) or (e) of sub-section (1) or deemed to have any share or interest in any contract or employment within the meaning of these clauses, by reason only of his or the incorporated company of which he is a director, secretary, manger 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) of sub-section (1) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board, by reason only of his being a shareholder of such company:Provided that such person discloses to the State Government the nature and extent of the shares held by him.

8. Term of office and conditions of service of members.

- [(1) The Chairman and the members shall hold office during the pleasure of the State Government.] [Sub-section (1) substituted by Gujarat 1 of 1999, dated 9,h March 1999](2)Every member shall receive such allowances as may be prescribed.(3)The Chairman may hold office in an honorary capacity or on payment of remuneration. If any remuneration is to be paid to the Chairman, such remuneration and other conditions of service shall be as such as may be prescribed.(4)The allowances to the members and the remuneration if any, to the Chairman shall be paid from the fund of the Board.

8A. [Removal of member from office. [This section was inserted by Gujarat 1 of 1973, section 7.]

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

9. Cessation of membership.

- [(1)] [Section 9 was renumbered as sub-section (1) there of and clause (b) was substituted by Gujarat 1 of 1973, section 8(1).] If a member,-(a)becomes subject to any of the disqualifications

mentioned in section 7,(b)[tenders his resignation in writing to the State Government and such resignation is accepted by the State Government, or] [Section 9 was renumbered as sub-section (1) there of and clause (b) was substituted by Gujarat 1 of 1973, section 8(1).](c)is absent without the permission of the Board from all the meetings of the Board for a period of two successive months, he shall cease to be a member.(2)[In every case where dispute arises as to whether a member has ceased to be a member or not, it shall be decided by the State Government, after giving him an opportunity of being heard to the member concerned.] [This sub-section was added by Gujarat 1 of 1973, section 8(2).]

10. [Vacancies. [This section was substituted by Gujarat 1 of 1973, section 9.]

- Any vacancy of a member, due to death, resignation, removal, disability or disqualification or any other reason shall be filled in as early as possible:[Provided that during any such vacancy the continuing members may act as if no vacancy had occurred.]

11. Proceedings presumed to be good and valid.

- No disqualification of or defect in the appointment of any person acting as Chairman or a member of the Board shall be deemed to vitiate any act or proceedings of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act.

12. Temporary absence of members.

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

13. Appointment of officers and servants.

- The Board may appoint a Secretary, one or more Assistant Housing Commissioners and a Housing Commissioner and such other officers and servants as it considers necessary for the efficient performance of its functions:[Provided that the appointment of a Housing Commissioner and of any other officer whose salary exceeds rupees one thousand four hundred per mensem shall be subject to the previous approval of the State Government.] [This proviso was substituted by Gujarat 1 of 1973, section 10.]

14. Conditions of service of officers and servants.

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

15. Provident Fund.

(1)The State Government shall establish a provident fund for the Secretary, Housing Commissioner and other officers and servants of the Board and such provident fund (hereinafter called the said fund) shall, notwithstanding anything contained in section 8 of the Provident Funds Act, 1925 (XIX of 1925), be deemed to be a Government Provident Fund for the purposes of the said Act.(2)The Board shall in respect of each of its employees who is a subscriber to the said fund, pay into the said fund such portion of the contribution in such manner as the State Government may, from time to time, determine.(3)[It shall be lawful for the Board to utilise the moneys in the said fund to defray the cost of executing any housing scheme, subject to such restriction as to the amount to be so utilised as the State Government may, from time to time, by order, specify, having regard to the probable requirements, within reasonable proximity of time, of the Board for paying the amount from the said funds to the depositors.] [This sub-clause was added by Gujarat 1 of 1973, section 11.]

16. General disqualification of all officers and servants.

- No person who has directly or indirectly by himself or his partner or agent any share or interest in any contract, [by or on behalf of the Board or the Gujarat Rural Housing Board constituted under section 3 of the Gujarat Rural Housing Board Act, 1972 (Gujarat 22 of 1972)] [These words and figures were substituted for the words 'by or on behalf of the Board or on' by Gujarat 1 of 1973, section 12(i).], or in any employment under, [by or on behalf of any of the said two Boards] [These words were substituted for the words 'by or on behalf of the Board' by Gujarat 1 of 1973, section 12(ii).], otherwise than as an officer or servant thereof, shall become or remain an officer or servant of the Board.

17. Appointment of committees.

(1)The State Government may appoint a Housing Advisory Committee. The functions of the Housing Advisory Committee shall be advisory and such as may be determined by the State Government.(2)Subject to any rules made under section 73, the Board may from time to time appoint one or more other Committees for the purposes of securing the efficient discharge of its functions and in particular for the purpose of securing that the said functions are exercised with due regard to the circumstances and requirements of particular local areas.(3)[The members of a Committee appointed under this section shall receive such allowances as may be prescribed.] [This sub-section was added by Gujarat 1 of 1973, section 13.]Conduct of Business

18. Meetings of Board.

- The Board shall meet and shall from time to time make such arrangements with respect to the day, time, notice, management-and adjournment of its meetings as it thinks fit, subject to the following provisions, namely:-(aa)[The first meeting of the Board shall be called by the Chairman as soon as possible after its constitution under section 5,] [This clause was inserted by Gujarat 1 of 1973, section 14(1).](a)an ordinary meeting shall be held [once at least every month.] [These words were

substituted for the words 'once atleast every fortnight, by Gujarat 1 of 1973, section 14(2).],(b)the Chairman may, whenever he thinks fit, call special meetings,(c)every meeting shall be presided over by the Chairman and in his absence, by any member chosen by the meeting to preside for the occasion,(d)all questions at any meeting shall be decided by a majority of the members present and in the case of equality of votes, the person presiding shall have and exercise a second or casting vote, and(e)the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

19. Procedure of Committees.

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

20. 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.

21. Execution of contracts.

(1)Every contract shall be made on behalf of the Board by the Chairman:[Provided that no contract involving an expenditure of rupees twenty-five thousand or more shall be made without the previous sanction of the Board.] [This proviso was substituted by Gujarat 1 of 1973, 15.](2)Sub-section (1) shall apply to every variation or abandonment of a contract or estimate as well as to an original contract or estimate.

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

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

23. 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

24. Duty of Board to undertake housing scheme.

- Subject to the Provisions of this Act and subject to the control of the State Government, the Board may incur expenditure and undertake work [in such urban area] [These words were substituted for the words 'in such local area' by Gujarat 1 of 1973, section 16.] as the State Government may by notification in the Official Gazette specify for the framing and execution of such housing schemes as it may consider necessary from time to time or as may be entrusted to it by the State Government.

24A. [Inclusion of area other than urban area in scheme. [This section was inserted by Gujarat 1 of 1973, section 17.]

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

25. Matters to be provided for by housing schemes.

(1)Notwithstanding anything contained in any other law for the time being in force, a housing scheme may provide for all or any of the following matters, namely:--(a)the acquisition by purchase, exchange or otherwise of any property necessary for or affected by the execution of the scheme;(b)the laying out or relaying out of any land comprised in the scheme;(c)the distribution of re-distribution of sites belonging to owners of property comprised in the scheme;(d)the closure or demolition of dwellings or portions of dwellings unfit for human habitation;(e)the demolition of obstruct buildings or portions of buildings that are an obstruction;(f)the construction and re-construction of building;(g)the sale, letting or exchange of any property comprised in the scheme;(gg)[the sale of apartment in any building or buildings constructed by the Board on such terms and conditions as the Board may determine;] [Clause (gg) was inserted by Gujarat 13 of 1973, Schedule Item (2).](h)the construction and alteration [of roads, streets, back lanes bridges, culverts and causeways] [These words were substituted for the words 'of streets and back lanes' by Gujarat 1 of 1973, section 18(1) (a).];(i)drainage, water supply and lighting of the area included in the scheme;(j)[shops, schools, parks, playing fields] [These words were substituted for the words 'parks, playing fields' by Gujarat 1 of 1973, section 18 (1) (b).] and open spaces for the benefit of any area comprised in the scheme or any adjoining area, and the enlargement of existing parks, playing fields, open spaces and approaches;(k)sanitary arrangements required for the area comprised in the scheme, including the conservation and prevention of any injury or contamination to rivers or other sources and means of water supply;(l)accommodation for any class of inhabitants;(m)the advance of

money for the purposes of the scheme;(n)facilities for communication and transport;(o)the collection of such information and statistics as may be necessary for the purposes of this Act(p)any other matters for which, in the opinion of the State Government it is expedient to make provision with a view [to provide housing accommodation in any urban area] [These words were substituted for the words 'to provide housing accommodation' by Gujarat 1 of 1973, section 18(1) (c).] and to the improvement or development of any area comprised in the scheme or any adjoining area or the general efficiency of the scheme.(2)For the purposes of this section, the State Government may, on the recommendation of the Board, by notification in the Official Gazette, specify area surrounding or adjoining the area included in a housing scheme to be the adjoining area.(3)[The Board may execute any of the matters provided in a housing scheme through any independent agency.] [This sub-section was added by Gujarat 1 of 1973, section 18(2).]

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

(1)No housing scheme shall be made under this Act for any area for which an improvement scheme has been sanctioned by the State Government under any enactment for the time being in force for the constitution of a municipal corporation for any area in the State of Gujarat, nor shall any housing scheme made under this Act contain anything which is inconsistent with any of the matters included in a town planning scheme sanctioned by the State Government under the Bombay Town Planning Act, 1954 (Bombay XXVII of 1955) or any corresponding law in force in any part of the State.(2)If any dispute arises whether a housing scheme made under this Act includes any area included in an improvement scheme sanctioned under any such enactment as aforesaid or contains anything inconsistent with any matter included in a town planning scheme sanctioned under the Bombay Town Planning Act, 1954 (Bombay XXVII of 1955), or any corresponding law in force in any part of the State, the decision of the State Government shall be final. [Such decision shall be taken within a period of three months.] [These words were added by Gujarat 1 of 1973, section 19.]

27. Preparation and submission of annual housing programmes, budget and establishment schedule.

(1)Before the first day of December in each year, the Board shall prepare and forward to the State Government in such form as may be prescribed-(i)a programme,(ii)a budget for the next year.[* * *] [Clause (iii) was deleted by Gujarat 1 of 1973, section 20.](2)The programme shall contain,-(a)such particulars of housing schemes which the Board proposes to execute whether in part or whole during the next year as may be prescribed,(b)the particulars of any of undertaking which the Board proposes to organize or execute during the next year for the purpose of the production of building materials, and(c)such other particulars as may be prescribed.(3)The budget shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the next year.

28. [Programme to be published for inviting suggestions and objections].

- Deleted by Gujarat 1 of 1973, section 21.

29. [Sanction to programme and budget. [Section 29 was substituted by Gujarat 1 of 1973, section 22.]

- The State Government may sanction the programme and the budget forwarded to it with such modifications as it deems fit. The programme and the budget so sanctioned shall be laid before the State Legislature as soon as may be after they are sanctioned.]

30. [Publication of sanctioned Programme].

- Deleted by Gujarat 1 of 1973, section 23.

31. Supplementary programme and budget.

- The Board may, at any time during the year, in respect of which a programme has been sanctioned under section 29, submit a supplementary programme and budget to the State Government and the provisions of [section 29] [These word and figures were substituted for the words and figures 'sections' 28, 29 and 30 by Gujarat 1 of 1973, section 24.] shall apply to such supplementary programme.

32. Supplementary programme and budget.

- The Board may, at any time vary any programme or any part thereof included in the programme sanctioned by the State Government;[Provided that no such variation as affects the scope or purpose of any housing scheme included in such programme shall be made without the previous sanction of the State Government.] [This proviso was substituted, by Gujarat 1 of 1973, section 25.]

33. Sanctioned housing scheme to be executed.

- After the programme has been sanctioned [***] [The words, 'and published, were deleted, by Gujarat 1 of 1973, section 26 (1).] by the State Government [under section 29] [These words and figures were substituted for the words and figures 'under sections 29 and 30 by Gujarat 1 of 1973, section 26(2).] the Board shall, subject to the provisions of section 32, proceed to execute the housing schemes included in the programme.

34. [Publication of housing scheme in the Official Gazette].

- Deleted by Gujarat 1 of 1973, section 27.

35. Transfer to, for purposes of housing scheme of land vested in municipal body.

(1)Wherever any street, square or other land, or part thereof which is situated in any area within the jurisdiction of a municipal body [* * *] [The words 'or a local board' were deleted by Gujarat 1 of 1973, section 28(1) (a).] and is vested in that municipality body [* * *] [The words 'or a local board' were deleted by Gujarat 1 of 1973, section 28(1) (a).], is within the area included in the programme sanctioned by the State Government and is required for the purposes of such housing scheme, the Board shall give notice accordingly to the municipal body [* * *] [The words 'or the local board' were deleted, by Gujarat 1 of 1973, section 28(1) (b).].(2)Where the municipal body [* * *] [The words 'or local board' were deleted by Gujarat 1 of 1973, section 28(2).] concurs, such street, square or any land or part thereof shall vest in the Board.(3)Where there is any dispute the matter shall be referred to the State Government. The State Government shall after hearing the municipal body [* * *] [The words 'or local board' were deleted by Gujarat 1 of 1973, section 28(2).] concerned, decide the matter. The decision of the State Government shall be final. If the State Government decides that such street, square or land shall vest in the Board, it shall vest accordingly.(4)Nothing in this section shall affect the rights or powers of the municipal body [* * *] [The words 'or local board' were deleted by Gujarat 1 of 1973, section 28(2).] in or over my drain or water works in such street, square or land.

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

(1)Where any land vests in the Board under the provisions of section 35 and the Board makes a declaration that such land shall be retained by the Board only until it revests in the municipal body [* * *] [The words 'or local board' were deleted by Gujarat 1 of 1973, section 29(1).] as part a street: or an open space under section 39, no compensation shall be payable by the Board to the municipal body [* * * *] [The words 'or the local board, as the case may be' were deleted by Gujarat 1 of 1973, section 29(2).], in respect of the land.(2)Where any land vests in the Board under section 35 and no declaration is made under sub-section (1) in respect of the land, the Board shall pay to the municipal body [*****] [The words 'or the local board, as the case may be' were deleted by Gujarat 1 of 1973, section 29(2).], 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 revests in the municipal body [* * *] [The words 'or the local board, as the case may be' were deleted by Gujarat 1 of 1973, section 29(2).], the Board shall pay to the municipal body [* *] [The words 'or local board' were deleted by Gujarat 1 of 1973, section 29(1).] compensation in respect of such land in accordance with the provisions of sub-section (2).

37. 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 the Board discontinues the public use of, or permanently closes any public street vested in it any part thereof, it shall be as far practicable,

provided some other reasonable means of access to be substituted in lieu of the use, by those entitled, of the street or part thereof and pay reasonable compensation to every person who is entitled, otherwise than as a mere member of the public, to use such street, or part as a means of access and has suffered damage from such discontinuance or closing.(3)In determining the compensation payable to any person under sub-section (2) the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street at or about the same time 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 subsection (1), the Board may sell or lease so much of the same as is no longer required by it.

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

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

39. Vesting in municipal body [* * *] [The words 'or local board', were deleted by Gujarat 1 of 1973,. 30(3).] of streets 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 in the manner provided in the programme sanctioned by the State Government under section 29, and(b)that such lamps, lamp-posts and other apparatus as the municipal body [* * *] [The words 'or the local board, as the case may be' were deleted by Gujarat 1 of 1973, section 30(1).] considers necessary for the lighting of such street and as ought to be provided by the Board has been so provided, and(c)that water and other sanitary conveniences have been duly provided in such street, the State Government may declare the street to be a public street and the street shall thereupon vest in municipal body [* * * *] [The words 'or the local board, as the case may be' were deleted by Gujarat 1 of 1973, section 30(2).] and shall henceforth be maintained, kept in repair, lighted and cleaned by the municipal body [* * *] [The words 'or local board', were section 30(3).](2)When any open space for purposes of ventilation or recreation has been provided by the Board in executing any housing scheme, it shall on completion be transferred to the local authority concerned, by resolution of the Board, and shall thereupon vest, in and be maintained at the expense of the local authority:Provided that the local authority may require the Board before any such open space is so transferred to enclose, level, turf, drain and lay-out such space and provide footpaths therein, and if necessary, to provide lamps and other apparatus for lighting it.(3)If any difference of opinion arises between the Board and the Municipal body, [* * *] [The words 'or the local board, as the case may be' were deleted by Gujarat 1 of 1973, section 30(1).] in respect of and matter referred to in the foregoing provisions of this section, the matter shall be referred to the State Government whose decision shall be final.

40. Other duties of the Board.

- It shall be the duty of the Board to take measures with a view to expediting and cheapening construction of buildings and the Board may for that purpose do all things for-(a)unification, simplification and standardisation of building materials;(b)encouraging pre-fabrication and mass production of house components;(c)organising or undertaking the production of building materials required for the housing schemes;(d)encouraging research for discovering cheap building materials evolving new methods of economic construction;(e)securing a steady and sufficient supply of workmen trained in the work of construction of buildings.

41. [Board to assume management of requisitioned lands.].

- Deleted by Gujarat 1 of 1973, section 31.

42. 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 severalty or in joint ownership shall, with or without alteration of boundaries be held in ownership in common as a reconstituted plot,(c)for the allotment of a plot to any owner dispossessed of land in furtherance of the housing scheme, and(d)for the transfer of ownership of a plot from one person to another.

43. Power to exempt scheme from provisions of sections 27 to 34.

- The State Government may, by general or special order published in the Official Gazette, exempt any housing scheme [* * *] [The words 'entrusted by it to the Board' were deleted by Gujaratl of 1973, section 32.] from all or any of the provisions of sections 27 to 34 (both inclusive) subject to such conditions, if any, as it may impose or may direct that any such provision shall apply to such scheme with such modification as may be specified in the order.

Chapter IV

Acquisition and Disposal of Land

44. 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 [* * *] [The word 'relevant' was deleted by Gujarat 1 of 1973, section 33.]

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

45. [Betterment charges].

- Deleted by Gujarat 1 of 1973, section 34.

46. [Notice to persons liable for betterment charges].

- Deleted by Gujarat 1 of 1973, section 34.

47. [Agreement for payment of betterment charges].

- Deleted by Gujarat 1 of 1973, section 34.

48. [Recovery of betterment charges].

- Deleted by Gujarat 1 of 1973, section 34.

49. Power to dispose of land.

- [The Board] [These words were substituted for the words 'subject to any rules made by the State Government under this Act, the Board' by Gujarat 13 of 1973, Schedule, item (3) (a).] may retain, lease, sell, exchange or otherwise dispose of, any land, building [or any apartment therein] [These words were inserted, by Gujarat 13 of 1973, Schedule Item (3) (b).] or other property vested in it and situate in the area comprised in any housing scheme sanctioned under this Act.

50. Disputes regarding reconstitution of plots.

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

51. [District Judge to be the Tribunal. [Section 51 was substituted by Gujarat 1 of 1973, section 35.]

- The District Judge for each district shall constitute the Tribunal for the purpose of exercising the powers and discharging the duties of the Tribunal under this Act.]

52. Duties of the Tribunal.

- The Tribunal shall-(a)decide whether any compensation is payable under section 36;(b)decide the amount of compensation in matters referred to it under section 38;(c)[* * *] [Clause (c) was deleted by Gujarat 1 of 1973, section 36.](d)decide disputes relating to the reconstitution of plots referred to it under section 50 and the amount of compensation to be awarded in consequence thereof;(e)decide such other matters as may be prescribed by rules made in this behalf.

53. [Powers of President].

- Deleted by Gujarat 1 of 1973, section 37.

54. Powers of and procedure before Tribunal.

(1)In making inquiries under sections 36, 38, 46 and 50, the Tribunal shall have and exercise the same powers as are vested in a Civil Court in respect of-(a)a proof of facts by affidavits,(b)summoning and enforcing the attendance of any person and examining him on oath,(c)compelling the production of documents, and(d)issuing commissions for the examination of witnesses.(2)In all proceedings before the Tribunal, the Tribunal shall follow such procedure as may be prescribed.(3)Every order made by the Tribunal for the payment of money [* * * * *] [The word and figures 'not being money for recovery of which provision has been made in section 48' were deleted, by Gujarat 1 of 1973, section 38.] and for the delivery of the possession or removal of any structure shall be enforced by the District Court in the jurisdiction of which the land comprised in the housing scheme is situate as if it was the decree of the said Court.(4)The proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 (XLV of 1860) of the Indian Penal Code.

55. Decision of Tribunal to be final.

- [(1)] [Section 55 was renumbered as sub-section (1) of that section and sub-section (2) was added, by Gujarat 1 of 1973, section 39.] The decision of the Tribunal on any matter referred to it under this Act shall be final and shall not be questioned in any court of law.(2)[The Tribunal shall endeavour to give its decision within six months from the date of the reference made to it.] [Section 55 was renumbered as sub-section (1) of that section and sub-section (2) was added, by Gujarat 1 of 1973, section 39.]

Chapter VI

Power to Evict Persons from Board Premises

56. 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 [six months] [These words were substituted for the words 'two months' by Gujarat 1 of 1973, section 40.], or (ii) sub-let, without the permission of the Board, the whole or any part of such premises, or [(ii-a) committed any act contrary to the provisions of the Gujarat Ownership Flats Act, 1973 (Gujarat 13 of 1973), or of any Declaration, Deed of Apartment or of the bye-laws made under that Act or of any rules or regulations made under such bye-laws or;] [Item (ii-a) was inserted by Gujarat 13 of 1973, Schedule, item (4).] (iii) otherwise acted in contravention of any of the terms, express or implied under which he is authorised to occupy such premises, or (b) that any person is in unauthorised occupation of any Board premises, the competent authority may, notwithstanding anything contained in any law for the time being in force, by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the date of the service of the notice. (2) Before an order under sub-section (1) is made against any person the competent authority shall inform the person by notice in writing of the grounds on which the proposed order is to be made and give him a reasonable opportunity of tendering an explanation and producing evidence, if any, and to show cause why such order should not be made, within a period to be specified in such notice. If such person makes an application to the competent authority for extension of the period specified in the notice the competent authority may grant the same on such terms as to payment and recovery of the amount claimed in the notice as it deems fit. Any written statement put in by such person and documents produced in pursuance of such notice shall be entitled to appear before the authority proceeding in this connection by advocate, attorney or pleader. Such notice in writing shall be served in the manner provided for service of notice under subsection (1). (3) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may evict that person from, and take possession of, the premises and may for that purpose use such force as may be necessary. (4) If a person, who has been ordered to vacate any premises on the grounds mentioned in sub-clause (i) or (iii) of clause (a) of sub-section (1) within one month of the date of service of the notice or such longer time as the competent authority may allow, pays to the Board, the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent authority, as the case may be, the competent authority shall, in lieu of evicting such person under sub-section (3), cancel its order made under sub-section (1) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him. Explanation. - For the purposes of this section and section 57, the expression "unauthorised occupation", in relation to any person 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.

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

(1) Subject to any rules made by the State Government in this behalf without prejudice to the provisions of section 56 where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, by notice served, (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order such person to pay the same within such time not being less than ten days as may be specified in the notice. If such person refuses or fails to pay the arrears of rent within the time specified in the notice, such arrears may be recovered as arrears of land revenue. (2) Where any person is in unauthorised occupation of any Board premises, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the premises as it may deem fit, and may, by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue. (3) No order shall be made under sub-section (2) until after the issue of a notice in writing to the person calling on him to show cause, within a reasonable period to be specified in such notice, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same have been considered by the competent authority.

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

(1) Without prejudice to the provisions of section 56, any person who is an employee of the State Government or a local authority and who has been allotted any Board premises, may execute an agreement in favour of the State Government providing that the State Government or the local authority, as the case may be, under or by whom he is employed, shall be competent to deduct from the salary or wages payable to him such amount as may be specified in the agreement and to pay the amount so deducted to the Board in satisfaction of the rent due by him in respect of the Board premises allotted to him. (2) On the execution of such agreement, the State Government or a local authority, as the case may be, shall, if so required by the Board by requisition in writing make the deduction of the amount specified in the requisition from the salary or wages of the employees specified in the requisition in accordance with the agreement and pay the amount so deducted to the Board.

59. Appeal.

(1) Any person aggrieved by an order of the competent authority under section 56 or section 57 may, within one month of the date of the service of the notice under sub-section (1) of section 56 or sub-section (1) or (2) of section 57, as the case may be, prefer an appeal to the State Government: Provided that the State Government may entertain the appeal after the expiry of the said period of one month, if it is satisfied that the appellant was prevented by sufficient cause from

filing the appeal in time.(2)On receipt of an appeal under sub-section (1) the State Government may, after calling for a report from the competent authority, and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the State Government shall be final.(3)Where an appeal is preferred under sub-section (1), the State Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

60. Bar of jurisdiction of Civil Courts.

- [(1)] No order made by the State Government or the competent authority in the exercise of any power conferred by or under this Chapter shall be called in question in any court and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.(2)[No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorised occupation of any Board premises or the recovery of the arrears of rent payable under sub-section (1) of section 57 or the damages payable under sub-section (2) of that section or any portion of such rent or damages.] [Section 60 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, sub-section(2) was inserted by Gujarat 1 of 1973, section 41.]

Chapter VII

Finance, Accounts and Audit

61. Board's Fund.

(1)The Board shall have its own fund.(2)The Board may accept grants, subventions, donations and gifts from the Central or State Government or a local authority or any individual or body, whether incorporated or not, for all or any of the purposes of this Act.(3)All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all rents, betterment charges and all interest, profits and other moneys accruing to the Board shall constitute the fund of the Board.(4)Except as otherwise directed by the State Government, all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the Reserve Bank of India or in any scheduled bank or invested in such securities as may be approved by the State Government.(5)Such account shall be operated 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 (II of 1936), and a scheduled bank shall mean a bank included in the Second Schedule to the said Act.

62. 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.

62A. [Revolving Fund. [Section 62A was inserted by Gujarat 1 of 1973, section 42.]

(1)Notwithstanding anything contained in section 61, the Board may create a fund to be called Revolving Fund into which shall be credited all proceeds which may be received by or on behalf of the Board in respect of sales on instalments basis, of any building or any units therein, constructed or reconstructed by the Board under a housing scheme.(2)The Revolving Fund shall be held and applied solely for the purpose of construction or reconstruction of buildings under a housing scheme.]

63. 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 [fifty thousand rupees] [These words were substituted for the words 'twenty five thousand rupees' by Gujarat 1 of 1973, section 43(1).],(b)non-recurring expenditure not exceeding [two lacs of rupees] [These words were substituted for the words 'one lac of rupees' by Gujarat 1 of 1973, section 43(2).] notwithstanding the fact that such expenditure has not been included in its annual programme or supplementary programme sanctioned by the State Government or the variation of the programme made under section 32.(2)Where any sum is expended under circumstances of extreme urgency as provided in sub-section (1), a report thereof indicating the source from which it is proposed to meet the expenditure shall be made by the Board as soon as practicable to the State Government.

64. Subventions and loans to the Board.

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

65. 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 this Act.(2)Rules made by the State Government for the purposes of this section may empower the Board to borrow by the issue of debentures and to make arrangements with bankers.(3)All debentures issued by the Board shall be in the 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.

66. Accounts and audit.

(1)The Board shall cause to be maintained proper books of accounts and such other books as the rules may require and shall prepare in accordance with the rules an annual statement of accounts.(2)The Board shall cause its accounts to be audited annually by such person as the State Government may direct.(3)As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together with a copy of the report of the auditor thereon to the State Government, and shall cause the accounts to be published [* * *] [The words 'in the prescribed manner' were deleted by Gujarat 1 of 1973, section 44(1).] and place copies thereof on sale at reasonable price.(4)The Board shall comply with such directions as the State Government may, after perusal of the report of the auditor, think fit to issue.(5)[The annual audited statement of accounts together with the Report of the Auditor received by the State Government under sub-section (3) shall be laid before the State Legislature as soon as may be after they are published.] [Sub-section (5) was added by Gujarat 1 of 1973, section 4(2).]

67. Concurrent and special audit of accounts.

(1)Notwithstanding anything contained in section 66, the State Government may order that there shall be a concurrent audit of the accounts of the Board by such person as it thinks fit. The State Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Board relating to any particular transaction or a class of series of transactions or to a particular period.(2)When an order is made under sub-section (1), the Board shall present or cause to be presented or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit.

Chapter VIII

Miscellaneous

68. Reports.

- The Board shall, before such date and in such form and at such intervals as may be prescribed, submit to the State Government a report on such matters as may be prescribed, [* * *] [The words 'and the State Government shall cause such report to be published in the Official Gazette' were deleted by Gujarat 1 of 1973, section 45(1).]. Every such report shall be laid before the State Legislature as soon as may be [after it is submitted] [These words were substituted for the words 'after it is published', by Gujarat 1 of 1973, section 45 (2).].

69. Other statements and returns.

- The Board shall also submit to the State Government such statistics, returns, particulars or statements in regard to any proposed or existing housing schemes at such times and in such form

and manner as may be prescribed or as the State Government may from time to time direct.

70. Powers of entry.

- The Chairman or any other 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 out the boundaries and the intended outlines of work] [Clause (d) was substituted for the original clause, by Gujarat 1 of 1973, section 46(1).],(e)to make such levels, boundaries and lines of works and cutting trenches, or(f)to do any other thing, whenever it is necessary to do so for any of the purposes of this Act or any rules made or scheme sanctioned thereunder:Provided that-(i)no such entry shall be made between sunset and sunrise;(ii)no dwelling house and no public building which is used as dwelling place, shall be so entered, [* * * * *] [The words 'unless with the consent of the occupier thereof and' were deleted by Gujarat 1 of 1973, section 46(2).] without giving the said occupier at least twenty-four hours previous written notice of the intention to make such entry;(iii)sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment set apart for females to remove themselves to some part of the premises where their privacy will not be disturbed;(iv)due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

71. Notice of suit against Board.

- No person shall commence any suit against the Board or against any officer or servant of the Board or any person acting under the orders of the Board, for anything done or purporting to have been done in pursuance of this Act, without giving to the Board, officer or servant or person, as the case may be, two months, previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of.And in the case of any suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amounts so tendered and shall pay all costs incurred by the defendant after such tender.

72. Quinquennial valuation of assets and liabilities of the Board.

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

72A. [Power of Board to construct buildings intended for public purpose on behalf of Government, Local authority or corporation owned or controlled by Government [or co-operative society] [Section 72A shall be and shall be deemed always to have been inserted by Gujarat 29 of 1964, section 3 (w.e.f.

03-11-1964).].

- Notwithstanding anything contained in the foregoing provisions of this Act, it shall be lawful for the Board to undertake on behalf of the Government or a local authority or a corporation owned or controlled by the Government [or a co-operative society registered or deemed to have been registered under the Gujarat Co-operative Societies Act, 1961 (Gujarat X of 1962)] [These words figures were inserted by Gujarat 1 of 1973, section 47(1).] subject to such terms and conditions including payment of costs as may be agreed upon in pursuance of a contract or otherwise, the construction of building intended to used as a hospital, dispensary, school or for any other charitable purpose as may be entrusted to it by the Government or a local authority or such corporation [or such co-operative society] [These words were inserted, by Gujarat 1 of 1973, section 47 (2).]:Provided that no such constraints shall be undertaken on behalf of a local authority or any such corporation [or any such co-operative society] [These words were inserted, by Gujarat 1 of 1973, section 47 (3).], except with the previous sanction of the State Government.]

73. 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 the prejudice to the generality of the foregoing power such rules may be made for all or any of the following purposes, namely:--(a)the allowances of members and remuneration and conditions of service of the Chairman under section 8;(b)the rates of subscription and contributions and other conditions of the provident fund established under section 15;(bb)[the allowances of members of a committee appointed under section 17;] [Clause (bb) was inserted by Gujarat 1 of 1973, section 48(1).](c)the manner and form in which contracts shall be entered into under section 23;(d)the form of [annual housing programme and budget] [These words were substituted for the words 'annual housing programme, budget and schedule of staff of officers and servants', by Gujarat 1 of 1973, section 48(2).], particulars of housing schemes and other particulars to be contained in the programme under section 27;(e)[* * * *] [Clause (e), (f) and (g) were deleted, by Gujarat 1 of 1973, section 48 (3).](f)[* * *] [Clause (e), (f) and (g) were deleted, by Gujarat 1 of 1973, section 48 (3).](g)[* * * *] [Clause (e), (f) and (g) were deleted, by Gujarat 1 of 1973, section 48 (3).](h)the other matters to be decided by the Tribunal under section 52;(i)the procedure to be followed by the Tribunal under section 54;(j)the forms of notices under sections 56 and 57 and any other manner in which they may be served;(k)the procedure to be followed in taking possession of any Board premises under section 56;(l)the manner in which damages under section 57 may be assessed;(m)the manner in which appeals may be preferred under section 59 and the procedure to be followed in such appeals;(n)the conditions subject to which the Board may borrow any sum under section 65;(o)the manner of preparation, maintenance and publication of accounts under section 66;(p)the date before which, the form in which, the interval at which and the matters on which reports shall be submitted under section 68;(q)the time at which and the form and manner in which statistics, returns, particulars and statements shall be submitted under section 68;(r)the manner in which the Board shall be superseded and reconstituted under section 83;(s)any other matter [which is to be] [These words were substituted for the words 'which is', by Gujarat 1 of 1973, section 48(4).] or may be prescribed under this Act.(3)All rules made under this section shall be laid

for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.

74. Regulations.

- The Board may from time to time, with the previous sanction of the State Government, make regulations consistent with this Act and with any rules made under this Act-(a)for the management and use of buildings constructed under any housing scheme;(b)the principles to be followed in allotment of tenements and premises;[(b-1) for the sale, lease, exchange or disposal otherwise of any land, building or any apartment therein or other property belonging to or vesting in the Board, subject to such terms and conditions and to restrictions as the Board may from time to time provide in the regulations;] [Clause (b-1) was inserted by Gujarat 13 of 1973, Schedule, item (5).](c)the remuneration and conditions of service of the Secretary, Housing Commissioner and other officers and servants of the Board under section 14;(d)for regulating its procedure and the disposal of its business.

75. 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 for 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 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.

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

77. Penalty for obstructing, etc.

- 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 mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Act.he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

78. 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.

79. 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 in general or special order in this behalf.

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

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

81. Protection of action taken under this Act.

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

82. Government's powers 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, after giving an opportunity to the Board to state its objections, if any, to such directions and after considering the said objections. It shall be the duty of the Board to comply with such directions.

83. Default in performance of duty.

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

84. Dissolution of the Board.

(1)The State Government may, by notification in the Official Gazette declare that with effect from such date as may be specified in the notification, the Board shall be dissolved:Provided that no such declaration shall be made by the State Government unless a resolution to that effect has been moved in and passed by the State Legislature.(2)With effect from the date specified in the notification under sub-section (1)-(a)all properties, funds and dues which are vested in or realizable by the Board shall vest in and be realizable by the State Government;(b)all liabilities enforceable against the Board shall be enforceable against the State Government to the extent of the properties, funds and dues vested in and 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 65.

85. Amendments of Bombay XXXI of 1948.

- In the Bombay Building (Control on Erection, Re-erection or Conversion) Act, 1948 after section 14, the following new section shall be inserted, namely:-Delegation of Controller powers to Housing Board constituted under Gujarat Act XXVIII of 1961:-"14A. Notwithstanding anything contained in this Act, the State Government may direct that the powers conferred and duties imposed upon the Controller under this Act, shall in the area in which the Gujarat Housing Board Act, 1961 has come into force, be exercised and performed by the Housing Board constituted under the said Act."

86. Repeal and consequential provisions.

(1)On date appointed under subsection (1) of section 3 of this Act (hereinafter referred to as "the appointed day") the Bombay Housing Board Act, 1948, and the Saurashtra Housing Board Act, 1954 (both referred to in this section as "the repealed Acts") shall stand repealed.(2)On the appointed day the Gujarat Housing Board constituted under the Bombay Housing Board (Dissolution and Reconstitution) Order, 1960 and the Saurashtra Housing Board constituted under the Saurashtra Housing Board Act, 1954 (both referred to in this section as "dissolved Boards") shall stand dissolved and all members of the dissolved boards shall vacate their office and on such dissolution the following consequences shall ensue, that is to say,-(i)all rights of the dissolved Boards shall vest in the Board established under section 3 of this Act (hereinafter referred to as "the new Board");(ii)all property movable or immovable which immediately before the appointed day vested in the dissolved Boards shall, subject to the limitations and conditions, if any, attached thereto, vest in the new Board;(iii)all sums due to the dissolved Boards on any account shall be sums due to the new Board and shall be realizable by the new Board in accordance with the law for the time being in force;(iv)all debts, liabilities and obligations incurred, including any loans borrowed and debentures issued, by or on behalf of the dissolved Boards and subsiding immediately before the appointed day shall be deemed to have been incurred, borrowed and issued by the new Board in exercise of the powers and functions conferred on it by this Act and shall be subject to the provisions of this Act and any guarantee for repayment of principal or payment of interest given before the appointed day by the State Government in respect of such loans and debentures shall be deemed to be a guarantee given under the relevant provisions of this Act and shall have effect accordingly;(v)all contracts

made and all matters and things undertaken by the dissolved Boards shall be deemed to have been made or undertaken by the new Board under this Act;(vi)all prosecutions instituted by or on behalf of any of the dissolved Boards and all suits and other legal proceedings instituted by or against any such Board and pending immediately before the appointed day shall be continued and disposed of as if they had been instituted by, on behalf of or against the new Board under this Act or any other law for the time being in force.(vii)all proceedings under the repealed Acts pending immediately before the appointed day before an authority or officer appointed under the repealed Acts shall stand transferred to the corresponding authority or officer competent to entertain such proceedings under this Act and shall be disposed of by such authority or officer under this Act;(viii)all proceedings under the relevant land acquisition law pending immediately before the appointed day for the acquisition of land for the purposes of any of the dissolved Boards shall be deemed to be proceedings for acquisition of such land for the purposes of the new Board and shall be completed accordingly;(ix)all officers and servants in the employ of the dissolved Boards shall stand allotted for service to the new Board and shall, until provisions are otherwise made under the provisions of this Act, be subject to the conditions of service to which they were subject before the appointed day:Provided that the conditions of service of any such officer or servant as applicable immediately before the appointed day shall not be varied to his disadvantage by the new Board except with the previous approval of the State Government.(3)Anything done or action taken and any right, liability or obligation acquired, accrued or incurred under the repealed Acts and not covered by sub-section (2) shall respectively be deemed to have been done, taken, acquired, accrued or incurred under the corresponding provisions of this Act and the provisions of this Act shall apply thereto accordingly.(4)The rules, regulations and bye-laws made under the Bombay Housing Board Act, 1948 and in force immediately before the appointed day shall in so far as they are not inconsistent with the provisions of this Act, be deemed to be made under this Act in relation to the whole of the State and shall continue in force accordingly until they are superseded by anything done or action taken under this Act.

87. [Savings. [Section 87 was added by Gujarat 1 of 1973, section 49.]

(1)Nothing in this Act shall affect the powers of the Board to complete, after the commencement of the Gujarat Rural Housing Board, Act, 1972 (Gujarat 22 of 1972), the execution of any housing scheme or part thereof in any area outside the urban area, which may have been partly executed by it before such commencement in such area.(2)Notwithstanding anything contained in sub-section (1) of section 8 but subject to other provisions of this Act a member holding office immediately before the commencement of the Gujarat Housing Board (Amendment) Act, 1972 (Gujarat 1 of 1973), shall continue to hold office for a period of three years from the date of his appointment.]