

The Housing Board, Haryana (Disposal of Property, Betterment Charges, Eviction, Assessment of Damage and Manner of Appeal) Rules, 1975

HARYANA

India

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Rule

THE-HOUSING-BOARD-HARYANA-DISPOSAL-OF-PROPERTY-BETTERMENT CHARGES, EVICTION, ASSESSMENT OF DAMAGE AND MANNER OF APPEAL) RULES, 1975

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The Housing Board, Haryana (Disposal of Property, Betterment Charges, Eviction, Assessment of Damage and Manner of Appeal) Rules, 1975 Published vide Haryana Government Notification No. G.S.R. 26/H.A. 20/91/S. 73.75 dated 14th March, 1975 No. G.S.R. 26/H.A. 20/91/S. 73.75 - In exercise of the powers conferred by sub-section (1) of section 73 of the Haryana Housing Board Act, 1971 and with reference to Haryana Government Housing Department, notification No. G.S.R. 143/H.A.20/71/S. 73/74, dated the 15th November, 1974, the Governor of Haryana hereby makes the following rules, namely :-

1. Short title

[Section 73]. - These rules may be called The Housing Board, Haryana (Disposal of Property, Betterment Charges, Eviction, Assessment of Damage and Manner of Appeal) Rules, 1975.

2. Definitions

[Section 73]. - In these rules unless the context otherwise requires :-(1)"Act" means the Haryana Housing Board Act, 1971;(2)"form" means a form appended to these rules;(3)"Government" means the Government of the State of Haryana in the Housing Department;(4)"Section" means a section of the Act.

3. Disposal of property

[section 44]. - (1) Any land vesting in the Board may with the previous concurrence of the Government be transferred by the Board to the Government and when such transfer is made the loans advanced by the Government to the Board shall be reduced to the extent of the purchase value of the land so transferred plus the charges incurred on the establishment for its maintenance and on its development.(2)Any building vesting in the Board may, with previous concurrence of the Government, be transferred by the Board to the Government and when such transfer is made, the loans advanced by the Government to the Board shall be reduced to the extent of the cost of the building so transferred plus the charges incurred on the establishment for its maintenance but less a reasonable amount to be deducted on account of depreciation.(3)Subject to the provision of sub-rules (1) and (2) the Board shall not lease, sell, exchange or otherwise dispose of any immovable property vesting in it and situate in the area comprised in any housing scheme sanctioned under the Act, without the prior approval of the Government. Such transfer shall be subject to such terms and conditions as the Government may determine in each case in that behalf :Provided that no such approval shall be required for, -(a)allotment and sale of tenements, premises and residential/commercial plots according to the regulations made by the Board in that behalf;(b)leasing any vacant land for a period not exceeding two years at a time;(c)sale or demolition of any building or structure, which is in a dangerous condition or beyond repair.

4. Charges, Form of notice

[Section 41(1)]. - The notice proposing assessment and levy of Betterment Charges under section 41 shall be in Form A.

5. Rate of interest

[Section 42(1)]. - The rate of interest chargeable in respect of betterment charges under sub-section (1) of section 42 shall be seven-and-half per cent per annum.

6. Procedure before Tribunal

[Section 48]. - (1) Every reference in respect of matters mentioned in section 47 shall be made by the Government to the Tribunal by means of an application. Such applications shall be accompanied by as many copies thereof as may be required for service on the parties concerned.(2)Whenever any application in respect of any such matter is made to the Tribunal, it shall endorse on the original application the date of receipt and cause it to be registered in a register kept for that purpose.(3)The Tribunal shall thereupon cause a notice together with a copy of the application, if available, to be delivered or sent by registered post to the parties concerned and whenever necessary by affixing it at the site giving intimation of the application and where no copy of the application is available, appointing the time and place for inspecting the same and specifying a date for submitting a written statement in reply, if any, and for serving copies on the other parties and calling upon them to appear before the Tribunal at the time and on the date specified in the notice. The notice shall also

state, that, if the parties concerned do not appear before the Tribunal either in person or through his Solicitor, or Pleader or the other authorised agent on the date specified in the notice or any subsequent date to which the hearing may be adjourned, the Tribunal shall hear and decide the matter ex-parte.(4)If on the date fixed for hearing or any other subsequent day to which the hearing may be adjourned, the applicant does not appear either in person or through his Solicitor, Advocate, Pleader or other authorised agent when the application is called for hearing, the Tribunal may dismiss the application or may decide it on merits after hearing the party present or his Solicitor, Advocate, Pleader or other authorised agent, if present.(5)If on the date fixed for hearing or any other subsequent date to which the hearing may be adjourned, any person who has been served with a notice under sub-rule (3) does not appear in person or through his Solicitor, Advocate, Pleader or other authorised agent when the application is called for hearing the Tribunal may decide the same on merits after hearing the applicant, his Solicitor, Pleader or authorised agent.(6)If any of the person referred to in sub-rule (5) was absent at the date of hearing, either preliminary or final, and the application was heard and decided ex-parte, the party concerned may within a period of thirty [days] apply for restoration of the application and if the party satisfies the Tribunal that he had no notice of the date of hearing or that he was prevented by any sufficient cause from appearing when the application was called for hearing, the Tribunal may restore the application to its file; provided that where the other party had appeared, such party shall be given notice and an opportunity of being heard before the order for restoration of application is made.(7)When the hearing of an application is complete, the Tribunal shall pronounce its decision.(8)Every decision of the Tribunal shall be in writing and an authenticated copy thereof shall be furnished to the Board. The Tribunal shall, in the decision, state at the end whether the application is dismissed or allowed wholly or in part and mention the relief, if any, granted to the applicant or the parties concerned.(9)A copy of every decision of the Tribunal under this rule shall be transmitted to the Board for being forwarded to the concerned Revenue Officer. Every such decision, in so far as it creates or modifies any right in respect of land, shall be recorded in the Record of Rights.(10)The Tribunal shall hold its sittings at such time and place as it may determine.(11)The Tribunal may, if sufficient cause is shown, at any stage of the hearing of the application, grant time to the parties, or to any of them and may from time to time adjourn the hearing of the application.

7. Form of Notice

[Sections 51, 52 and 53-A] [Substituted vide Notification No. G.S.R. 74/H.A. 20/73/S.73/91 dated 15-11-91.]. - The notices to be served under [sections 51, 52 and 53-A] [Substituted vide Notification No. G.S.R. 74/H.A. 20/73/S.73/91 dated 15-11-91.] shall be in the following forms namely :-(a)under the proviso to sub-section (1) of section 51, in form B(b)under sub-section (1) of section 51 in form C(c)under sub-section (1) of section 52, in form D(d)under sub-section (2) of section 52, in form E, and(e)[under sub-section (1) of Section 53-A in form G.] [Substituted vide Notification No. G.S.R. 74/H.A. 20/73/S.73/91 dated 15-11-91.]

8. Mode of service of notice

[Sections 51, 52 and 53-A] [Substituted vide Notification No. G.S.R. 74/H.A. 20/73/S.73/91 dated 15-11-91.]. - A notice under sub-section (1) and the proviso to sub-section (2) of [section 51 and

sub-sections (1) and (2) of section 52 and sub-section (1) of Section 53-A] [Substituted vide Notification No. G.S.R. 74/H.A. 20/73/S.73/91 dated 15-11-91.] may be served by any officer or servant in the employment of the Board :-(a)by giving or tendering it to the person to whom it is addressed;(b)if such person is not found, by giving or tendering it to some other adult member or servant of family of the concerned person;(c)where the person to whom it is addressed or some other adult member or servant of the family of the concerned person refuses to receive the notice or where the serving Officer after using all due and reasonable diligence cannot find the person and there is no agent empowered to accept service of notice on his behalf, nor any other person on whom service can be made, the serving Officer shall affix a copy of the notice on the outer door or some other conspicuous part of the house in which the person ordinarily resides or carries on business or personally works for gain;(d)where for any reason whatsoever the notice is returned unserved the serving Officer may, either in lieu of or in addition to, direct the notice to be served by registered post addressed to the person or his agent empowered to accept service at the place where the person or his agent ordinarily resides or carries on business or personally works for gains.(2)An acknowledgement purporting to be signed by the person or the agent or any endorsement by a postal employee that the person or the agent refused to take delivery may be deemed to be prima facie proof of service.

9. Entry into premises for taking possession

[Section 51(2)]. - For the purpose of taking possession of the premises under sub-section (2) of section 51, the competent authority or any officer or servant empowered by him in this behalf may enter the premises at any time except before sunrise and after sunset.

10. Assessment of damages for unauthorised occupation

[Section 52]. - (1) In assessing damages for unauthorised use and occupation of any of the Board premises, the Competent Authority shall take into consideration the following matters, namely:-(a)the purpose and the period for which the Board premises were in unauthorised occupation;(b)the nature, size and standard of the accommodation available on such premises;(c)the economic rent of the premises for the period of unauthorised occupation, such rent being calculated in accordance with the formula decided by the Government from time to time;(d)any damage done to the premises during the period of unauthorised occupation;(e)any other matter which in the opinion of the competent authority is relevant for the purpose of assessing the damages.(2)Before assessing the damages, the competent authority shall give the person in unauthorised occupation an opportunity of being heard.

11. Procedure of appeals

[Section 54]. - (1) On receipt of the appeal and after receipt of the report from the competent authority, which shall be sent by the competent authority as expeditiously as possible, the appellate authority shall fix a date and time for hearing the appeal and give intimation in writing of such hearing to the appellant and the competent authority.(2)The appellant may, on the appointed date or on subsequent hearing appear either in person or through a representative duly authorised by

him in writing in this behalf.(3)The competent authority or his representative may likewise attend the hearing of the appeal.(4)The appellate authority shall have power to elicit further information from the appellant and the respondent to facilitate the disposal of the appeal.(5)The findings of the appellate authority shall be in writing and be communicated to the appellant. A copy of it shall be sent to the competent authority.

Form "A"(See Rule 41)Whereas, the Housing Board, Haryana, has formulated a housing scheme known as _____ And Whereas, land bearing No. _____ covered by the said scheme will, in the opinion of the Board, increase in value;And Whereas betterment charges are leviable in respect of such land as per the provisions of the Haryana Housing Board Act, 1971, notice is hereby given to Shri/Shrimati _____ owner/person having interest in the land, that betterment charges are proposed to be assessed and levied, and that he/she may make a representation in writing within a period of thirty days from the date of receipt of this notice either in person or through his/her legal adviser against the proposed assessment and levy.

Form "B"[See Rule 7(A)]ToShri/Shrimati/Kumari _____ son/wife/daughter of _____ residing at _____ of _____ District.

Whereas I, the undersigned, am satisfied that -*(i) you have not paid rent lawfully due from you for more than two months commencing from _____ in respect of the premises described in the Schedule appended hereto;*(ii) you have sublet, without the permission of the Board, the whole or part of the premises described in the Schedule appended hereto;*(iii) you have _____ and thereby have acted in contravention of the terms under which you were authorised to occupy and use the premises described in the Schedule appended hereto;*(iv) you are in unauthorised occupation of the premises described in the Schedule appended hereto;And Whereas in exercise of the powers conferred on me by sub-section (1) of section 51 of the Haryana Housing Board Act, 1971, I propose to order you (as well as _____ who is/are in occupation of the whole/a part of the said premises) to vacate the said premises within one month from _____ 19_____, on the grounds as aforesaid (hereinafter referred to as the proposed order).Now, Therefore, as required by the provisions of the proviso to sub-section (1) of section 51, I call upon you to tender an explanation and produce evidence, if any, and show cause within fourteen days from the date of the service of this notice why the proposed order should not be made.

Schedule

Full particulars of the premises

Signatures of the Competent Authority. Date _____

* Any of the alternative which is relevant to be specified

Form "C"[See rule 7]ToShri/Shrimati/Kumari _____ son/wife/daughter of _____ residing at _____ of _____ District.

Whereas, I, the undersigned, am satisfied -*(i) that you have not paid rents lawfully due from you for more than two months in respect of the premises described in the Schedule appended hereto;*(ii) that you have sublet without the permission of the Board, the whole or part of the premises described in the Schedule appended hereto;*(iii) that you have* _____ and thereby have acted in contravention of the term under which you were authorised to occupy and use the premises described in the Schedule appended hereto;**(iv) you are in unauthorised occupation of the premises described in the Schedule appended hereto;Now, Therefore, in exercise of the powers conferred on me by sub-section (1) of section 51 of the Haryana Housing Board Act, 1971, I hereby order you _____ (As well as _____ who is/are in occupation of the whole/a part of the said premises) to vacate the said premises within one month of the date of the service of this notice, failing which you may be evicted forcibly, unless you pay to the Board the rent in arrears or

carry out or otherwise comply with, to my satisfaction, the terms contravened by you.

Schedule 2

Full particulars of the premises
Signatures of the Competent Authority. Date _____ * Any of the alternative which is relevant to be specified ** Omit if not applicable
Form "D"[See rule 7(c)]
To Shri/Shrimati/Kumari _____ residing at _____ of _____ District.
Whereas you are in occupation of premises described in the Schedule hereto appended; And Whereas a sum of Rs. _____ being the arrears of rent from _____ date of _____ 199 _____ in respect of the said premises is due and payable by you to the Board; Now, therefore, in exercise of the powers conferred on me by sub-section (1) of section 52 of the Haryana Housing Board Act, 1971, I hereby order you to pay the said sum within a period of thirty days from the date of service of this notice falling which the said sum will be recovered as arrears of land revenue.

Schedule 3

Signatures of the Competent Authority. Date _____ Form "E"[See rule 7(d)]
To Shri/Shrimati/Kumari _____ residing at _____ of _____ District.
Whereas you are in unauthorised occupation of the Board premises described in the Schedule appended hereto; And Whereas in exercise the powers conferred upon me by sub-section (2) of section 52 of the Haryana Housing Board Act, 1971, I have assessed Rs. _____ as damages payable by you on account of the use and occupation of the said premises, I hereby order you pay the said amount of damages within a period of thirty days from the date of the service of the notice. If the said amount is not paid within the period specified above, it will be recovered as arrears of land revenue.

Schedule 4

Signatures of the Competent Authority. Date _____ Form "F"[See rule 7(e)]
(Notice to show cause against imposition of penalty)
To Shri/Shrimati/Kumari _____ residing at _____ of District _____.
Whereas, you have not paid the sum of Rs. _____ towards instalment/rent/other charges of the period _____ due on _____ in respect of the premises described in the terms of allotment letter/agreement demand notice. Now, therefore, you are hereby informed to appear personally or through a duly authorised agent, before me at my office on _____ and explain why a penalty not exceeding 25% of the amounts remaining unpaid as provided in section 53 A(1) of the Haryana Housing Board Act, 1971, be not imposed upon you according to law. If you do not appear as directed, the case will be decided in your absence ex parte.

Schedule 5

Signatures of the Competent Authority. Date : _____ Form "G"[See rule 7(f)]
(Order regarding imposition of penalty under section 53A(1) of the Act)
To Shri/Shrimati/Kumari _____ residing at _____ of District _____.
Whereas you were served with a show cause notice to explain the reason, if any, why the penalty be not imposed on you for delay in payment of amounts due from you in respect of the premises mentioned above; And whereas you appeared/failed to appear in my office _____ and I am satisfied that you have wilfully failed to pay the amount due from

you within the prescribed period. Now, therefore, in exercise of the powers conferred on me by section 53A(1) of the Haryana Housing Board Act, 1971, I impose upon you a penalty amounting to Rs. _____ which you are required to pay alongwith the amount of the unpaid instalment/dues within thirty days of the issue of this notice. Further take notice that if the sums due from you and penalty are not paid, you are liable to be evicted and the sums due shall be recovered from you as if these were arrears of land revenue.

Schedule 6

Signatures of the Competent Authority.