

COORDINATION SECTION

'MISUSE /DAMAGES'

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(10)

Government of India
Ministry of Works & Housing

No. 7/14/6-L

No. Delhi, the 11th Nov., 1965

To

The Land & Development Officer,
New Delhi.

Subj: Recovery of damages for unauthorised construction and
misuse of premises, determination of the date of levy
of charges.

I am directed to refer to this Ministry's letter No. 22/14/6-L dated 24-3-1965 on the subject mentioned above and to say that the question of extension/revision of the order contained therein has been examined in this Ministry. It has been decided in consultation with the Ministry of Finance that

- (i) The damages for unauthorised construction should henceforth be recovered from the date of construction where such date can be reasonably established or otherwise from the date of inspection of the premises; and
- (ii) the damages for misuse of property should be recovered from the date of commencement thereof where it can be reasonably established or otherwise from the date of inspection of the premises.

It may be ensured that notices for remedying the breaches are issued as soon as possible within one month from the date of inspection of the premises which should invariably be mentioned in the notices.

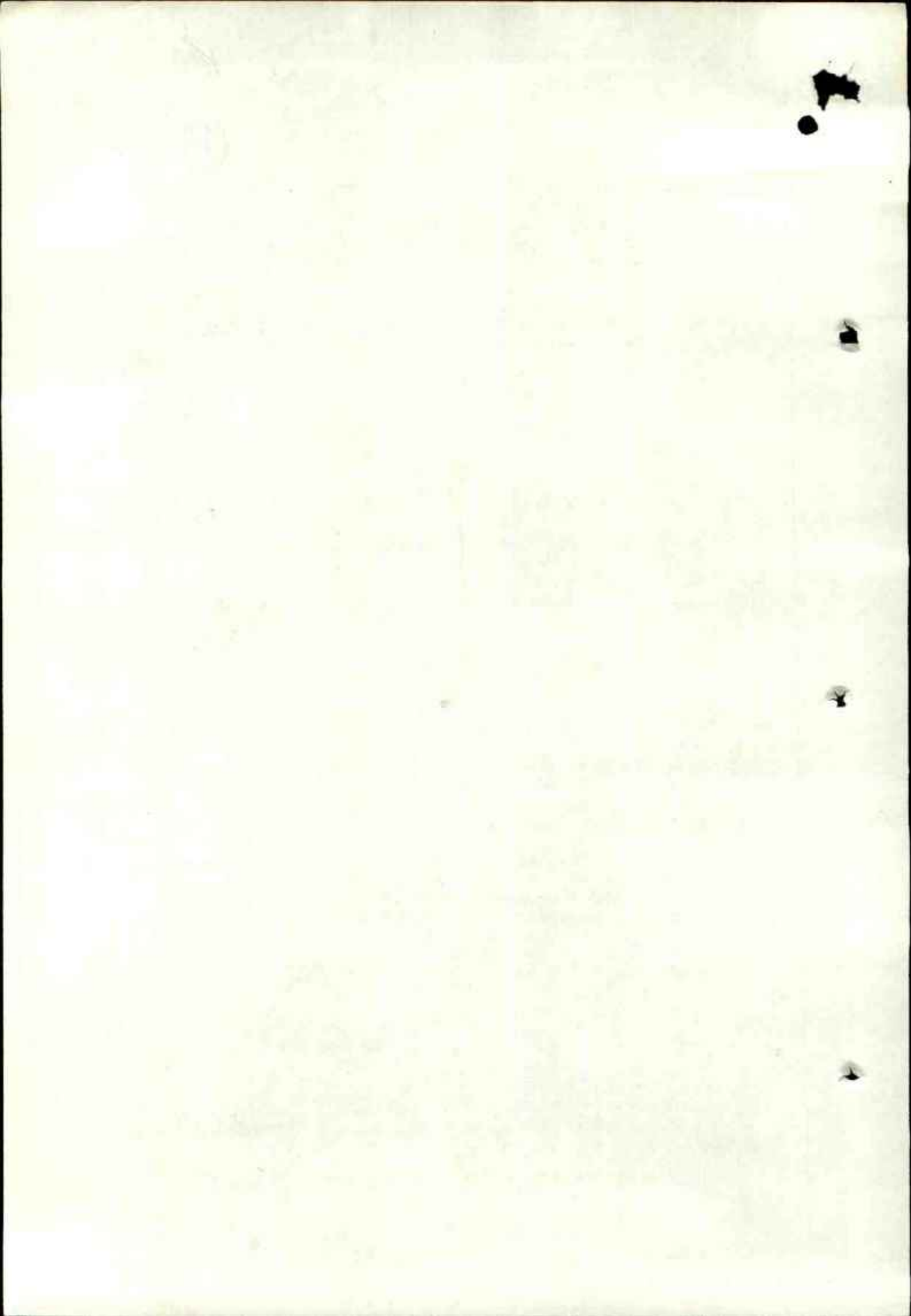
The cases already dealt with in accordance with this Ministry's letter mentioned above will not be reopened and to that extent the orders contained in that letter will be deemed to have been extended to the date of issue of this letter.

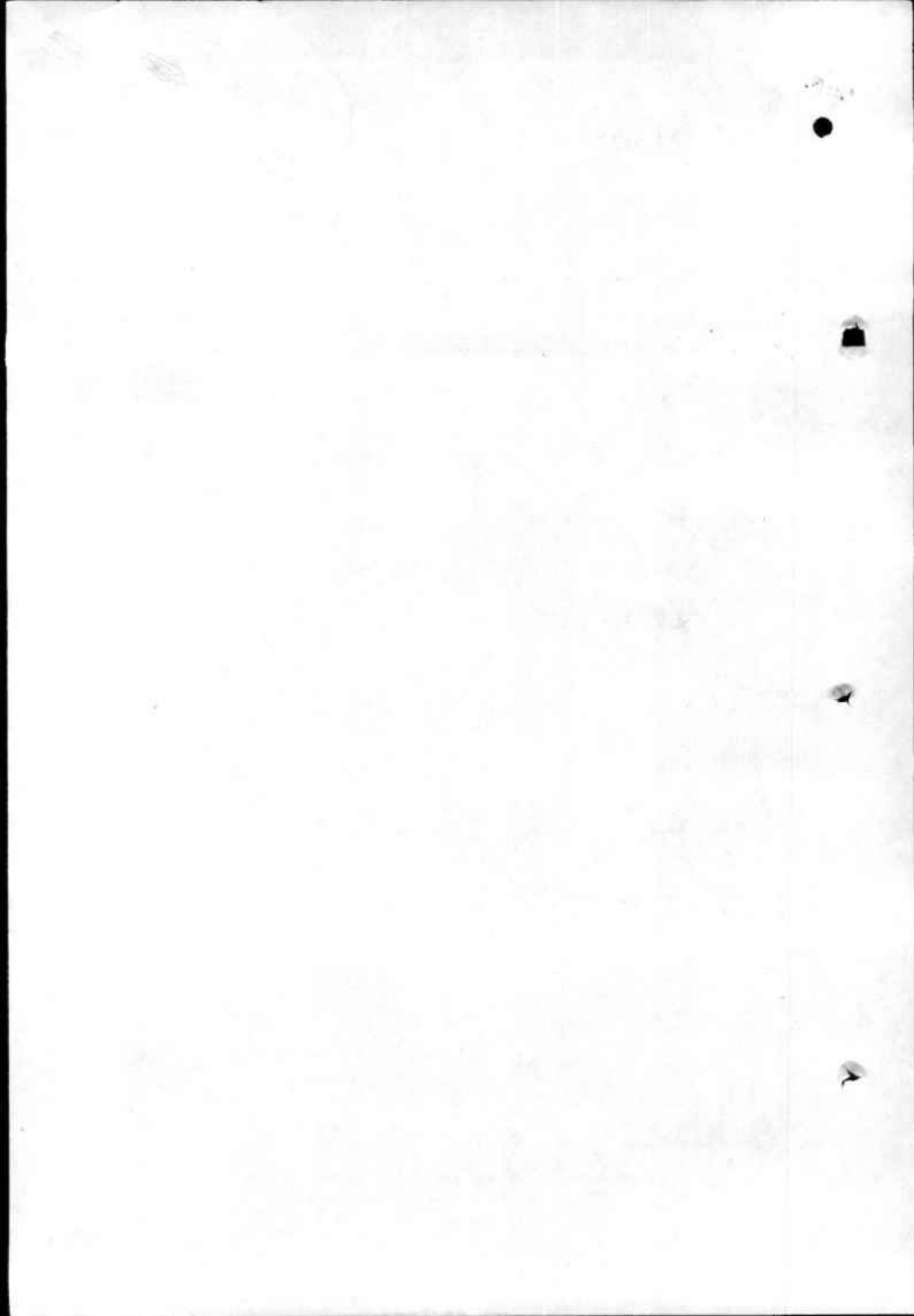
This issues with the concurrence of the Ministry of Finance vide their U.O.No.5(5)DSDE/65/7623 dated 5/11/1965.

Yours faithfully,
sd/- H.S. Jain
Under Secretary to the Govt. of
India.

Copy to:
The Ministry of Finance (IND), Delhi
The Accountant General, Commerce, Works & Miscellaneous, New Delhi
with a spare copy.
P.S. to H.N.
The Information Officer, Ministry of Works & Housing.
Guard file.
Spare copies-20

sd/-
Under Secretary to the Govt. of
India.





Government of India
Ministry of Health Family Planning and
Works, Housing and Urban Development
(Deptt. of W.H.&U.D.)
Land and Development Office
Nirman Bhavan

New Delhi dated 19/7/69

OFFICE ORDER NO.164 of 1968-69
FILE NO. 6/6/69-CDN.

Sub: - Determination of the date upto which misuse charges/
damages should be levied - procedure for.

A copy of the Ministry of Health Family Planning and
Works, Housing and Urban Development letter No.27/8/69-LII dt.
10-7-69 on the above subject is circulated to all concerned for
information and guidance.

Shital Prasad

(Shital Prasad)
Dy. Land and Development Officer.

All Officers/All Sections
Supdt. Admn.(PO-Spare Copies)

Copy to:-

1. Deptt. of Works, Housing and Urban Development.
2. Ministry of Finance.

Government of India
Ministry of Health & Family Planning
and Works, Housing and Urban Development
(Department of Works, Housing & U.D.)

No.27/8/69-LII

New Delhi, dated the 10th July, 1969

To

The Land and Development Officer,
Nirman Bhavan,
New Delhi.

Sub: - Determination of the date upto which misuse charges/
damages should be levied - Procedure for

Sir,

I am directed to refer to the correspondence
resting with your L.O. NO.22/1/69-CDN(Part) dated the
28th May, 1969, and to say that it has been decided, in
consultation with the Ministry of Finance, that the following
procedure may be adopted for determining the date upto which
misuse charges/damages for breach of the lease terms which has
been removed should be levied from the lessees:- ..2..

Government of India
Ministry of Health, Family Planning,
and Works, Housing and Urban Development
(Department of W.H.&U.D.)
Land and Development Office
Nirman Bhavan

New Delhi, dated 4-0-69

CIRCULAR NO. 27 of 1968-69

FILE NO. Polcy-6(4)-18/68

Sub - Date of determination of misuse and
unauthorised construction - determination of
date thereof: -

Notes from page 35 of the relating to 137/171 Sunder
Nagar on the above subject are circulated to all concerned
for information and guidance.

(R.L. GUPTA)
VIGILANCE OFFICER.

ALL OFFICERS / ALL SECTIONS.

Extract taken from File No. 137/171 Sunder Nagar from page 35.

Ministry of Works, Housing and Urban Development
may kindly see the question is whether evidence adduced
by a lessee in support of his contention should be taken
into account by the Lessor and if accepted should be made
the basis of relief from the levies of the lessor.

Lessees come to me and always put the same
question "what can we do to convince government that
the misuse was removed or was less than that claimed
or was for lesser period than levied for etc." I can
only tell them to adduce evidence in support of their
contention.

In this case the ex-tenant is in U.K. we should
not ignore his letter and should give the lessee the
relief arising from the evidence produced. The lessee
has always been maintaining that the misuse was
partial and not of the whole building.

If Ministry agrees they may send the file to
Finance. Such instances will disappear when periodical
..contd..2..

43

..4..

B/Min. of Fin. (DSD)
D/o W&AO U.O. NO. 3238 -LII/60 dt. 13.6.60.

Notes from page 86/ant may kindly be approved.

The lessee in his letter dated 8.4.65 stated that only one room was being misused as his office. His successor in his letter dated 25-10-68 has, however, stated that the misuse of two rooms (as was done by his father) had stopped on 25th April, 1966, when his father expired. This shows that there was misuse of two rooms, as reported by the I&AO staff, till 25.6.1966, particularly when the lessee's statement dated 8.4.1965 was not found correct on re-inspection. Thus misuse charges for two rooms will be recovered upto 25.6.1966. Hereafter, misuse charges for one room admitted as being used the personal office by his successor will be recovered upto 10-12-68 according to the then existing orders, as the breaches of this type have been condoned only from 11.12.68.

sd/- O.P. Gupta
21/6/69
sd/- K.L. Gupta
21/6/69

D/o W&AO
Min of Fin. (DSD) U.O. NO. 17420908/60 dt. 24.5.69

Letter of W&AO

The Ministry of Finance (DSD) have expressed the view that misuse charges for the two rooms should be recovered upto 25.6.60 and thereafter misuse charges for one room should be charged upto 10-12-1968.

We may not perhaps pursue the matter any further and advise the I&AO to take action as suggested by the Ministry of Finance (DSD).

sd/- E. Ranganathan
7/69

15X)

R.R orders if the lessee be passed further.

sd/- S.M. SNI
17/69

DRLE)

Discussed with SO(LII) retained by the Finance Minister. We may agree to misuse charges being recovered in respect of two rooms upto 25.6.66. As regards the other small room of 64 sq.ft. we still feel that no charges should be recovered after that date.

Finance may kindly see for reconsideration. As the proposal in our letter dt. 13.6.69 was approved by Secretary, the
..contd..5..

open to a lessee to remedy the breach in such cases simply by restoring the user initially permitted under the lease.

4. If any point needs further clarification, the matter may be discussed with me on any day convenient to the Administrative Ministry concerned.

Sd/- (O.P. Garg)
Dy. Legal Adviser.

Deptt. of W.H. & U.D.

Min. of Law U.O. NO. D35661/69-Adv. W&H dated 6.7.69

DEPTT. OF W.H. & U.D.

Notes from p.7/ante may please be seen. The question under consideration was whether recoveries in respect of the past breaches could be levied. The purport of the advice of the Law Ministry now given would seem to be that no levies can be made for the past breaches have been vacated unless the premises have been re-entered. The L&D may be advised to follow this advice. He will no doubt ensure that when a notice for remedying the breach is issued, follow-up action is taken vigorously and expeditiously.

The Ministry of Finance (DSD) may please see with reference to their note at pp.11-12/ante.

Intd.
9/9

Sd/- (S.Ranganathan)
12.9.69
Sd/- (S.M.Soni)
12.9.69

R/Ministry of Fin(DSD)

D/O WH&UD U.O. NO.5370-LII/69 dated 15.9.69

MINISTRY OF FINANCE
DELHI STATE DIVISION.

Notes from page 7/ante notes on pages 9-13/n on the linked file pertaining to W-24, Defence Colony may kindly be seen.

In view of the position stated in the Law Ministry's note dated 6.9.69, which is summarised at portico side-lines 'A' of the preceding note, no recovery of charges for past period of misuse in the two cases under consideration would seem to be practicable, as the breaches were removed by the respective lessees before any action to re-enter the sites was taken by the L&D. However, we fully share the view expressed in the preceding note that in order to save Govt.'s interest, follow-up action should be taken vigorously and

Contd... 3

Give the parties 2 months to remove the breach to
reduce individual examination of cases.

Sd/- (Prakash Narain)
7.10.69

Min. of Fin. (DSD)

L&DO U.O. NO. 13-VI/3853 dated 13.10.69

MINISTRY OF FINANCE (DSD)

With reference to portion sidelined 'A' of L&DO's
note on page 18/ante, it may be stated that it would neither
seem appropriate nor practicable to take cognisance of the
period of notice specified between a lessee and his tenant.
However, it is agreed that while the normal period of notice
may be one month, this limit could be increased in individual
cases after considering the circumstances of each case,
upto a maximum period of two months. It would also not seem
appropriate that a notice period of two months may be given,
as a matter of course, to all parties where a tenant of a
lessee is involved.

Deptt. of W.H. & U.D. may also please see.

Sd/- (K.L. Gupta)

4.11.69

D.S.

Sd/- (R.P. Gupta)

4.11.69

Deptt. of W.H. & U.D.

Min. of Fin. (DSD) U.O. NO. 511/DSDS/69/5007 dated 5.11.69

"S. Prakashan"
9th July, 70

Not taken from page 1/N to onward of
the Ministry File No. 27/2/69-LII.

LAND & DEVELOPMENT OFFICE

Department of Works, Housing and Urban
Development may kindly confirm that their letter
No. 27/2/69-LII dated 31.7.1969 supercedes the orders
contained in their U.O. NO. 6545-L/66 dated 26.10.1966
(7/6/66-L refers) applicable to Rehabilitation leases
and the terms for regularisation approved by Finance
with reference to their letter orders need revision
with reference to orders dated 31.7.1969.

Sd/- (Shital Prasad)
Jy. Land & Development Officer.

Dir. of W.H. & U.D. (L.II Sec.)
L&D U.O. NO. 6545-L/66 dated 26.10.1966

DEPTT. OF W.H. & U.D.

The orders contained in our letter No.
27/14/64 dated 11.11.1965 provide that damages may
be recovered from the date of commencement of the
breach where such date can be established or otherwise
from the date of inspection of the premises. Our
letter No. 27/2/69-L dated 31.7.69 provides in partial
modification of our earlier letter No. 27/14/64-L
dated 11.11.1965 that date of commencement of the
breach may be taken as two years prior to the date
of the last inspection. The intention is not
cancelling our letter No. 27/14/64-L dated 11.11.65
is that in cases where the date of commencement of
the breach can reasonably be established, damage
should be levied from that date instead of two
years prior to the date of the last inspection.

2. The reference quoted at 'A' above is
apparently contained in L&DO's file while certain
mirrored the extracts with particular reference
to the U.O. NO. 6545-L/66 dated 26.10.66, are
available in our file. The L&DO may be requested
to have those extracts added in our file.

The L&DO may please seq.

Intd.
6/4

U.S. (L)

Sd/- (H.S. Rustagi)
7.4.70
Sd/- (Tirath Ram)
8.4.70

R/L&DO

D/O W&H&U.D. U.O. NO. 27/2/69-LII dated 8.4.70

Contd... 2

(74)

Government of India
Ministry of Health & Family Planning and
Works & Housing and Urban Development;
(DEPTT. OF W.H.&U.D.)
LAND & DEVELOPMENT OFFICE
NIRMAN BHAVAN,

NO.5(2)-5A/67

New Delhi, the 5-2-1971.

OFFICE ORDER 245 of 1970-1

SUB: Fixation of rate for the recovery of damages from squatters of categories (a) and (b), occupying land upto 50 sq.yds in terms of this Ministry's letter NO. 8/11/64 dated 15.10.1965, read with letter of even number dated 8.8.1966.

A copy of Ministry's letter NO.LII-8(1)/68 dated 15th January, 71 on the above subject is circulated to all concerned for information and necessary action.

Shitala

(SHITAL PRASAD)

DY.LAND & DEVELOPMENT OFFICER

All Officers/Sections.

Copy to:

1. Deptt. of W.H.& U.D.
2. Ministry of Finance (DSD).

Shitala

DY. LAND & DEVELOPMENT OFFICER

Government of India
Ministry of Health & Family Planning
and Works, Housing & Urban Development
(Deptt. of Works, Housing & Urban Dev.)

NO.L.II-8(1)/68

New Delhi, the 15 Jan., 71

To

The Land & Development Officer,
NEW DELHI.

Subject: Fixation of rate for the recovery of damages from squatters of categories (a) & (b), occupying land upto 50 sq.yds in terms of this Ministry's letter NO.8/11/64- dated 15.10.65 read with letter of even number dated 8.8.1966.

74/2
Sir,

I am directed to refer to your D.O.NO.Policy-5(2)-5A/69, dated August 8, 1970, on the subject noted above, and to say that it has been decided to recover damages

Government of India
Ministry of Works and Housing
Nirman aur Awas Mantralaya;
LAND & DEVELOPMENT OFFICE
NIRMAN BHAVAN,

(91)

6(4)-13/68

New Delhi, the 1.11.71

OFFICE ORDER NO. 295 of 70-71

Sub. Admission of Evidence in respect of area of misuse and vacation of premises by the tenant by the lessee-instructions thereof:-

In a case relating to F-24 Nizamuddin (W) it was reported by the Overseer in 1964 that the whole of ground floor was being used as clinic by the occupant a Doctor and First floor as residence by the other tenant. The property was re-entered as the lessee failed to remove the misuse on ground floor in spite of a show cause notice. After the re-entry orders were issued the lessee contested about the area of misuse saying that (his tenant) was using his drawing room to attend to his patients and also that he vacated the house in April, 1968.

In support of his contention he produced evidence viz. (i) ration card and electoral rolls showing that the doctor tenant actually vacated the premises in April, 68 and

(ii) certificate from the tenant of 1st floor and lessee of an adjoining property certifying that the doctor tenant was using his drawing room to examine his patients during his stay. The matter was referred to the Deptt. of WL&UD, who has decided that the evidence produced by the lessee in respect of vacation of the premises and also the extent of area used as clinic by him may be accepted.

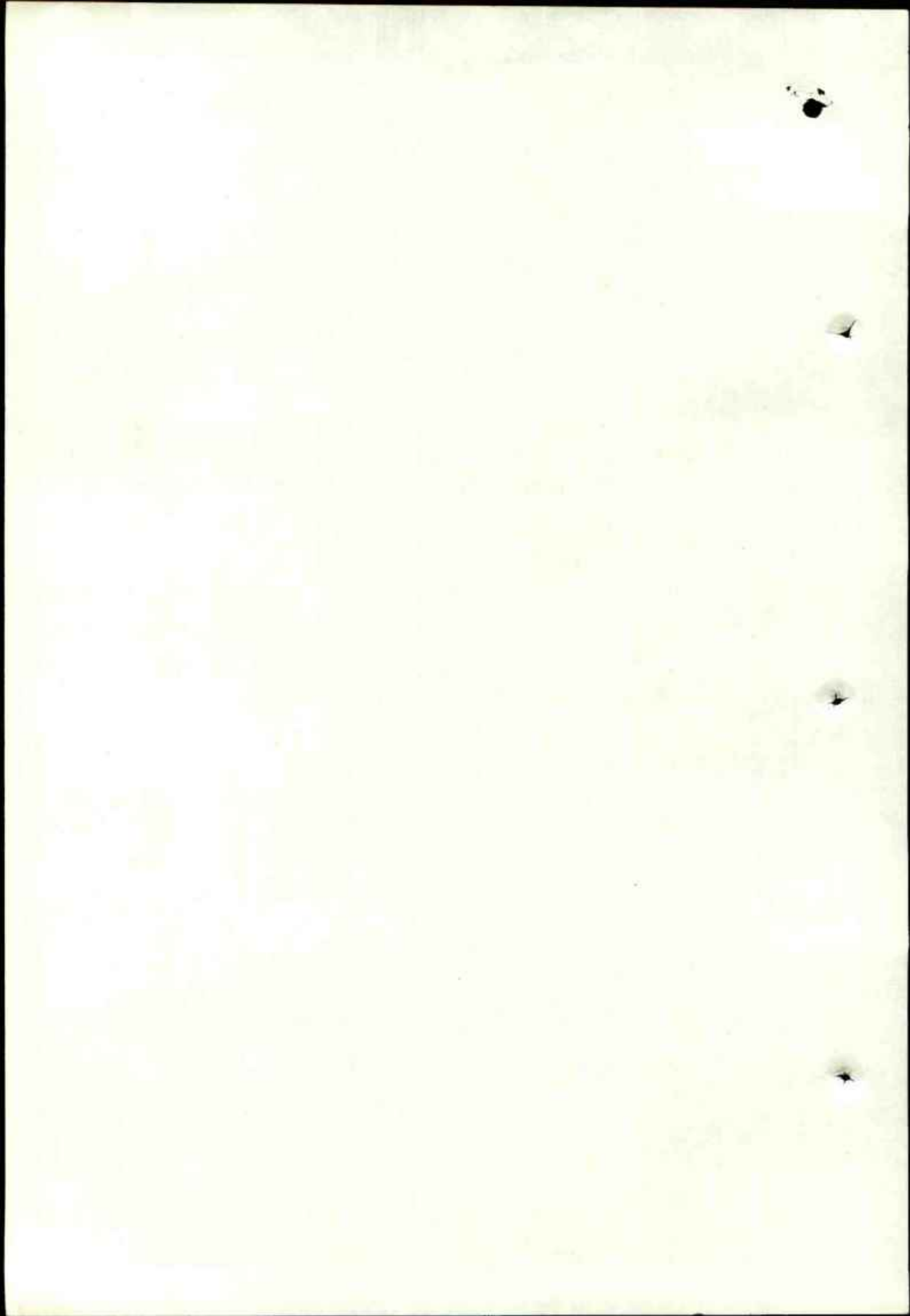
extracts
In this connection from the relevant file are circulated to all concerned for information and guidance.

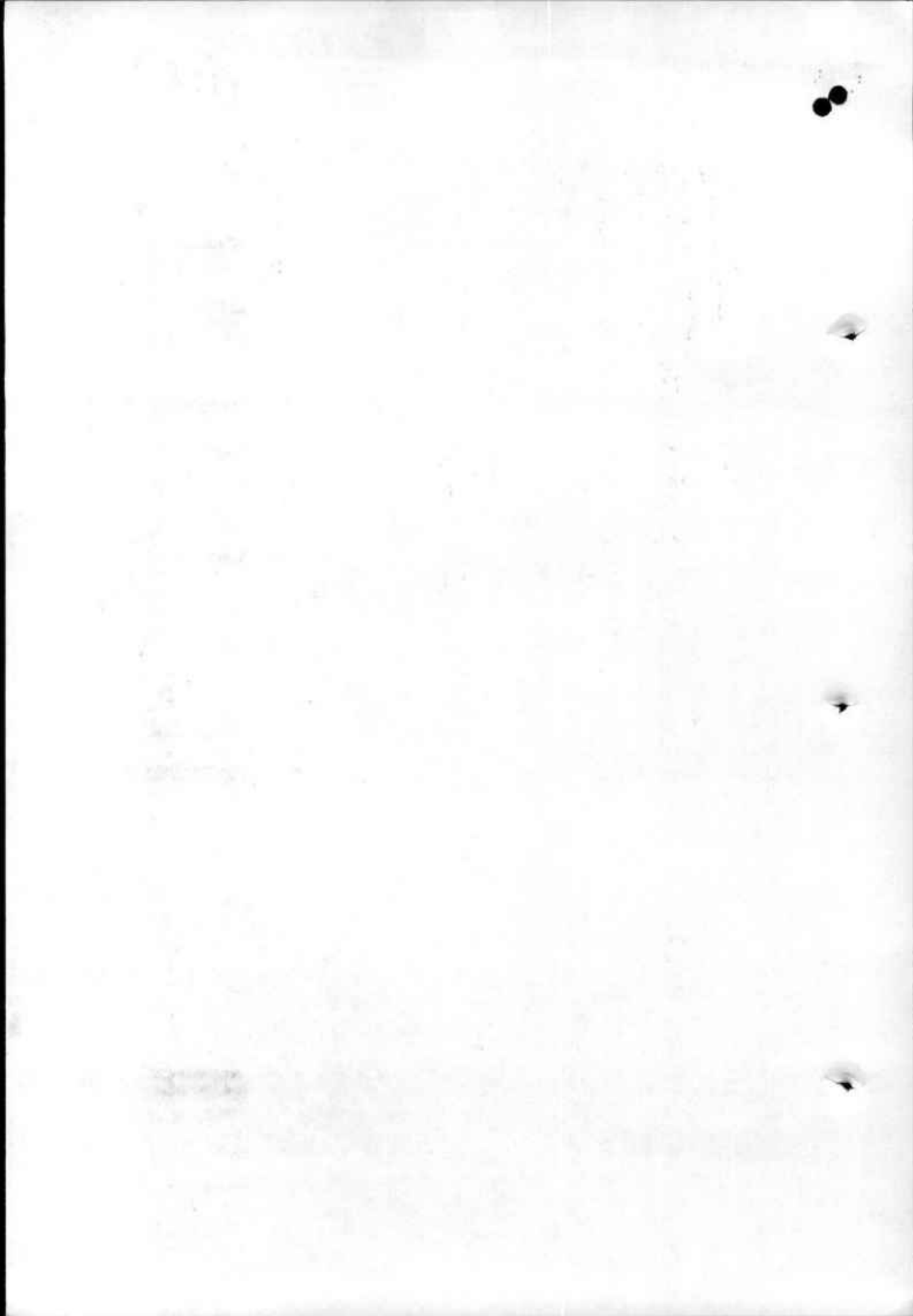
Shital (a)

(SHITAL PRASAD)

All Officers/Sections. DY. LAND & DEVELOPMENT OFFICER.

Prakash
30th Oct.; 71





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-6-

1	2	3	4	5	6	7	8	9	10	11	12
66. Foshanara Road		175	0.73	1.46	1.10	2.20	1.46	2.92	0.37	0.74	
87. Paneshwari Mehru Nagar.		100	0.42	0.84	0.63	1.26	0.84	1.68	0.21	0.42	
88. Feeding Road (Mandir Marg)		150	0.63	1.26	0.94	1.88	1.25	2.50	0.32	0.64	
89. Rationing Godown Market (Subzi Mandi)		150	0.63	1.26	0.94	1.88	1.25	2.50	0.32	0.64	
90. Pant Jansl Mkt.		150	0.63	1.26	0.94	1.88	1.25	2.50	0.32	0.64	
91. Famesh Nagar		100	0.42	0.84	0.63	1.26	0.84	1.68	0.21	0.42	
92. Rajinder Nagar (Old)		175	0.73	1.46	1.10	2.20	1.46	2.92	0.37	0.74	
93. Rajinder Nagar (New)		175	0.73	1.46	1.10	2.20	1.46	2.92	0.37	0.74	
94. Tatendon Road		250	1.05	2.10	1.57	3.14	2.09	4.18	0.53	1.06	
95. Tejpur Road		150	0.63	1.26	0.94	1.88	1.25	2.50	0.32	0.64	
96. Noop Nagar		150	0.63	1.26	0.94	1.88	1.25	2.50	0.32	0.64	
97. Sarai I. Chilla		100	0.42	0.84	0.63	1.26	0.84	1.68	0.21	0.42	
98. Gunder Nagar		200	0.84	1.68	1.25	2.50	1.67	3.34	0.42	0.84	
99. South Patel Ngr.		150	0.63	1.26	0.94	1.88	1.25	2.50	0.32	0.64	
100. Shakti Nagar		150	0.63	1.26	0.94	1.88	1.25	2.50	0.32	0.64	
101. Sewa Nagar		100	0.42	0.84	0.63	1.26	0.84	1.68	0.21	0.42	
102. Tejwara		150	0.63	1.26	0.94	1.88	1.25	2.50	0.32	0.64	
103. Tiliak Nagar		75	0.32	0.64	0.48	0.96	0.63	1.26	0.16	0.32	
104. Tihar I		75	0.32	0.64	0.48	0.96	0.63	1.26	0.16	0.32	
105. Tihar II.		75	0.32	0.64	0.48	0.96	0.63	1.26	0.16	0.32	

contd.....7.

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GOVERNMENT OF INDIA
MINISTRY OF WORKS AND HOUSING
LAND & DEVELOPMENT OFFICE: NIRMAL BHAWAN

No. 6-4(10)/75-CDN.

NEW DELHI, the 12/1

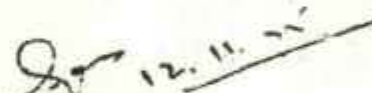
OFFICE ORDER NO. 500

Subj. Misuse of a part of a building and calculation of charges thereof.

....

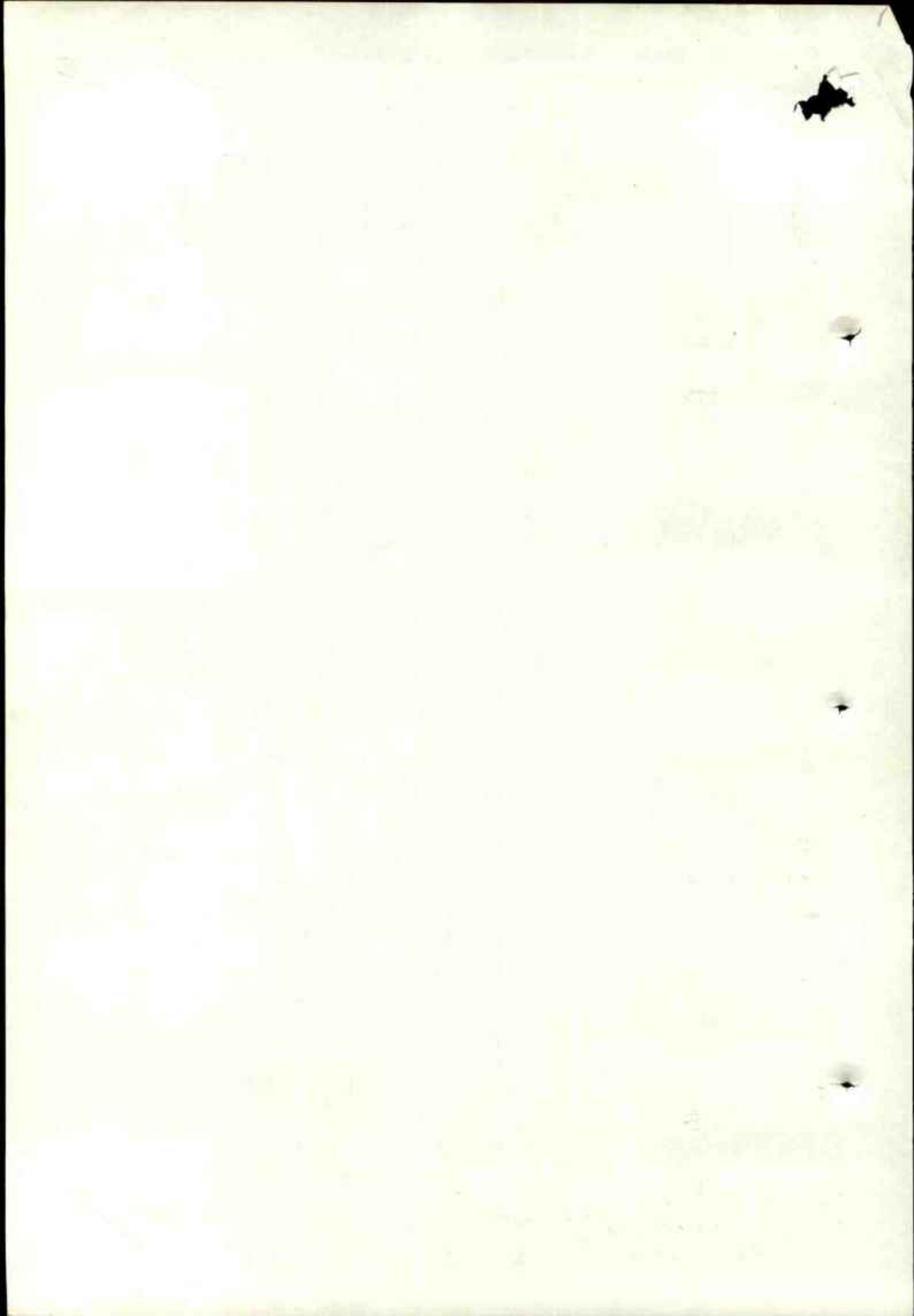
The word "misused area" as mentioned in the formula for calculation of misuse charges has not been defined anywhere and as such different interpretations were/are being made resulting in different set of calculations now and again. In the case where the whole of a premises is misused, the misused area is taken as the total built up area or in other words the plinth area of a building including thickness of all the walls. In some cases of misuse of a part of a building thickness of wall(s) was being taken into account, while working out the misuse charges- and in some cases it was not.

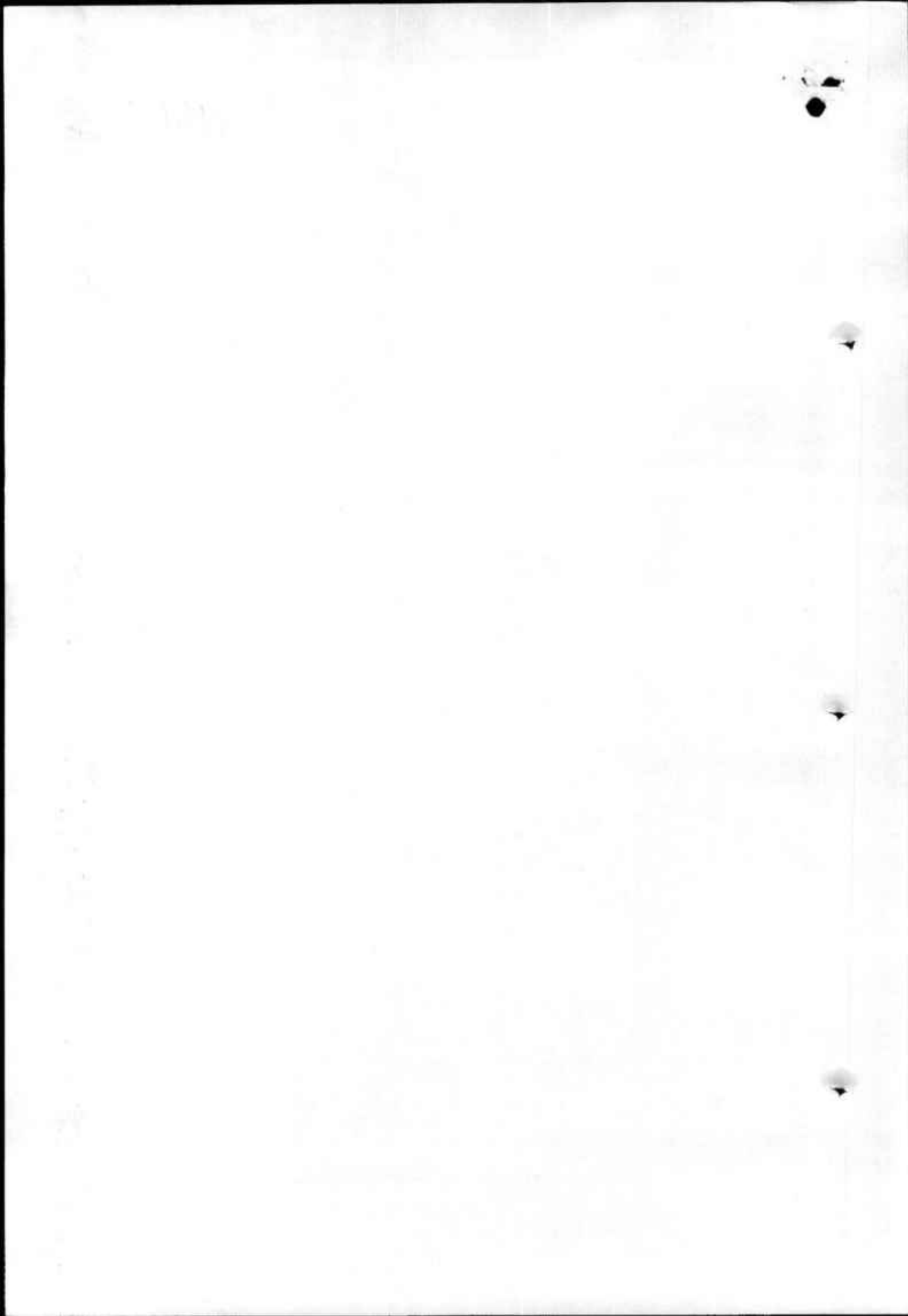
The matter was therefore examined and it is decided that this area will be taken into account according to actual measurements which will be according to actual area misused. Such misused area will be assessable and verifiable from the building plan as sanctioned by the local municipal authority.

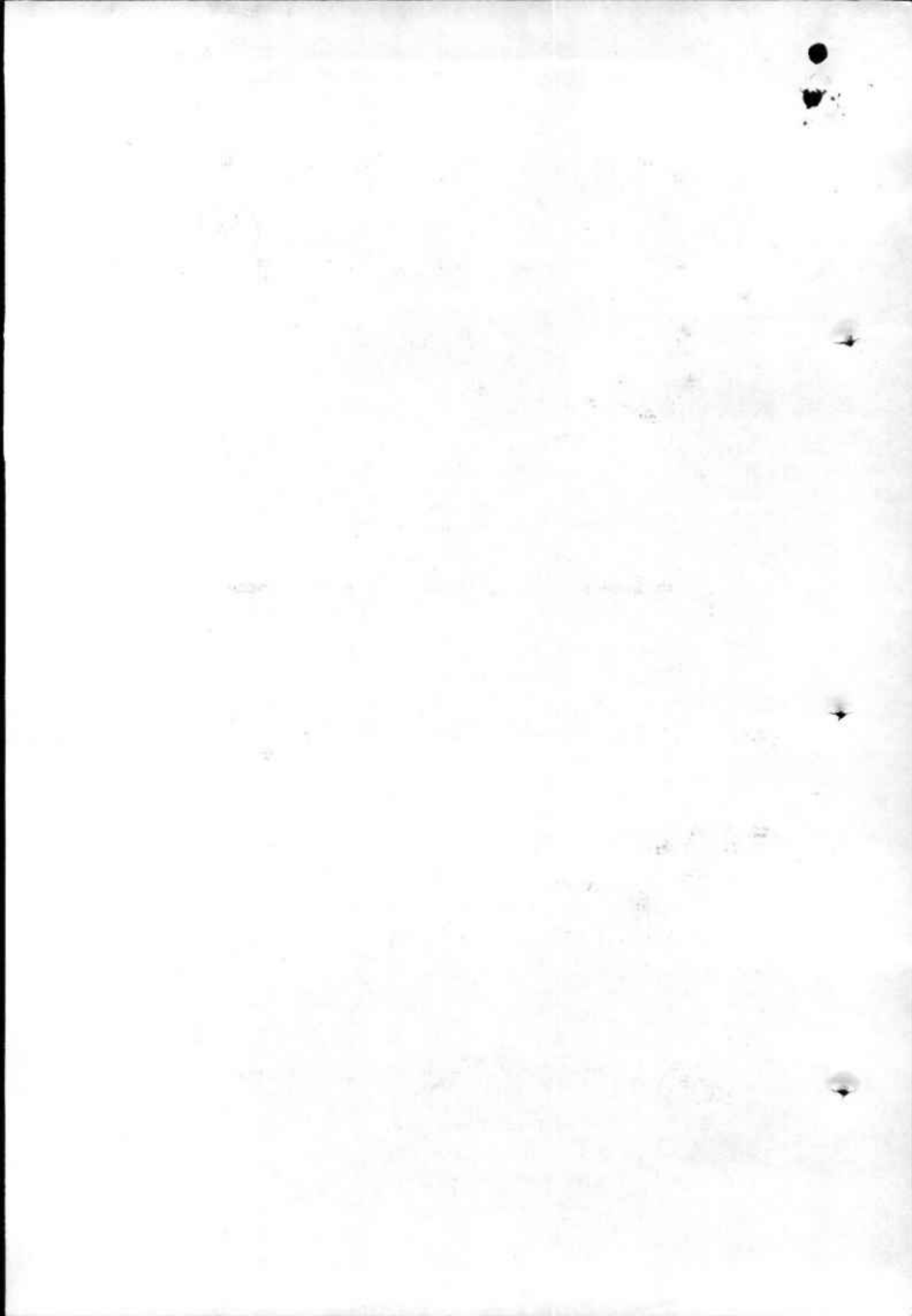

(U.N. Bhuyan)
Dy. Land & Development Officer.

All Officers/Sections.

Copy (with two spare copies) to the Min. of Works & Housing,
New Delhi.







-2:-

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6. Delhi Division (six copies)
7. Lands Division (All Desk Officers)
8. PS to Secretary (For Reader's File)
9. PS to JS(H).
10. Guard File - 2 copies
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N. Rajagopalan

(N. RAJAGOPALAN)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA.

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Commercial

FAR 150

800 13.44
1600 26.88
2000 33.60
2400 40.32
4800 80.64
6000 100.80
10500 176.40
13000 218.40
FAR 250

26.88
53.76
67.20
80.64
161.28
201.60
352.80
436.80

26.88
53.76
67.20
80.64
161.28
201.60
352.80
436.80

53.76
107.52
194.40
322.56
403.20
705.60
873.60

10500
13000

105.84
131.04

211.68
262.08

211.68
262.08

423.36
524.16

FAR 300

6000

50.40

100.80

100.80

201.60

In case the FAR is 100:-

- a) For AGR for beyond permissible limits of the building bye-laws.

$$\text{Rs. } \frac{8000 \times 5}{1 \times 100} = \text{Rs. } 400/- \text{ P.A.}$$

- b) For damages for unauthorised construction beyond permissible limits of building bye-laws.

$$\text{Rs. } \frac{8000 \times 10}{1 \times 100} = \text{Rs. } 800/- \text{ P.A.}$$

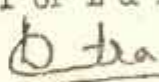
In case the F.A.R. is 150, the rates for AGR & damages will be as under:

c) $\text{Rs. } \frac{8000 \times 5}{1.5 \times 100} = \text{Rs. } 266.67 \text{ P.A.}$

d) $\text{Rs. } \frac{8000 \times 100}{1.5 \times 150} = \text{Rs. } 533.33 \text{ P.A.}$

In the cases of properties leased for institutional use and press plots which have been allotted on concessional rates for the bonafide use, the formula for recovery of AGR for authorised construction & damages for unauthorised construction will be based on the land rates prescribed for those uses in the schedule of land rates issued by the Ministry from time to time. This is strictly according to the method adopted in the case of Indian Express and other press plots. In case the construction which is not used for the bonafide purpose, in that case in addition to AGR/damages, misuse charges are also recoverable on the rates for which it is put to use.

This order is issued with the approval of L & D.O.


(L.D. Ganesan)
Engineer Officer

All Officers/Sections.

