
HOUSING BOARD ACT, 1976

(Act No. VII of 1976)

**THE JAMMU AND KASHMIR HOUSING BOARD
ACT, 1976**

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CONTENTS

Preamble.

Section

CHAPTER I

Preliminary

1. Short title, extent and commencement.
2. Interpretation.

CHAPTER II

Establishment of Housing Board

3. Incorporation.
4. Constitution of Board and removal of members.
5. Term of office of the Chairman and members of the Board.
6. Appointment of Staff.
7. Conditions of service of officers and servants.
8. Meetings of Board.
9. Temporary association of persons with Board for particular purpose.
10. Authentication of orders and other instruments of the Board.
11. Power to make contracts.
12. Execution of contract.
13. Delegation of Board's power to sanction contract.

Section.

CHAPTER III

Housing Scheme

14. Powers and duties of the Board to undertake housing schemes.
- 14-A. Entrustment of other functions to the Board.
15. Matters to be provided for by housing schemes.
16. No housing scheme to be made for area included in improvement scheme or be inconsistent with the town planning scheme.
17. Publication and sanctioning of scheme.
18. Power to alter or extend schemes.
19. Carrying out of scheme.
20. Vesting of lands etc. in the Board.
21. Compensation in respect of land vested in the Board.
22. Power of Board to turn or close public street vested in it.
23. Reference to Tribunal in case of dispute under section 21, 22, 26.
24. Vesting in Municipality of streets laid out or altered and open space provided by the Board under housing scheme.
25. Other duties of the Board.

CHAPTER IV

Acquisition and disposal of land

26. Power to acquire.
27. Betterment charges.
28. Notice to persons liable for betterment charges.
29. Agreement for payment of betterment charges.
30. Recovery of betterment charges.
31. Power to dispose of land.

Section.

32. Disputes regarding reconstitution of plots.
33. Constitution of Tribunal.
34. Duties of the Tribunal.
35. Powers of the President.
36. Powers of and procedure before tribunal.
37. Decision of Tribunal be final.

CHAPTER V

Power to evict persons from board premises.

38. Appointment of competent authorities.
39. Non-applicability of other laws.
40. Power to evict certain persons from Board premises.
41. Power to recover rent or damages as arrears of land revenue.
42. Rent to be recovered from deduction from salary or wages in certain cases.
43. Appeal.
44. Bar of jurisdiction of civil courts.

CHAPTER VI

Finance, accounts, budget and audit.

45. Expenditure etc. incurred by Government till Board takes over.
46. The Board Fund.
47. Application of the Fund.
48. Subventions and loans to the Board.
49. Power of Board to borrow.
50. Submission of Budget to Board.
51. Board's sanction to budget.

Section.

- 52. Accounts and audit.
- 53. Concurrent and special audits of accounts.

CHAPTER VII

Miscellaneous

- 54. Reports.
 - 55. Other statements and returns.
 - 56. Power of entry.
 - 57. Notice of suit against Board.
 - 58. Valuation of assets and liabilities of the Board.
 - 59. Power to make rules.
 - 60. Regulations.
 - 61. Penalty for obstructing.
 - 62. Penalty for obstructing exercise of powers under Chapter V.
 - 63. Authority for prosecution.
 - 64. Members, officers and servants of the Board to be public servants.
 - 65. Protection of action taken under this Act.
 - 66. Government's powers to give directions to Board.
 - 67. Power to order inquiries.
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**THE JAMMU AND KASHMIR HOUSING BOARD
ACT, 1976**

(Act No. VII of 1976)

[Received the assent of the Governor on 31st March, 1976 and published in Government Gazette dated 31st March, 1976 (Extra.)]

An Act to provide for measures to be taken to deal with and satisfy the need for housing accommodation.

Whereas it is expedient to take such measures, to make such schemes and to carry out such works as are necessary for the purposes of dealing with and satisfying the need for housing accommodation, residential and office accommodation in the Public Sector and with that objective in view it is necessary to establish a Board and to make certain other provisions hereinafter appearing ;

Be it enacted by the Jammu and Kashmir State Legislature in the Twenty-seventh Year of the Republic of India as follows :—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.* —(1) This Act may be called the Jammu and Kashmir Housing Board Act, 1976.

(2) It extends to ¹[whole of the Union territory of Jammu and Kashmir].

²[(3) It shall come into force on such date as the Government may, by notification in the *[Government Gazette], appoint].

2. *Interpretation.*— In this Act, unless there is anything repugnant in the subject or the context,—

(1) “Board” means the Jammu and Kashmir Housing Board constituted under section 4 ;

1. Substituted by S.O. 1229 (E) dated 31.03.2020 for “whole of the State of Jammu and Kashmir”.

2. Enforced vide SRO-266 of 1976 w.e.f 11th May, 1976.

* Now Official Gazette.

- (2) “Betterment charges” means the charges leviable under section 27 ;
- (3) “Board premises” means any premises belonging to or vesting in Board or taken on lease by the Board or entrusted to the Board under this Act for management or use for the purposes of this Act ;
- (4) “Chairman” means Chairman of the Jammu and Kashmir Housing Board ;
- (5) “Financial institution” means any Scheduled Bank, Nationalised Bank, Life Insurance Corporation of India, Housing and Urban Development Corporation of India, or any other financial institution which lends money for housing activity ;
- (6) “Government” means the Government of Jammu and Kashmir ;
- (7) “Government office” means any office of the government of Jammu and Kashmir ;
- (8) “housing scheme” means a housing scheme made under this Act ;
- (9) “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 ;
- (10) “Managing Director” means Managing Director appointed under this Act ;
- (11) “member” means a member of the Board and includes the Chairman of the Board ;
- (12) “Municipality” means a Municipality and includes ¹[a Municipal Corporation or Council or Committee] ;
- (13) “premises” means any land or building or part of a building including any apartment therein and includes—
 - (i) gardens, grounds and out-houses, if any, appertaining to such building or part of a building ; and

1. Substituted by S.O. 1229 (E) dated 31.03.2020 for “a Town Area Committee or a Notified Area Committee”.

- (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof ;
- (14) “prescribed” means prescribed by rules made under this Act ;
- (15) “regulations” means regulations made by the Board under this Act.

CHAPTER II

Establishment of Housing Board

3. *Incorporation.*— The Government shall, by notification in the *[Government Gazette] establish for the purposes of this Act a Board by the name of the Jammu and Kashmir 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 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 land and buildings belonging to or vesting in the Board under or for the 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. *Constitution of Board and removal of members.* —(1) The Board shall consist of a Chairman, and such other members, not less than three and not more than nine as the Government may appoint.

(2) The Government may at any time remove any member of the Board or reconstitute the Board as it may consider necessary.

(3) In absence of the Chairman from any meeting, the members present may nominate one amongst them to preside over the meeting.

5. *Term of office of the Chairman and members of the Board.*—The Chairman and the other members of the Board shall hold office for such period and shall be eligible for reappointment under such conditions, as may prescribed.

* Now Official Gazette.

6. *Appointment of staff.*—(1) The Board shall have a Managing Director to be appointed by the Government on such terms and conditions as it may specify.

(2) The Board may appoint a Secretary and such other officers and servants as may be required to enable the Board to carry out its functions under this Act :

Provided that the appointment of the Secretary and other officers of the Gazetted rank shall be subject to the approval of the Government :

Provided further that in making appointment of officers and servants under this section, the rules and orders, from time to time, issued by the government in making provision for reservation of appointments and posts in favour of the Scheduled Castes and Backward Classes shall apply in the same manner as they apply in respect of appointments and posts under the Government.

7. *Conditions of service of officers and servants.*— The conditions of service of the officers and servants of the Board shall be such as may be determined by regulations.

8. *Meetings of Board.*—(1) 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 :—

- (a) the Chairman may, whenever he thinks fit, call special meetings ;
- (b) all questions at any meeting shall be decided by a majority of the members present and in case of equality of votes the person presiding shall have and exercise a second or casting vote ;
- (c) the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

(2) The Board shall hold ordinary meeting at such intervals, as may be provided in the regulations, and a meeting may be convened by the chairman at any other time for the transaction of any urgent business.

(3) The number of members necessary to constitute a quorum at a meeting shall be such as may be provided in the regulations.

(4) If at any special or ordinary meeting of the Board a quorum is not present, the Chairman shall adjourn the meeting to such other day as he may think fit and the business which would have been brought before the original meeting if there had been a quorum present, shall be brought before, and transacted at, the adjourned meeting, whether there is a quorum present or not.

9. *Temporary association of persons with Board for particular purpose.* —

(1) The Board may associate with itself, any person whose assistance or advice it may desire for carrying into effect any of the provisions of this Act :

Provided that the number of persons so associated shall not be more than three.

(2) A person associated with the Board under sub-section (1) for any purpose shall have the right to take part in the deliberations of the Board relevant to that purpose but shall not have the right to vote.

10. *Authentication of orders and other instruments of the Board.*—All orders, decisions and instruments of the Board shall be authenticated by the signatures of the Managing Director or any other officer as may be authorised by the Board in this behalf.

11. *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.

12. *Execution of contract.*— Every contract shall be made on behalf of the Board by the Managing Director or such other officer as the Board may nominate.

13. *Delegation of Board's power to sanction contract.*— Subject to any rule which the Government may make in this behalf, the Board may by order direct that the power conferred on it under section 11 to sanction a contract shall be exercised by the Managing Director.

CHAPTER III

Housing Scheme

14. *Powers and duties of the Board to undertake housing schemes.*—

(1) Subject to the provisions of this Act and subject to the control of the Government the Board may, from time to time, incur expenditure and undertake

works in any area in which this Act is in force for the framing and execution of such housing schemes as it may consider necessary.

(2) The Government may, on such terms and conditions as it may think fit to impose, entrust to the Board the framing and execution of any housing scheme whether provided for by this Act or not, and the Board shall thereupon undertake the framing and execution of such scheme as if it had been provided for by this Act.

(3) The Board may, on such terms and conditions as may be agreed upon and with the previous approval of the Government, take over execution of any housing scheme on behalf of a local authority or co-operative society or on behalf of an employer when the houses are to be built mainly for the residence of his employees, and the Board shall execute such scheme as if it had been provided for by this Act.

¹[14-A. *Entrustment of other functions to the Board.*— Notwithstanding anything contained in this Act, the Government may, from time to time and subject to such conditions, if any, as it may impose, entrust such other functions to the Board as are not provided in this Act.]

15. *Matters to be provided for by housing schemes.*— 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 schemes ;
- (b) the laying or relaying out of any land comprised in the scheme ;
- (c) the distribution or redistribution of site 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 obstructive buildings or portions of buildings ;
- (f) the construction and reconstruction of buildings ;
- (g) the sale, letting or exchange of any property comprised in the

1. Inserted by Act XXI of 1985, s. 2.

- scheme ;
- (h) the construction and alteration of street and back lanes ;
 - (i) provision of the drainage, water supply and lighting of the area included in the scheme ;
 - (j) provision of parks, playing-fields and open space for the benefit of any areas comprised in the scheme or any adjoining area, and the enlargement of existing parks, playing-fields, open spaces and approaches ;
 - (k) reclamation or reservation of lands for markets, gardens, playing-fields, schools, dispensaries, hospitals and other amenities in the scheme ;
 - (l) letting out, management and use, of the Board premises ;
 - (m) provision of sanitary arrangements required for the area comprised in the scheme including the conservation and prevention of any injury or contamination to rivers or other sources and means of water supply ;
 - (n) provision of accommodation for any class of inhabitants ;
 - (o) advance of money for the purpose of the scheme on such terms and conditions as may be determined by the resolutions ;
 - (p) provision of facilities for communication and transport ;
 - (q) collection of such information and statistics as may be necessary for the purposes of this Act ;
 - (r) any other matter for which in the opinion of the Government, it is expedient to make provision with a view to provide housing accommodation and to the improvement or development of any area comprised in the scheme or any adjoining area or the general efficiency of the scheme.

Explanation :—For the purposes of this section, the Government may, on the recommendation of the Board, by notification in the *[Government Gazette], specify such area surrounding or adjoining the area included in a housing scheme to be an adjoining area.

* Now Official Gazette.

16. *No housing scheme to be made for area included in improvement scheme or be inconsistent with the 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 Government under any enactment for the time being in force nor any housing scheme made under this Act, shall contain anything which is inconsistent with any of the matters included in a town planning scheme sanctioned by the Government under the Jammu and Kashmir State Town Planning Act, 1963 or which is sanctioned by or under the Jammu and Kashmir Development Act, 1970 or in any town planning scheme duly made by or under any other law for the time being in force.

(2) If any dispute arises whether a housing scheme made under this Act includes any area included in any 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 Jammu and Kashmir State Town Planning Act, 1963 or which is sanctioned by or under the Jammu and Kashmir Development Act, 1970 or in any two planning scheme duly made by or under any corresponding law for the time being in force, the decision of the Government thereon shall be final.

17. *Publication and sanctioning of scheme.*—(1) Unless otherwise directed by the Government, the Board shall send a copy of every scheme prepared under section 14 to the Government and shall cause every such scheme to be published in the *[Government Gazette] and in such local newspapers as it may consider necessary, and shall give public notice of the date, not being less than one month after the date, of the notice, by which any person interested may make representation there on and when publishing such a scheme, the Board shall indicate estimates of the capital involved and of the initial and ultimate revenues anticipated from the said implementation of the scheme.

(2) The Board, after considering any such representation and after making such inquiries, if any, as it thinks fit, may sanction the scheme either without modification or subject to such modification as it thinks fit, and either generally or in respect of any part of the area specified in the published scheme, and shall publish the scheme as sanctioned by it, and where the scheme has been sanctioned in respect of part of the said area, it may subsequently be sanctioned in respect of other parts of that area :

Provided that no sanction shall be accorded by the Board to any scheme or part of a scheme estimated to result in a capital expenditure exceeding one crore of rupees without prior consultation with the Government.

* Now Official Gazette.

(3) In respect of any scheme to which the proviso to sub-section (2) applies, the Board shall, within one month after being advised by the Government to do so, supply the Government with all such information incidental or supplementary to the scheme as may be specified.

18. *Power to alter or extend schemes.*—The Board may, from time to time alter or extend a scheme by a supplementary scheme made and sanctioned in the manner hereinbefore provided :

Provided that any alterations or extensions of a scheme which are in the opinion of the Board and the Government minor in character may be made without preparing a supplementary scheme.

19. *Carrying out of scheme.*—The Board shall carry out and give effect to a scheme as soon as reasonably practicable after it has been sanctioned and published.

20. *Vesting of lands etc. in the Board.*—(1) Whenever any land or part thereof vested in any Municipality or Development Authority is included in any housing scheme sanctioned under this Act and is required for the purposes of carrying out such housing schemes in accordance with the programme, the Board shall give notice accordingly to the Municipality or the Development Authority as the case may be.

(2) Where the Municipality or the Development Authority concurs, such land or part thereof shall vest in the Board.

(3) Where the Municipality or the Development Authority concerned, refuses to give any such land for the purposes of sub-section (1), the matter may be referred to the Government by the Board and the Government may after giving hearing to both the parties issue any direction in the matter which shall be binding on both the parties.

21. *Compensation in respect of land vested in the Board.*—(1) Where any land vests in the Board under the provisions of section 20 and the Board makes a declaration that such land shall be retained by the Board only until it reverts in the Municipality or the Development Authority as part of street or an open space under section 24 no compensation shall be payable by the Board to the Municipality or the Development Authority, as the case may be, in respect of that land.

(2) Where any land vests in the Board under section 20 and no declaration is made under sub-section (1), in respect of the land, the Board shall pay to the Municipality or the Development Authority, as the case may be, as compensation a sum equal to the value of such land.

(3) If in any case in which the Board has made a declaration in respect of any land under sub-section (1), the Board retains or disposes of the land contrary to the terms of the declaration so that the land does not revest in the Municipality or the Development Authority of such land in accordance with the provisions of sub-section (2).

22. 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 or any part thereof, vested in it.

(2) Whenever the Board discontinues the public use of, or permanently closes, any public street or any part thereof vested in it, it shall, as far as practicable, provide 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 sub-section (1), the Board may sell or lease so much of the same as is no longer required.

23. Reference to Tribunal in case of dispute under sections 21, 22, 26.—If there is any dispute as to whether any compensation is payable under section 21 or as to the amount of compensation payable under section 22 or section 26 as the case may be, the matter shall be referred to the Tribunal.

24. Vesting in Municipality of streets laid out or altered and open space provided by the Board under housing scheme.—(1) Whenever the Government is satisfied,—

- (a) that any street laid out or altered by the Board has been duly levelled, paved, metalled, flagged, channelled, sewerred and drained as required for any housing scheme included in the budget approved by the Board ; and
- (b) that such lamps, lamp posts and other apparatus as the Municipality considers necessary for the lighting of such street as ought to be provided by the Board have been so provided ; and
- (c) that water and other sanitary conveniences have been duly provided in such street, the Government may declare the street to be a public street and the street shall thereupon vest in the Municipality and shall thenceforth be maintained, kept in repair, lighted and cleared by the Municipality.

(2) When any open space for purposes of ventilation or recreation has been provided by the Board in executing any housing scheme, the Board may at its option by resolution transfer such open space to the local authority concerned on completion of the scheme and thereupon such open space shall vest in, and be maintained at the expenses 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 Municipality in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the Government whose decision shall be final.

25. Other duties of the Board. —(1) It shall be the duty of the Board to take necessary measures to maintain, allot, lease and otherwise use the Board premises and to collect rents, compensation and damage in respect thereof.

(2) The Board may—

- (i) provide technical advice to the Government and scrutinise projects under housing scheme in the area to which this Act extends when required by the Government to do so ;
- (ii) under take research on various problems connected with housing in general and find out in particular the economical methods of constructing houses suited to local conditions ;

- (iii) undertake comprehensive surveys of problems of housing ;
- (iv) do all things for,—
 - (a) unification, simplification and standardisation of building materials ;
 - (b) encouraging or undertaking pre-fabrication and mass production of house components ;
 - (c) organising or undertaking the production of building materials for residential or non-residential house ;
 - (d) securing a steady and sufficient supply of workmen trained in the work of construction of buildings.

CHAPTER IV

Acquisition and disposal of land

26. *Power to acquire.*—Notwithstanding anything contained in any law for the time being in force the Board may,—

- (1) 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; and
- (2) take steps for the compulsory acquisition of any land or any interest therein required for the execution of a housing scheme in the manner provided in the Land Acquisition Act and the acquisition of any land or any interest thereto for the purposes of this Act shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act.

27. *Betterment charges.*—(1) When by making of a housing scheme any land in the area comprised in the scheme will, in the opinion of the Board, be increased in value, the Board in framing the scheme may declare that betterment charges shall be payable by the owner of the land or any person having an interest therein in respect of the increase in value of the land from the execution of the scheme.

(2) Such increase in value shall be the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of the buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner and the betterment charges shall be subject to maximum of one-half of such increase in value as the Board may determine.

(3) Such betterment charges shall also be leviable in respect of any land not comprised in the scheme but declared by the Government to be adjacent to the area comprised in the scheme.

28. *Notice to persons liable for betterment charges.*—(1) The Board shall give notice in the prescribed form to any person who is the owner of or has interest in the land in respect of which the betterment charges are to be levied and shall give such person an opportunity to be heard.

(2) After hearing such person or if such person fails to appear after the expiry of the period within which such person is required to appear before the Board, the Board shall proceed to assess the amount of betterment charges.

(3) Where the assessment of betterment charges proposed by the Board is accepted by the person concerned within the period prescribed, the assessment shall be final.

(4) If the person concerned does not accept the assessment proposed by the Board, the matter shall be referred to the Tribunal.

(5) The Tribunal shall, after holding an inquiry and after hearing the person concerned, assess the amount of the betterment charges payable by that person.

29. *Agreement for payment of betterment charges.* —(1) Any person liable to pay betterment charges in respect of any land may at his option instead of paying the same to the Board, execute an agreement with the Board to leave the payment outstanding as a charge on his interest in the land subject to the payment in perpetuity of interest at such rate as may be prescribed.

(2) Every payment due from any person in respect of betterment charges and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment and notwithstanding the execution of any mortgage or charge, created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

30. *Recovery of betterment charges.*— All sums payable in respect of any land by any person in respect of betterment charges under section 27 or by any person under an agreement under section 29 shall be recoverable on behalf of the Board as an arrear of land revenue.

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

32. *Disputes regarding reconstitution of plots.* —(1) Where by 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.

33. *Constitution of the Tribunal.* —(1) The Tribunal shall consist of President and two assessors. The President and assessors shall be appointed by the Government.

(2) Each assessor of the Tribunal shall receive such remuneration as the Government may determine. The remuneration shall be paid by the Board to the President of the Tribunal for distribution.

34. *Duties of the Tribunal.*—It shall be the duty of the Tribunal to—

- (a) decide whether any compensation is payable under section 21;
- (b) decide the amount of compensation in matters referred to it under section 22;
- (c) decide disputes relating to betterment charges referred to it under section 28 ;
- (d) decide disputes relating to the reconstitution of plots referred to it under section 32 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.

35. *Powers of the President.* —(1) In hearing and deciding any matters referred to the Tribunal under this Act,—

- (a) if there is any disagreement between the President and the assessors of the Tribunal on a point of fact, the opinion of the majority shall prevail ; and
- (b) if there is any disagreement between the President and the assessors of the Tribunal on a point of law or procedure, the assessors shall be bound by the opinion of the President.

(2) The decision of the President as to what is the question of law or fact shall be final.

36. *Powers of and procedure before Tribunal.* —(1) In making inquiries the Tribunal shall have and exercise the same powers as are vested in a Civil Court in respect of—

- (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 the procedure as may be prescribed by rules made by the Government in this behalf.

(3) Every order made by the Tribunal for the payment of money except that for the recovery of which provision has been made in section 29 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 situated 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 ¹[sections 193 and 228 of the Indian Penal Code (45 of 1860)].

1. Substituted by S.O. 1229 (E) dated 31.03.2020 for “sections 193 and 228 of the Ranbir Penal Code”.

37. *Decision of Tribunal to be final.*—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.

CHAPTER V

Power to Evict Persons from Board Premises

38. *Appointment of competent authorities.*—The Government may by notification in the *[Government Gazette], appoint an officer who holds or has held office, which in its opinion is not lower in rank than that of an Assistant Commissioner or an Executive Engineer, to be the competent authority for performing the functions of the competent authority under this Act in such area or in respect of such premises or class of premises, as may be specified in the notification, and more than one officer may be appointed as competent authority in the same area in respect of different premises or classes of premises.

39. *Non-applicability of other laws.*—Nothing in ¹[the Jammu and Kashmir Residential and Commercial Tenancy Act, 2012] shall apply to the Board premises under this Act.

40. *Power to evict certain persons from Board premises.*—(1) If the competent authority is satisfied,—

- (a) that the person authorised to occupy any Board premises has—
 - (i) not paid rent lawfully due from him in respect of such premises for a period of more than two months, or
 - (ii) subject, without the permission of the Board, the whole or any part of such premises, or
 - (iii) committed, or is committing any act contrary to the provisions of clause (o) of section 108 of the ²[Transfer of the Property Act, 1882 (4 of 1882)], or
 - (iv) made, or is making, material additions to or alteration in such premises without previous written permission of the Board, or

* Now Official Gazette.

1. Substituted by S.O. 1229 (E) dated 31.03.2020 for “the Jammu and Kashmir Houses and Shops Act, 1966”.

2. Substituted *ibid* for “Transfer of Property Act, Svt. 1977”.

- (v) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such premises ; and
- (b) that any person is in unauthorised occupation of any Board premises the competent authority may, by notice served—
 - (i) by post,
 - (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises,
 - (iii) in such other manner as may be prescribed,

order that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the date of the service of the notice.

(2) Before an order under sub-section (1) is made against any person the competent authority shall inform the person by notice in writing of the grounds for which the proposed order is to be made and give him a reasonable opportunity of tendering an explanation and producing evidence, if any, and to show cause why such order should not be made, within a period to be specified in such notice. If such person makes an application to the competent authority for extension of the period specified in the notice, the competent authority may grant the same on such terms as to payment and recovery of amount claimed in the notice as he deems fit. Any written statement put in by such person and documents produced in pursuance of such notice shall be filed with the record of the case and such person shall be entitled to appear before the officer proceeding in this connection by the Advocate, Attorney or Pleader. Such notice in writing shall be served in the manner provided for service of notice under sub-section (1).

(3) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may evict that person from and take possession of the premises and may for the purpose use such force as may be necessary.

Explanation :— For the purposes of this section and section 41 the expression “authorised 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.

41. *Power to recover rent or damages as arrears of land revenue.*—

(1) Subject to any rules made by the Government in this behalf and without prejudice to the provisions of section 40 where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, by notice served—

- (i) by post, or
- (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or
- (iii) in such other manner as may be prescribed,

order that person to pay the same within such time not less than 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 manner, and having regard to the principles of assessment of damages, prescribed in this behalf assess such damages on account of the use and occupation of the premises as it may deem fit, and may by notice served—

- (i) by post, 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 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.

42. *Rent to be recovered from deduction from salary or wages in certain cases.*—(1) Without prejudice to the provisions of section 41 any person who

is an employee of the Government or of a local authority who has been allotted any Board premises may execute an agreement in favour of the Government providing that the 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 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 the agreement, the Government or local authority, as the case may be, shall if so required by the Board by requisition in writing make the deduction of the amount specified in the requisition from the salary or wages of the employee specified in the requisition in accordance with the agreement and pay the amount so deducted to the Board.

43. *Appeal.* —(1) Any person aggrieved by an order of the competent authority under section 40 may within one month of the date of the service of the notice under section 40 or section 41, as the case may be, prefer an appeal to the Government :

Provided that the 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 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 order as it thinks fit and the order of the Government shall be final.

(3) Where an appeal is preferred under sub-section (1) the Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

44. *Bar of jurisdiction of Civil Court.*— No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person from any Board premises under this Chapter or the recovery of the arrears of rent or damages for use or occupation of such premises, or in respect of any order made or to be made or any action taken or to be taken by the competent authority or the Government in exercise of any power conferred by or under this chapter or to grant any injunction in respect of such order or action.

CHAPTER VI

Finance, Accounts, Budget and Audit

45. *Expenditure etc. incurred by Government till Board takes over.* —

(1) The Government may transfer any of the existing housing schemes either completed or being undertaken by it to the Housing Board. The value of the assets thus transferred will be treated as a loan to the Housing Board from the Government on such terms and conditions as may be laid down in that behalf.

(2) All debts raised and expenditure incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Government for the purposes of the housing scheme transferred to the Housing Board shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board ; and also suits and other legal proceedings instituted or which may be instituted by or against the Government shall be contained or, as the case may be instituted by or against the Board.

(3) All the assets in respect of the housing scheme referred to in sub-section (1) and all assets acquired by the expenditure referred to in sub-section (2) upon the declaration made by the Government under that sub-section shall vest in the Board for the purposes of this Act.

46. *The Board 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 Government, all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall, be deposited in the Jammu and Kashmir Bank, or in any Scheduled Bank or invested in such securities as may be approved by the Government.

(5) Such account shall be operated upon by such officers as may be authorised by the Board.

* Now Government of the Union territory of Jammu and Kashmir.

47. *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.

48. *Subventions and loans to the Board.* —(1) The Government may from time to time make subventions to the Board for the purposes of this Act on such terms and conditions as the Government may determine.

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

49. *Power of Board to borrow.* —(1) The Board may from time to time, with the previous sanction of the Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf borrow any sum required for the purposes of this Act.

(2) The rules made by the Government for the purposes of this section may empower the Board to borrow by the issue of debentures and to make arrangements with bankers and other financial institutions.

(3) All debentures issued by the Board shall be in such form as the Board, with the sanction of the Government may from time to time determine.

(4) Every debenture shall be signed by the Chairman and one other member of the Board.

(5) Loans borrowed and debentures issued under this section may be guaranteed by the Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the Government.

50. *Submission of Budget to Board.* —(1) The Chairman shall, at a special meeting to be held in the month to be notified by him in each year, lay before the Board, a budget of the Board for the year.

(2) Every such budget shall be prepared in such form as may be prescribed and shall make provision for—

- (i) the housing schemes which the Board proposes to execute whether in part or whole during the next year ;
- (ii) the due fulfilment of all the liabilities of the Board ; and

- (iii) the efficient administration of the Act, and shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the year, and such other particulars as may be prescribed.

51. *Board's sanction to Budget.*— The Board shall consider the budget laid before it under the last preceding section and sanction it with or without modification.

52. *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 the accounts to be audited annually by such person as the Government may direct. The person so directed shall have the right to demand the production of books, accounts, and connected vouchers, documents and papers and to inspect any of the offices of the Board.

(3) As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together with a copy of the report of the auditor thereon to the Government and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at a reasonable price.

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

53. *Concurrent and special audits of accounts.* —(1) Notwithstanding anything contained in section 52, the Government may order that there shall be concurrent audit of the accounts of the Board by such person as it thinks fit. The Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Board relating to any particular transaction or a class or series of transactions or to a particular period.

(2) When an order is made under sub-section (1), the Board shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit and remedy or cause to be remedied the defects pointed out by such person, unless they are condoned by the Government.

CHAPTER VII

Miscellaneous

54. *Reports.*— The Board shall, before such date and in such form and at such interval as may be prescribed, submit to the Government a report on such matters as may be prescribed, and the Government shall cause such report to be published in the *[Government Gazette]. Every such report shall be laid before each House of the Legislature as soon as may be after it is published.

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

56. *Power of entry.*— The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistants or workmen, enter into or upon any land in order—

- (a) to make any inspection, survey, measurement valuation or enquiry ;
- (b) to take levels ;
- (c) to dig or bore into the sub-soil ;
- (d) to set boundaries and intended lines of work ;
- (e) to make such levels, boundaries and lines of works and cutting trenches ; or
- (f) to do any other thing ;

Whenever it is necessary to do so for any of the purposes of this Act or any rules made or scheme sanctioned thereunder :

Provided that—

- (i) no such entry shall be made between sunset and sunrise ;
- (ii) no dwelling house and no public building which is used as a dwelling place shall be so entered, unless with the consent of the occupier

* Now Official Gazette.

thereof and without giving the said occupier at least twenty-four hours previous written notice of the intention to make such entry ;

- (iii) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice to enable the inmates of any apartment appropriated to females to remove themselves to some part of the premises where their privacy will not be disturbed ;
- (iv) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

57. 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 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.

58. Valuation of assets and liabilities of the Board.—The Board shall (at the end of every five years) have a valuation of its assets and liabilities made by a valuer appointed with the approval of the Government :

Provided that it shall be open to the Government to direct a valuation to be made at any time it may consider necessary.

59. Power to make rules. —(1) The Government may by notification in the *[Government Gazette] and subject to the condition of previous publication, make rules, for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following purposes, namely:—

- (a) the manner and form in which contracts shall be entered into ;
- (b) the form of the annual budget to be laid before the Board; and the other particulars to be contained there in ;
- (c) the manner of publication of housing schemes included in the Budget ;

* Now Official Gazette.

- (d) the form of notices ;
- (e) the matters to be decided by the Tribunal ;
- (f) the procedure to be followed by the Tribunal ;
- (g) the procedure to be followed in taking possession of any Board premises ;
- (h) the manner in which damages may be assessed ;
- (i) the manner in which appeals may be preferred and the procedure to be followed in such appeal ;
- (j) the conditions subject to which the Board may borrow any sum ;
- (k) the manner of preparation, maintenance and publication of accounts ;
- (l) the date before which, the form in which, the interval at which and the matters on which reports shall be submitted to and by the Board ;
- (m) the time at which and the form and manner in which statistics, returns, particulars (statements, documents, and papers) shall be submitted to and by the Board ; and
- (n) any other matter which is or may be prescribed under this Act.

60. *Regulations.*—(1) The Board may from time to time, with the previous sanction of the 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 ;
- (c) the remuneration and conditions of service under section 7 ;
- (d) for regulating its procedure and the disposal of its business.

(2) If it appears to the Government that it is necessary or desirable for carrying out the purposes of this Act to make any regulations in respect of matters specified in sub-section (1) or to amend any regulation made under sub-section (1), it may call upon the Board to make such regulation or amendment within such time as it may specify. If the Board fails to make such regulation or amendment within the time specified, the Government may itself make such regulation or amendment and the regulation or the amendment so made shall be deemed to have been made by the Board under sub-section (1).

61. *Penalty for obstructing.*— 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.

62. *Penalty for obstructing exercise of powers under Chapter V.*—Any person who obstructs the lawful exercise of any power conferred by or under Chapter V shall, on conviction, be punished with fine which may extend to one thousand rupees.

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

64. *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 ¹[Indian Penal Code (45 of 1860)].

¹ Substituted by S.O. 1229 (E) dated 31.03.2020 for “Ranbir Penal Code”.

65. *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.

66. *Government's powers to give directions to Board.*—The Government may give the Board such directions as in its opinion are necessary or expedient for carrying out the purpose of this Act and it shall be the duty of the Board to comply with such directions.

67. *Power to order inquiries.*—(1) The Government with a view to satisfy itself that the powers and duties of the Board are being exercised and performed properly, may, at any time, appoint any person or persons to make inquiries into all or any of the activities of the Board and to report to the Government the result of such inquiries.

(2) The Board shall give to the person or persons so appointed all facilities for the proper conduct of the inquiries and shall produce before the person or persons any documents, account or information in the possession of the Board, which such person or persons demand for the purpose of the inquiries.
