

West Bengal Act XXXII of 1972¹

THE WEST BENGAL HOUSING BOARD ACT, 1972.

West Ben. Act XXXV of 1973.
West Ben. Act XL of 1976. AMENDED . . . West Ben. Act LXI of 1978.
West Ben. Act XXXV of 1980. West Ben. Act XIV of 1993-

[13th October, 1972.]

An Act to provide for the constitution of a Housing Board for West Bengal and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for the constitution of a Housing Board for West Bengal and for matters connected therewith or incidental thereto;

It is hereby enacted in the Twenty-third Year of the Republic of India, by the Legislature of West Bengal, as follows:—

CHAPTER I

Preliminary

1. (1) This Act may be called the West Bengal Housing Board Act, 1972. Short title and commencement-

(2) It shall come into force² on such date as the State Government may, by notification in the *Official Gazette*, appoint.

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

(1) "Board" means the West Bengal Housing Board constituted under section 3;

³(1 A) "Board of Directors" has the same meaning as in clause (6) 1 of 1956. of section 2 of the Companies Act, 1956;

(2) "Board premises" means any premises belonging to or vested in the Board or taken on lease by the Board or entrusted to the Board for management and use for the purposes of this Act;

(3) "Building materials" means such commodities or articles as are Definitions. specified by the State Government by notification in the *Official Gazette* to be building materials for the purposes of this Act;

(4) "by-laws" means by-laws made by the Board under section 44;

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part IVA, of the 10th July, 1972, page 1471; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of the Assembly held on 7th August, 1972.

²This Act came into force on 2nd November, 1972, vide Housing Department notification No. 5254-HtV, dated the 2nd November, 1972.

³Clause (1 A) was inserted by s. 2 (1) of the West Bengal Housing Board (Amendment) Act, 1993 (West Ben. Act XIV of 1993).

[West Ben. Act

(Chapter f.—Preliminary.—Section 2.)

- (5) "Chairman" means the Chairman of the Board;
- (5A) "company" means a company as defined in section 3 of the Companies Act, 1956;
- (6) "Corporation" means the Municipal Corporation of Calcutta or the Municipal Corporation of Howrah or Chandernagore;
- (6A) "director" has the same meaning as in clause (13) of section 2 of the Companies Act, 1956;
- ³(6B) "existing joint sector company" meaning a joint sector company which is carrying on business on the date of coming into force of the West Bengal Housing Board (Amendment) Act, 1993; 1 of 1956.
- (7) "Housing Commissioner" means the Housing Commissioner appointed under section 12;
- (S) "housing scheme" means a housing scheme made under this Act;
- ⁵(8A) "joint sector company" means a company in relation to which fifty per cent of directors of the Board of Directors is nominated by the State Government;
- (9) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;
- (10) "Land Acquisition Act" means the Land Acquisition Act, of [1894, 1894 or the West Bengal Land (Requisition and Acquisition) Act, 1948; 11 < *1948.
- (11) "member" means the Chairman [the Vice-Chairman] or any other member of the Board;
- (12) "municipality" means a municipality (including a notified area) constituted under the Bengal Municipal Act, 1932; BCO.A<XV '(11 A) "new joint sector company" means a joint sector company formed and registered on or after the date of coming into Force of the West Bengal Housing Board (Amendment) Act, 1993; of 1932.
- (13) "premises" means any land or building or part of a building and includes,—
- (i) gardens, grounds and out-houses, if any, appertaining to such building or part of a building, and
 - (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

Clause (5 A) was inserted by s. 2(2) of the West Bengal Housing Board (Amendment) Act, 1993 (West Ben. Act XIV of 1993).

Clauses (6A) and (6B) were inserted by s. 2(3). *ibid.*

■ Clause (BA) was inserted by s. 2(4), *ibid.*

Words inserted by s. 2 of the West Bengal Housing Board (Amendment) Act, 1973 (West Ben. Act XXXV of 1973).

Clause (12A) was inserted by s. 2(5) of the West Bengal Housing Board (Amendment) Act, 1993 (West Ben. Act XIV of 1993).

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(Chapter 11.—Establishment of the Board.—Sections 1-5.)

- (14) "prescribed" means prescribed by rules made under this Act;
 (15) "regulations" means regulations made by the Board under section 43;
 (16) "year" means the year commencing on the 1st day of April and ending on the 31st day of March.

CHAPTER II Establishment of the Board

3. (1) The State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act a Board by the name of the West Bengal 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, enter into contract and do all things necessary for the purposes of this Act.

(3) For the purposes of this Act and the Land Acquisition Act the Board shall be deemed to be a local authority.

4. For the removal of doubts, it is hereby declared that the West Bengal Premises Tenancy Act, 1956—

- (a) shall not apply to any land or building belonging to or vested in the Board;
 (b) shall not apply as against the Board to any tenancies or other like relationships created by the Board in respect of such land or building;
 (c) but shall apply to any land or building let out in favour of the Board.

5. (1) The Board shall consist of a Chairman who shall be the Minister-in-charge of the Housing Department of the State Government and a Vice-Chairman to be appointed by the State Government and the following other members, that is to say,—

- (a) (i) Secretary, in-charge of Town and Country Planning Branch of the Development and Planning Department, *ex-officio*,
 (ii) Secretary, Finance Department, *ex-officio*,
 (iii) Secretary, Housing Department, *ex-officio*,
 (iv) Housing Commissioner, *ex-officio* and

'Sub-clause (L) was first substituted by s. 3(a) of the West Bengal Housing Board (Amendment) Act, 1973 (West Ben. Act XXXV of 1973). Thereafter the same was substituted by s. 2(a) of the West Bengal Housing Board (Amendment) Act, 1978 (West Ben. Act LXI of 1978).

'Subclause (ii) was first substituted by s. 3(b) of the West Bengal Housing Board (Amendment) Act, 1973 (West Ben. Act XXXV of 1973). Thereafter the same was substituted by s. 2(b) of the West Bengal Housing Board (Amendment) Act, 1978 (West Ben. Act LXI of 1978).

Application of West Bengal Act XII of 1956.

Members of the Board and their resignation or removal.

(Chapter II.—Establishment of the Board.—Sections 6, 7.)

(b) five other persons appointed by the State Government:

Provided that the State Government may appoint a whole-time Government servant to act as the Vice-Chairman of the Board in addition to his own duties.

(2) The names of the Vice-Chairman and other members appointed under sub-section (1) shall be published in the *Official Gazette*.

(3) A member of the Board may at any time resign his office by writing under his hand addressed to the State Government:

Provided that the resignation shall not take effect until it is accepted.

(4) The State Government may, by notification in the *Official Gazette*, remove from office the Vice-Chairman or any other member * * * * ,

6. A person shall be disqualified for being appointed or for continuing as the Vice-Chairman or a member of the Board, if he— (a) is of unsound mind,

is an uncertificated bankrupt or an undischarged insolvent, has directly or indirectly by himself or by any partner, any share or interest in any contract or employment, as the case may be, with, by or on behalf of, the Board, or is a Director, Secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment, as the case may be, with, by or on behalf of, the Board, or

Disqualifica-
tion for
appointment
as a member
of the Board,

has (b) been or is convicted of any offence involving moral turpitude:

(c) Provided that a person shall not be disqualified under clause (c) or clause (d) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment, as the case may be, with, by or on behalf of, the Board, by reason only of his being a shareholder of such company if such person discloses to the State Government the nature and extent of the shares held by him.

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7. (1) The (e) Vice-Chairman and every other member not being an *ex-officio* member shall hold office for a period of three years from the date of his appointment as Vice-Chairman or, as the case may be, other member:

Term of
office
and
conditions
of service
of Vice-
Chairman
and other
members.

Provided that the State Government may extend the said period by a further period not exceeding one year:

"Words, figure, letters and brackets beginning with "who—" and ending with "such removal" were omitted by s. 2 of the West Bengal Housing Board (Amendment) Act, 1976 (West Ben, Act XL of 1976),

(Chapter 11.—Establishment of the Board.—Sections 8-12.)

Provided further that after the expiry of the period of his appointment a person shall, unless disqualified, be eligible for re-appointment as Vice-Chairman or other member.

(2) Every member shall receive such allowances as may be prescribed.

(3) The Vice-Chairman may hold office in an honorary capacity or on payment of remuneration. Such remuneration and all other terms and conditions of service shall be such as may be prescribed.

(4) The allowances to the members and the remuneration, if any, to the Vice-Chairman shall be paid from the fund of the Board.

8. If a member,—

(a) tenders his resignation in writing to the State Government, or

(b) is absent without the permission of the Board from all the meetings of the Board for a period of three successive months,

he shall cease to be a member.

Cessation of membership.

9. Any vacancy of a member shall be filled as early as practicable;

Provided that during any such vacancy the other members may act, as if no vacancy had occurred.

Filling of vacancies.

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

Proceedings presumed to be good and valid.

11. If any member including the Vice-Chairman is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise, not involving the vacation of his appointment, the State Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder.

Temporary absence of members.

12. (1) The Board shall have a Housing Commissioner, who shall be the Chief Executive Officer¹⁺ * * * * and such other officers and employees as the Board may consider necessary for the efficient performance of its functions.

¹⁺Words "and one or more Assistant Housing Commissioners," were omitted by s. 2 of the West Bengal Housing Board (Amendment) Act, 1980 (West Ben. Act XXXV of 1980).

Officers and other staff.

(Chapter 11.—Establishment of the Board.—Sections 12A, 13 and 14.)

(2) The appointment of the Housing Commissioner shall be made by the State Government and the appointment of other officers and employees of the Board shall be made by the Board;

Provided that the Board shall not appoint any officer in a scale of pay the maximum of which exceeds two thousand rupees a month, without obtaining the previous sanction of the State Government.

12A. (1) The Housing Commissioner and other officers shall perform such duties as may be assigned to them by the Board.

Powers and
duties of the
Housing
Commissioner
and other
officers,

(2) The Board may, from time to time, by order delegate, under such restriction, if any, as it may think fit to impose, any of its powers conferred on it by this Act, to the Housing Commissioner and to other officers of the Board specified in the order.

Employment
of staff of the
State
Government.

13. (1) The Board shall take over and employ such staff of the State Government in the Housing and other Departments as the State Government may make available and every person so taken over and employed shall be subject to the provisions of this Act and the regulations made thereunder:

Provided that during the period of such employment all matters relating to the pay, allowances, leave, retirement, pensions, provident fund and all other terms and conditions of service of the members of the said staff shall be regulated by the West Bengal Service Rules or such other rules on the subject as may from time to time be made by the State Government.

(2) All permanent Government servants taken over and employed by the Board under subsection (1) shall have a lien on their posts in the service of the State Government and the period of their service under the Board shall, on their reversion to the service of the State Government, be counted for their promotion, increments, pension and other matters relating to their service.

14. The Board shall meet and shall from time to time make such arrangements with respect to the day, time, notice and adjournment of its meetings as it thinks fit, subject to the following conditions, namely—

- (a) an ordinary meeting shall be held at least once every month,
- (b) the Chairman may, whenever he thinks fit, call a special meeting,
- (c) the quorum for every meeting shall be five:

-Provided that when a meeting has been adjourned to another date for want of quorum, no quorum shall be necessary in the case of the adjourned meeting,

Meetings of
Board,

¹Section 12A was inserted by s. 4 of the West Bengal Housing Board (Amendment) Act, 1973 (West Ben. Act XXXV of 1973),

²Proviso was added by s. 5, *ibid.*

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(Chapter II.—Establishment of the Board.—Sections 15, 15A and 16.)

- (d) every meeting shall be presided over by the Chairman and, in his absence, by the Vice-Chairman and in the absence of both Chairman and Vice-Chairman by any member chosen by the members present,
- (e) 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,
- (f) the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

15. (1) Every contract made by the Board shall be entered into in such manner and in such form as may be prescribed and be signed by the Chairman on behalf of the Board: Execution of
communi-
Provided that—

- (a) no contract involving an expenditure or '[rupees one crore] or more shall be made without the previous sanction of the State Government,
- (b) any contract involving an expenditure, up to '[rupees .fifty thousand] may, in case of urgency, be made by the Chairman without the previous sanction of the Board but shall be referred to the Board at the earliest opportunity.

(2) Sub-section (1) shall apply to every variation or abandonment of a contract as well as to an original contract.

15A. Without prejudice to the provisions of clause (b) of the proviso to sub-section (1) of section 15, the State Government may, by a notification published in the *Official Gazette*, direct that the Chairman may exercise all or any of the powers exercisable by the Board under this Act as may be specified in the notification: Exercise of
the powers
of the Board
by the
Chairman.

Provided that when power under this section has been exercised, the Chairman shall make a report to the Board at its next meeting indicating the circumstances under which such power has been exercised.

16. Subject to any rule which the State Government may make in this behalf, the Board may by order direct that the power to sign a contract shall be exercisable also by the Housing Commissioner or any other officer specified by it in the order. Delegation of
Board's power
to sign
contracts.

¹Words substituted for the words "rupees fifty lakhs" by s. 3(i) of the West Bengal Housing Board (Amendment) Act, 1976 (West Ben. Act XL of 1976).

²Word substituted for the words "rupees twenty thousand" by s. 3(ii). *ibid.*

³Section 15A was inserted by 5.6 of the West Bengal Housing Board (Amendment) Act, 1973 (West Ben. Act XXXV of 1973).

(Chapter III.—Housing schemes.—Sections 17, 18.)

CHAPTER III Housing schemes

17. (1) Subject to the provisions of this Act the Board may, from time to time, incur expenditure and undertake works for the framing and execution of such housing schemes as it may consider necessary and such housing schemes may include housing schemes in relation to lands and buildings vested in or in the possession of the State Government.

Power; and duties of Board to undertake housing schemes.

(2) The State Government may, on such terms and conditions as it may think fit to impose, entrust to the Board the framing and execution of any housing scheme and the Board shall thereupon undertake the framing and execution of such scheme.

(3) The Board may, on such terms and conditions as may be agreed upon and with the previous approval of the State Government, take over for execution any housing scheme, on behalf of a local authority or cooperative society, or on behalf of an employer, for building houses mainly for the residence of the employees of such local authority, co-operative society or employer, as the case may be [or for the residence of the members of such co-operative society].

18. 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:—

Matters to be provided for by housing schemes.

(a) the acquisition by purchase, exchange or otherwise of any property necessary for the scheme;

(b) the construction and reconstruction of buildings;

(c) the sale, letting out or exchange of any property included in the scheme;

(d) roads, drainage, water-supply, lighting, [schools, hospitals, dispensaries, market places,] parks, playgrounds and open spaces within a housing scheme;

(e) the reclamation or reservation of lands for markets, gardens, schools, dispensaries, hospitals and other amenities in a housing scheme;

(f) the letting out, management and use, of the Board premises-

(g) accommodation for any class of inhabitants;

(h) the advancing of money for the purpose of the scheme;

(i) the collection of such information and statistics as may be necessary for successful implementation of the scheme;

³(ia) development of any urban or rural area for successful implementation of housing schemes and for purposes ancillary or incidental thereto;

(Chapter III.—Housing schemes. ■—Sections 19-23.)

(j) any other matter for which, in the opinion of the Board or the State Government, it is expedient to make provision with a view to providing housing accommodation and to improving or developing of any area included in a housing scheme.

19. (1) The Chairman shall, at a special meeting [to be held within the fifteenth day of the month of February in each year], lay before the Board, a budget of the Board for the next year.

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

(i) the housing schemes which the Board proposes to execute whether in part or in whole during the next year,

(ii) the due fulfilment of all the liabilities of the Board, and

(iii) the efficient administration of this Act,

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and shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the next year, and such other particulars as may be prescribed.

20. The Board shall consider the budget laid before it and sanction it with or

Board's sanction to budget.

Submission of budget to Government for approval.

Publication and execution of housing scheme.

without modifications.

21. (1) Every budget sanctioned by the Board shall be submitted to the State Government for approval. [Within such time as may be prescribed,] the State Government may approve the budget as sanctioned by the Board or return it to the Board for making such modifications therein as the State Government may deem fit.

(2) Where a budget is returned to the Board by the State Government for making any modifications therein, the Board shall forthwith make such modifications and submit the budget as so modified to the State Government, which may then approve the same.

22. The Chairman may, at any time during the year for which a budget has been approved by the State Government, lay before the Board a supplementary budget and the provisions of sections 19, 20 and 21 shall apply to such supplementary budget.

Submission
of budget to
Board.

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

Words within the square brackets were substituted for the words "to be held in the month of February in each year" by s. 9 of the West Bengal Housing Board (Amendment) Act, 1973 (West Ben. Act XXXV of 1973).

Words substituted for the words "At any time after the receipt of the budget," by s. 10, *ibid.*

(Chapter III—Housing schemes.—Sections 24-26.)

24. The Board may at any time vary any housing schemes or any part thereof included in the budget approved by the State Government:

Variation of
housing
schemes.

Provided that no such variation shall be made except with the approval of the State Government if it involves an expenditure in excess of 10 *per cent*, of the amount as included in the Budget approved by the State Government for the execution of any housing scheme.

25. (1) When any open space for the purpose of ventilation or recreation has been provided by the Board in executing any housing scheme, the Board may, at its option by resolution, transfer such open space to the local authority concerned on completion of the scheme and thereupon such open space shall vest in and be maintained at the expense of the local authority:

Transfer of
open space to
local
authorities.

Provided that the local authority may require the Board before any such open space is so transferred to enclosure, level, turf, drain and layout such space and provide foot-paths therein, and if necessary, to provide lamps and other apparatus for lighting it.

(2) If any difference of opinion arises between the Board and the local authority concerned in respect of any matter referred to in subsection (1) the matter shall be referred to the State Government whose decision thereon shall be final.

26. (1) The Board shall take necessary measures to maintain, at lot, lease, sell or otherwise use the Board premises in such manner as it may decide and shall collect rent, price, compensation and damages in respect thereof.

(2) The Board may,—

(i) provide technical advice to the State Government and scrutinize projects under housing schemes when required by the State Government to do so;

(ii) undertake research on various problems connected with housing in general and find out in particular the economical methods of constructing houses suited to local conditions;

(iii) undertake comprehensive surveys on problems of housing;

(iv) do all things for—

(a) unification, simplification and standardisation of building materials;

(b) encouraging pre-fabrication and mass production of house components;

(c) organising or undertaking the production of building materials for residential or non-residential houses;

(d) securing a steady and sufficient supply of workmen trained in the work of construction of buildings² [and for the manufacture of building materials],

Other duties
of the Board.

¹Sub-section (1) was substituted for original sub-section by s. 4(a) of the West Bengal Housing Board (Amendment) Act, 1976 (West Ben. Act XL of 1976).

²Words inserted by s. 4(b), *ibid.*

(Chapter 111.—Housing schemes.—Sections 27, 27A.— Chapter IV.—Acquisition and disposal of land.—Section 28.)

(3) Subject to such rules as may be made in this behalf the Board may, from time to time appoint one or more Committees or invest any local or other authority for the purpose of discharging such duties or performing such functions as it may delegate to them and any such Committee or local or other authority may discharge such duties or perform such functions accordingly.]

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

Power to exempt schemes from provisions of the Act.

27A. Notwithstanding anything contained in this Act, the Board may, if it considers it necessary so to do in the public interest and is satisfied that an existing, or new, joint sector company is willing to comply, or has complied, with such terms and conditions as the State Government may think fit to impose, entrust, with the previous approval of the State Government, any existing, or new, joint sector company with any housing scheme for execution, and different existing, or new, joint sector companies may be so entrusted with different housing schemes for execution.

Power to entrust existing, or new, joint sector company with housing scheme.

CHAPTER IV Acquisition and disposal of land

28. (1) Where any land is needed for the purpose of a housing scheme or for performing any other duties or functions of the Board, the Board may enter into an agreement with any person for the acquisition by purchase, lease or exchange, of his rights and interests in such land either wholly or in part, on payment of an amount proportionate to the loss or deprivation caused to the enjoyment of the land.

Power to acquire.

(2) The Board may also take steps for the compulsory acquisition of any land or any interest therein required for the execution of a housing scheme or for performing any other duties or functions of the Board and such acquisition of any land or any interest therein shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act.

(Chapter V.—Finance, accounts and audit.—Sections 29-31.)

CHAPTER V

Finance, accounts and audit

29. (1) Such assets and liabilities of the State Government which the State Government may decide to transfer to the Board on such terms and conditions as may be prescribed shall, with effect from the date of notification made by the State Government in this behalf, stand vested and transferred to the Board.

(2) All debts and expenditure incurred, all contracts entered into and all matters and things engaged to be done by, with or for the State Government in respect of the assets and liabilities transferred under sub-section (1) before and up to the date of transfer shall be deemed to have been incurred, entered into or engaged to be done with or for the Board and all suits and other legal proceedings instituted or which may be instituted by or against the State Government in respect of such assets shall be continued or instituted by or against the Board, as the case may be.

Board's
fund,

30. (1) The Board shall have a fund to be called the Housing Board Fund.

(2) The Board may accept grants, subventions, donations and gifts from the Central or the 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) The State Government shall every year make a grant to the Board of the amount required to meet the administrative expenses of the Board for a period of three years from the date of the constitution of the Board.

(4) All moneys received by or on behalf of the Board, all proceeds of sale of land or any other property, all rents, betterment charges and all interests, profits and other moneys accruing to the Board shall be deposited in the fund of the Board.

(5) Except as otherwise directed by the State Government, all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the Reserve Bank of India or in any branch of the State Bank of India or invested in such securities as may be approved by the State Government.

(6) The bank account or any cash or security of the Board shall be operated or handled by such officers as may be authorised by the Board.

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

(Chapter V.—Finance, accounts and audit.—Sections 32-34 and 34A.)

32. (1) Where in the opinion of the Board, circumstances of extreme urgency have arisen it shall be lawful for the Board to make in any year,—

- (a) recurring expenditure not exceeding fifty thousand rupees, and
- (b) non-recurring expenditure not exceeding two lakhs of rupees.

(2) Where any sum is expended under circumstances of extreme urgency as provided in sub-section (1), a report thereof indicating the source from which it is proposed to meet the expenditure shall be made by the Board as soon as practicable, to the State Government.

Expenditure
in case of
urgency.

33. (1) The State Government may from time to time make subventions to the Board for the purposes of this Act on such terms and conditions as the State Government may determine.

Subventions
and loans
to
the Board.

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

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

Power of
Board to
borrow.

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

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

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

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

34A. Notwithstanding anything contained in any other law for the time being in force, every debt arising out of any loan obtained by the Board from the State Government and banks and other financial institutions for carrying out the purposes of this Act—

Debts incurred
from the State
Government,
banks, etc., to
have priority.

Section 34A was inserted by s. 12 of the West Bengal Housing Board (Amendment) Act, 1973 (West Ben. Act XXXV of 1973).

(Chapter V.—Finance, accounts and audit.—Sections 35, 36 and 36A.)

- (a) shall have priority over all other debts, whether secured or unsecured, incurred by the Board, and
- (b) shall be a preferential debt within the meaning of section 530 of the Companies Act, 1956, and such debts shall rank equally amongst themselves and be paid in full out of the assets of the Board unless such assets are insufficient to meet them in which case they shall abate in equal proportions.

1 of 1956.

Account
and
audit.

35. (1) The Board shall cause to be maintained proper books of accounts and such other books as the rules may require and shall prepare in accordance with the rules an annual statement of accounts.

(2) The Board shall cause its accounts to be audited annually by an auditor to be appointed by the State Government. The auditor so appointed shall have the right to demand the production of books, accounts, vouchers, documents and other papers, and to inspect any of the offices of the Board.

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

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

36. (1) Notwithstanding anything contained in section 35, the State Government may order that there shall be a concurrent audit of the accounts of the Board by such person as it thinks fit. The State Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Board relating to any particular transaction or a class or series of transactions or to a particular period.

Concurrent
and special
audits of
accounts.

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

36A. Any sum due to the Board from any individual firm, company, or association, or body of individuals, whether incorporated or not, shall be recoverable as an arrear of land revenue in the manner provided in the Bengal Public Demands Recovery Act, 1913.

Section 36A was inserted by s. 4 of the West Bengal Housing Board (Amendment) Act, 1993 (West Ben. Act XIV of 1993).

Recovery of
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(Chapter VI.—Miscellaneous.—Sections 37-39.)

CHAPTER VI

Miscellaneous

37. The Board shall, before such date and in such form and at such intervals as may be prescribed, submit to the State Government a report on such matters as may be prescribed and the State Government shall cause such report to be published in the *Official Gazette*.

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

39. The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistance ^{of} of workmen, enter into or upon any land, in order—

- (a) to make any inspection, survey, measurement, valuation or inquiry;
- (b) to take levels;
- (c) to dig or bore into the sub-soil;
- (d) to set boundaries and intended lines of work;
- (e) to do any other things;

when 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 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 to enable the female inmates of any apartment to remove themselves to some part of the premises where their privacy will not be disturbed;
- (iv) due regard 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.

(Chapter VI.—Miscellaneous.—Sections 40-42.)

Notice of
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Board.

40. No person shall commence any suit against the Board or against any officer or employee of the Board or any person acting under the orders of the Board, for anything done or purporting to have been done in pursuance of this Act, without giving to the Board officer or employee or person two 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.

Valuation of
assets and
liabilities of
the Board.

41. The Board shall at the end of every five years have a valuation of its assets and liabilities made by a valuer appointed with the approval of the State Government:

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

Power to
make rules.

42. (1) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

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

- (a) the allowances of members and remuneration and conditions of service of the Vice-Chairman under section 7;
- (b) the manner and form in which contracts shall be entered into under sub-section (1) of section 15;
- (c) the form of the annual budget to be laid before the Board under section 19 and the other particulars to be contained [herein;
- (cl) the time within which the State Government may approve or return the budget to the Board under sub-section (1) of section 21;
- (d) the manner of publication of housing schemes included in the budget under section 23;
- (e) the terms and conditions on which assets of the State Government may be transferred to the Board under section 29;
- (f) the conditions subject to which the Board may borrow any sum under section 34;
- (g) the manner of preparation, maintenance and publication of accounts under section 35;

*Clause (cl) was inserted by s. 13 of the West Bengal Housing Board (Amendment) Act, 1973 (West Ben. Act XXXV of 1973).

xxxn or 1972.]*(Chapter VI.—Miscellaneous.—Sections 43, 44.)*

(h) the date before which, the form in which, the interval at which and the matters on which reports shall be submitted under section 37;

(i) the time at which and the form and manner in which statistics, returns, particulars, statements, documents and papers shall be submitted under section 38;

(j) the manner in which the Board shall be superseded and reconstituted under section 52;

(k) any other matter which is to be or may be prescribed under this Act.

43. (1) The Board may from time to time, with the previous sanction of the State Government, make regulations consistent with this Act and with any rules made under this Act.

(2) Such regulations may provide for—

(a) the management and use of buildings constructed under any housing scheme;

(b) the principles to be followed in allotment of tenements and premises;

(c) regulating its procedure and the disposal of its business;

(d) the conditions of service of the employees of the Board other than those taken over and employed under subsection (1) of section 13.

(3) If it appears to the State Government that it is necessary or desirable for carrying out the purposes of this Act to make any regulation in respect of matters specified in sub-section (2) or to amend any regulation made under that sub-section, it may call upon the Board to make such regulation or amendment within such time as it may specify.

If the Board fails to make such regulation or amendment within the time specified, the State Government may itself make such regulation or amendment and the regulation or the amendment so made shall be deemed to have been made by the Board under sub-section (1).

44. (1) The Board may, with the previous sanction of the State Government, make by-laws not inconsistent with this Act and rules which may be necessary or expedient for the purpose of carrying out its duties and functions under this Act.

(2) A by-law made under this section may provide that a contravention thereof shall be an offence.

(3) All by-laws made under this section shall be published in the *Official Gazette*.

¹Clause (d) was inserted by s. 6 of the West Bengal Housing Board (Amendment) Act, 1976 (West Ben. Act XL of 1976).

(Chapter VI.—Miscellaneous.—Sections 45-5J.)

45. Whoever contravenes a by-law made under section 44 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.
- Penally for contravention of by-laws.
46. If any person—
- (a) obstructs, or molests any person with whom the Board has entered into a contract, in the performance or execution 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,
- be 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.
47. 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.
- Authority for prosecution.
48. All members, officers and employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.
- Members, officers and employees of the Board to be public servants.
49. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or purported to be done under this Act.
- Prohibition of action taken under this Act.
50. The State Government may give the Board such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act. It shall be the duty of the Board to comply with such directions.
- Power of State Government to give directions to Board.
51. (I) The State Government with a view to satisfying 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 in such manner as may be prescribed and to report to the State Government the result of such inquiries.
- Power to order inquiries.

XXXII of 1972.]

(Chapter VI.—Miscellaneous.—Sections 52, 53.)

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

52. (1) If the State Government is satisfied that the Board has made default in performing any duty imposed on it by or under this Act, it may fix a period for the performance of that duty.

(2) If in the opinion of the State Government the Board fails or neglects to perform such duty within the period so fixed for its performance, it shall be lawful for the State Government, to supersede and reconstitute the Board in the manner as may be prescribed.

(3) After the supersession of the Board and until it is reconstituted the powers, duties and functions of the Board under this Act shall be carried on by the State Government or by such officer or officers as the State Government may appoint for this purpose.

53. (1) The State Government may, by notification in the *Official Gazette*, declare that, with effect from such date as may be specified in the notification, the Board shall be dissolved.

(2) With effect from the date specified in the notification under subsection (1),—

(a) all properties, funds and dues which are vested in or realizable by the Board shall vest in and be realizable by the State Government;

(b) all liabilities enforceable against the Board shall be enforceable against the State Government, to the extent of the properties, funds and dues vested in and realized by the State Government.

(3) Nothing in this section shall affect the liability of the State Government in respect of loans or debentures guaranteed under subsection (5) of section 34.

¹Words inserted by s. 7 of the West Bengal Housing Board (Amendment) Act, 1973 (West Ben. Act XXXV of 1973).

²Words inserted by s. 8(i), *ibid.*

³Clause (ia) was inserted by s. 5 S(ii), *ibid.*

¹ Words "and for any particular area," were omitted by s. 11(a) of the West Bengal Housing

³ Word substituted for the words "with due regard to the circumstances and requirements of the particular area" by s. 11(b), *ibid.*

⁴ Section 27A was inserted by s. 3 of the West Bengal Housing Board (Amendment) Act, 1993 (West Ben. Act XIV of 1993).

⁵ Section 28 was substituted for original section by s. 5 of the West Bengal Housing Board (Amendment) Act, 1976 (West Ben. Act XL of 1976).