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NOTIFICATION

No. LJD. 33/89/29, the 17th May, 1990. The following Act of the Mizoram Legislative Assembly, which received the assent of the Governor is hereby published for general information.

The Mizoram Act No. 5 of 1990

The Mizoram Housing and Development Board Act, 1990

(Received the assent of the Governor of Mizoram on the 8. 5. 1990)

THE MIZORAM HOUSING AND DEVELOPMENT BOARD ACT, 1986 AN ACT.

to provide for measures to be taken
to deal with and satisfy the need
of 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 purpose of dealing with and satisfying the need of housing accommodation and with that object in view, it is necessary to establish a Board for Mizoram and to make certain other provisions hereinafter appearing:

Be it enacted in the Thirty-Seventh year of the Republic of India as follows, namely :—

CHAPTER — I

Preliminary

Short title,
extent and
commencement.

1. (1) This Act may be called the Mizoram Housing and Development Board Act, 1986.
- (2) It extends to the whole of the Union territory of Mizoram.
- (3) It shall come into force on such date as the Government may, by notification in the Mizoram Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—
 - (i) “betterment charge” means the charge declared to be payable under section 38 in respect of an increase in the value of land resulting from the execution of a housing or improvement scheme;
 - (ii) “Board” means the Mizoram Housing and Development Board constituted under section 3;
 - (iii) “Board premises” means any premises belonging to or vesting in the Board or taken on lease by the Board or any premises which is entrusted to, or in the possession or control of, the Board for the purposes of this Act;
 - (iv) “building materials” means such commodities or articles as are specified by the Government, by notification, to be building materials for the purposes of this Act;
 - (v) “bye-laws” means bye-laws made under section 69;
 - (vi) “Chairman” means the Chairman of the Board;
 - (vii) “Committee” means any Committee appointed under Section 12;
 - (viii) “Competent Authority” means any person or authority authorised by the Government, by notification, to perform the functions of the Competent Authority under Chapter VI as then such area as may be specified in the notification;
 - (ix) “Government” means Government of the Union Territory of Mizoram;
 - (x) “housing estates” means the places or estates in which residential buildings or any other buildings have been constructed and includes any vacant land or vacant lands appurtenant to the houses or buildings already constructed duly demarcated and developed for construction purposes.
 - (xi) “housing scheme” means a housing scheme made under this Act and includes any housing Schemes entrusted to the Board by the Government under this Act;
 - (xii) “land” includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;
 - (xiii) “local authority” means any authority legally entitled to or entrusted by the Government with the control or ma-

- nagement of a town or towns or village or villages as the case may be ;
- (xiv) "member" means the Chairman and any other members of the Board ;
- (xv) "notification" means a notification published in the Mizoram Gazette ;
- (xvi) "premises" means any 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 ;
- (xvii) "prescribed" means prescribed by rules or regulations made under this Act ;
- (xviii) "programme" means the annual housing programme prepared by the Board under section 21 ;
- (xix) "regulations" means regulations made under section 68 ;
- (xx) "rent" means the amount payable to the Board in respect of the occupation of a Board premises and includes the charges for water and electricity payable in respect of water and electricity used or consumed in the premises ;
- (xxi) "rules" means rules made under this Act ;
- (xxii) "Secretary" means the Secretary of the Board ;
- (xxiii) "Town Committee" means the Town Committee established under section 4 of the Mizo District (Administration of Town Committee) Act, 1956 (Mizo District Act No. II of 1955) ;
- (xxiv) "Tribunal" means the Tribunal constituted under section 44 ;
- (xxv) "Union Territory" means the Union Territory of Mizoram ;
- (xxvi) "Village Council" means a Village Council constituted under the Lushai Hills District (Village Councils) Act, 1953 (Lushai Hills Act No. 5 of 1953) ;
- (xxvii) "Year" means the year, commencing on the 1st day of April and ending on the 31st day of March.

CHAPTER — II

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ESTABLISHMENT OF THE BOARD

3. (1) With effect from such date as the Government may, by notification, appoint in this behalf, there shall be established for the purposes of this Act, a Board by the name of the Mizoram Housing and Development Board which shall be a body corporate having perpetual succession and

a common seal and may sue and be sued in its corporate name and shall, subject to the provisions of this Act, be competent to acquire, hold and dispose of property both movable and immovable and to contract and to do all things necessary for the purposes of this Act;

- (2) The Board shall consist of a Chairman and nine other members of whom not more than four shall be the persons who are not the officers of the Government. The Chairman and other members shall be appointed by the Government.

Leave of absence of
Chairman.

4. The Government may, from time to time, grant to the Chairman, if he is not an officer of the Government, such leave as may be admissible under the rules made under this Act and any person whom the Government appoints to act for the Chairman during such absence or leave shall, while so acting be deemed for all purposes of this Act to be the Chairman.

Disqualification for
appointment on
Board.

5. (1) A person shall be disqualified for being appointed or continuing as the Chairman or a member of the Board, if he—
- (a) holds any office of profit under the Board, or
 - (b) is of unsound mind and stands so declared by a competent Court, or
 - (c) is an undischarged insolvent, or
 - (d) has directly or indirectly by himself or by any partner, any share or interest in any contract with, by or on behalf of the Board, or
 - (e) is a director or a secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of the Board, or
 - (f) has been or is convicted of any offence involving moral turpitude.
- (2) A person shall not be disqualified under clause (d) or (e) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of the said clauses, by reason only of his or the incorporated company of which he is a director, secretary, manager or other salaried Officer, having a share or interest in any newspaper in which any advertisement relating to the affair of the Board is inserted.
- (3) A person shall not be disqualified under clause (d) or (e) of sub-section (1) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board, by reason only of his being a shareholder of such company :

Provided that such persons disclose to the Government the nature and extent of the shares held by him.

Term of office and conditions of service.

6. (1) The Chairman and every other member shall hold office for a period of three years from the date of his appointment as Chairman or as the case may be, other member.

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

Provided further that after the expiry of the period of his appointment a person shall be eligible for re-appointment as the Chairman or a member :

Provided further that no person shall be appointed as Chairman for more than three consecutive terms.

- (2) The Chairman may hold office in an honorary capacity or on payment of remuneration. If any remuneration is to be paid to the Chairman, such remuneration and other condition of service shall be such as may be prescribed.
- (3) Every member shall receive such allowance as may be prescribed.
- (4) The allowances to the members and the remuneration, if any, to the Chairman shall be paid from the fund of the Board.

Vacancy of a member.

7. If any member—
- (a) becomes subject to any of the disqualifications mentioned in section 5, or
- (b) tenders his resignation in writing to the Government and it is accepted by the Government, or
- (c) is absent without the permission of the Board during three consecutive meetings of the Board he shall cease to be a member and his seat shall be declared vacant forthwith by the Government.

Vacancy to be filled as early as practicable.

8. (1) Any vacancy in the membership of the Board shall be filled in as early as practicable.
- (2) Notwithstanding anything contained in this Act, the remaining members may, during such vacancy, act as if no vacancy had occurred.

Proceedings presumed to be good and valid.

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

Appointment of Officers and employees of the Board.

10. (1) Subject to the rules made in this behalf—

- (i) The Board may appoint a Housing Commissioner, one or more Assistant Housing Commissioners and such other Officers & employees as may be necessary for the efficient discharge of its duties.
- (ii) Every appointment to a post carrying a monthly salary exceeding rupees one thousand shall be made with the approval of the Government.

(2) The salary and other conditions of service of the Officers and other employees of the Board shall be such as may be prescribed.

General disqualification of all officers and employees.

11. No person who has directly or indirectly by himself or his partner or agent, any share or interest in any contract, by or on behalf of the Board or in any employment under, by or on behalf of the Board, otherwise than as an officer or employees thereof, shall be eligible to be appointed or continue as an officer or employee of the Board.

Appointment of Committee.

12. Subject to any rules made under this Act, the Board may, from time to time, and for any particular local area, appoint one or more committees for the purpose of discharging such duties or performing such functions as it may delegate to them and such committees may discharge such functions with due regard to the circumstances and requirements of that particular area.

Meetings.

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

- (a) an ordinary meeting shall be held at least once in every three months;
- (b) the Chairman may, whenever he thinks fit, call for special meetings;
- (c) the quorum for every meeting shall be five;
- (d) every meeting shall be presided over by the Chairman and in his absence, by any member chosen by the members present at the meeting to preside for the occasion;
- (e) all questions at any meeting shall be decided by a majority of the votes of the members present and voting and in case of equality of votes the person presiding shall have the right to 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.

Power to make contracts.

14. The Board may enter into and perform or require the performance of all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

Execution of contracts.

15. (1) Every contract shall be made on behalf of the Board by the Chairman or such other officers as may be authorised by the Board through a resolution passed in that behalf:

Provided that—

- (a) no contract involving an expenditure of more than rupees ten lakhs shall be made without the previous sanction of the Government;
- (b) no contract involving an expenditure of more than rupees ten thousand shall be made without the previous sanction of the Board;
- (c) no estimate or tender involving an expenditure of more than rupees ten thousand shall be sanctioned or accepted without the previous sanction of the Board;
- (2) Sub-section (1) shall apply to every variation or abandonment of a contract of estimate as well as to an original contract or estimate;
- (3) Every contract made by the Chairman on behalf of the Board shall, subject to the provisions of this section, be entered into in such manner and form as may be prescribed;
- (4) A contract not made or executed as provided in this section and the rules made thereunder shall not be binding on the Board.

Delegation of Board's power to sanction contracts.

16. (1) Subject to any rules that may be made in this behalf, the Board may, by order, delegate any of its powers under section 15 to the Chairman or to any other officer of the Board.
- (2) The exercise of any powers delegated under this section shall be subject to such restrictions, limitations and conditions and to such control by the Board as may be specified in the order.

CHAPTER — III

HOUSING SCHEMES

Duty of Board to undertake housing schemes.

17. Subject to the provision of this Act, and the control of the Government, the Board may from time to time incur expenditure and undertake works in any area to which this Act is in force for the framing and execution of such housing schemes as it may consider necessary.

Powers and duties of Board to undertake housing schemes etc.

18. (1) Subject to the provisions of this Act and the control of the Government, the Board may, from time to time, incur expenditure and undertake works in any area for the framing and execution of such housing schemes (including labour housing scheme) as it may consider necessary.

(2) The Government may, on such terms and conditions as it thinks fit to impose, entrust to the Board the framing and execution of any housing scheme (including labour 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 with the previous approval of the Government, take over for 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 the employees of the concerned local authority, or as the case may be, co-operative society or the employer and any such scheme shall be executed by the Board as if it had been provided for by this Act.

Delegation of Board's power to undertake commercial schemes, etc.

19. The Board may also, subject to the rules as may be prescribed, undertake execution of works relating to repairs and rehabilitation and rebuilding of existing houses and to undertake commercial schemes.

Matters to be provided for by Housing Schemes.

20. Notwithstanding anything contained in any other law for the time being in force, a housing scheme may provide for all or any of the following matters namely :—

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

(b) the laying or relaying out of any land comprised in the Scheme ;

(c) the distribution or redistributions of sites belonging to owners of property comprised in the Scheme ;

(d) the closure or demolition of dwellings or portions of dwellings unfit for human habitation ;

(e) the demolition of obstructive buildings or portions thereof ;

(f) the construction and reconstruction of buildings, their maintenance and preservation ;

(g) the sale, letting out or exchange of any property comprised in the Scheme ;

(h) the construction and alteration of streets and back-lanes ;

- (i) provision for drainage, water-supply and lighting of the area included in the scheme;
- (j) the provision of parks, playing fields and open spaces for the benefit of any area comprised in the Schemes or any adjoining areas and the enlargement and improvement of existing parks, playing fields, open spaces and approaches;
- (k) the reclamation or reservation of land for markets, gardens, playing fields, schools, dispensaries, hospitals and other amenities in the Scheme;
- (l) the letting out, management and use of the Board premises;
- (m) the 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) the provision of accommodation for any class of inhabitants;
- (o) the advance of money for the purposes of the scheme;
- (p) the provision of facilities for communication and transport;
- (q) the 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 areas or the general efficiency of the Scheme.

Explanation : For the purpose of this Section, the Government may, on the recommendation of the Board by notification, specify such area surrounding or adjoining the area included in a housing scheme to be the adjoining area.

Preparation and submission of annual housing programme budget and establishment schedules.

21. (1) Before the first day of December in each year, the Board shall prepare and forward —
- (i) a programme,
 - (ii) a budget for the next year,
 - (iii) a schedule of the staff of officers and employees already employed and to be employed during the next year, to the Government in such form as may be prescribed;
- (2) The programme shall contain —
- (a) Such particulars of housing schemes and labour Housing Scheme which the Board proposes to execute whether in part or whole during the next year as may be prescribed;

- (b) the particulars of any undertaking which the Board proposes to organise or execute during the next year for the purposes of the production of building materials; and
- (c) such other particular as may be prescribed;

Provided that if the Government so directs before the date referred to in sub-section (1) the housing schemes in the programme shall include any matter which in its opinion it is necessary to provide for and execute on the basis of priority.

- (3) The budget shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the next year.

- Sanction to programme budget and establishment schedule. 22. The Government may sanction the programme, the budget and the schedule of the staff of officers and employees forwarded to it with such modifications as it deems fit.
- Publication of sanctioned programme. 23. The Government shall publish the programme sanctioned by it under section 22 in the Mizoram Gazette.
- Supplementary programme and budget. 24. The Board may, at any time, during the year, in respect of which a programme has been sanctioned under section 22, submit a supplementary programme and budget and the additional schedule of the staff, if any, to the Government and the provision of sections 21, 22 and 23 shall apply to such supplementary programme.
- Variation of programme by Board after it is sanctioned. 25. The Board may, at any time, vary any programme or any part thereof included in the programme sanctioned by the Government :
- Provided that no such variation shall be made if it involves an expenditure in excess of ten per cent of the amount as originally sanctioned for the execution of any housing scheme included in such programme or affects its scope or purposes.
- Sanctioned housing schemes to be executed. 26. After the programme has been sanctioned and published by the Government under sections 22 and 23, the Board shall, subject to the provisions of section 25, proceed to execute the housing schemes and labour housing schemes included in the programme.
- Transfer to the Board for purposes of housing scheme of land vested in Town Committee, or Village Council. 27. (1) Whenever any street, square or other land or any part thereof, situated in any area of land vested in a Town Committee or a Village Council is required for the purposes of such housing scheme, the Board shall give notice accordingly to the local authority concerned.

(2) Where the local authority concur, such street, square or other land or part thereof shall vest in the Board.

(3) Where there is any dispute, the matter shall be referred to the Government. The Government shall, after hearing both the parties decide the matter and the decision of the Government shall be final. If the Government decided such street, square or land or part thereof shall vest in the Board, it shall vest accordingly.

(4) Nothing in this section shall affect the rights or powers of the local authority, in or over any drain or water works in such street, square or land.

Compensation in respect of land vested in the Board.

28. (1) Where any land vests in the Board under the provisions of section 27 and the Board makes a declaration that such land shall be retained by the Board only until it reverts in the local authority, as part of a street or an open space under section 31, no compensation shall be payable by the Board to local authority in respect of that land.

(2) Where any land vests in the Board under section 27 and no declaration is made under sub-section (1) in respect of the land, the Board shall pay to the local authority as respect of any land under sub-section (1), the Board compensation, a sum equal to the value of such land.

(3) If, any case, where the Board has made a declaration in respect of any land under sub-section (1), The board retains or disposes of the land contrary to the terms of the declaration so that the land does not revert in the local authority, the Board shall pay to the local authority, compensation in respect of such land in accordance with the provisions of sub-section (2).

Power of Board to turn or close public street vested in it.

29. (1) The Board may turn, divert, discontinue the public use or permanently close, any public street vested in it or any part thereof.

(2) Whenever the Board discontinues the public use of or permanently closes, any public street vested in it or any part thereof, 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) All housing estates created by the Board shall be transferred to local authorities for maintenance and collection of taxes or rates.

- (4) 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.
- (5) 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 said street as is no longer required.

Reference to Tribunal
in case of dispute under
section 28 or section 29

30. If there is any dispute as to whether any compensation is payable under section 28 or as to the amount of compensation payable under section 28 or section 29 as the case may be, the matter shall be referred to the Tribunal.

Vesting in the local
authority of streets laid
out or altered and open
space provided by the
Board under housing
Scheme.

31. (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, sewered, and drained as required for any housing scheme included in the budget approved by the Government under Section 22 and

(b) that such lamps, lamp-posts and other apparatus as the local authority concerned, considers necessary for the lighting of such streets and as ought to be provided by the Board had been so provided, and

(c) that water and other sanitary convenience has been duly provided in such street, the Government may declare that the street shall thereupon vest in the local authority concerned.

- (2) When any open space for the purpose of ventilation or recreation has been provided by the Board in executing any housing scheme, it 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:

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 local authority concerned, 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.

Other duties of the Board: 32. It shall be the duty of the Board to take measures with a view to expediting and cheapening construction of buildings and the Board may for that purpose do all things for —

- (a) unification, simplification and standardisation of building materials;
- (b) encouraging pre-fabrication and mass-production of housing components;
- (c) organising or undertaking the production of building materials required for the housing schemes;
- (d) encouraging research for discovering cheap building materials and evolving new methods of economic construction;
- (e) securing a steady and sufficient supply of workman trained in the work of construction of building.

Measures to ensure implementation of housing schemes. 33. It shall also be the duty of the Board to take measures —

- (i) to plan and co-ordinate all housing activities in the Union Territory and to ensure expeditious and efficient implementation of housing schemes in the Union Territory;
- (ii) to provide technical advice and scrutinise all projects under housing schemes sponsored or assisted by the Central Government or the Government of the Union Territory;
- (iii) to maintain, allot, lease and otherwise use plots, buildings and other properties of the Board and to fix, to re-fix and to collect rents from the properties under the control and management of the Board and repay loans to the Central Government or the Government of Union Territory;
- (iv) to set up a research section for the purpose of expediting the construction of and cheapening the cost of buildings; and
- (v) to organise and run workshops and stores for manufacture, sale, stock-piling and supply of building materials required for housing schemes.

- Reconsti-
tution of
plots.
34. A housing scheme or a labour housing scheme may provide -
- (a) for the formation of a reconstituted plot by the alteration of the boundaries of an original plot;
 - (b) with the consent of the owners that two or more original plots each of which is held in ownership in several by or in joint ownership shall, with or without alteration of boundaries be held in ownership in common as a reconstituted plot; and
 - (c) for the allotment of a plot to any owner dispossessed of land in furtherance of a housing scheme.
- Schemes
entrusted
to Board by
Govern-
ment etc.
35. The provisions of section 20 to 26 (both inclusive) shall not be applicable to any housing scheme or labour housing scheme entrusted to the Board by Government except to such extent and subject to such modification as may be specified in any general or special order made by the Government, and every such order shall be published in the Mizoram Gazette.

CHAPTER — IV

ACQUISITION AND DISPOSAL OF LAND

- Power to
procure
land by
agreement
or compul-
sory acqui-
sition.
36. (1) The Board may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange of any land which is needed for the purposes of a housing scheme or any interest in such land or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith;
- (2) The Board may also take step 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, 1894 as amended from time to time the acquisition of any land or any interest therein for the purposes of this Act shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act, 1894.
- (3) The Board shall be deemed to be a local authority for the purpose of the Land Acquisition Act, 1894.
- (Central
Act No. 1
of 1894)
- Transfer
of land
to Board.
37. The Collector shall upon payment of the cost of acquisition, make over charge of the land acquired under sub-section (2) of section 38 to the Housing Commissioner, or any Officer authorised in this behalf under this Act, and the land shall thereupon vest in the Board subject to the liability of the Board to pay any further cost which may be incurred on account of acquisition.
- (Central
Act No. 1
of 1894)

Betterment charges.

38. (1) When by the 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 one-half of such increase in value.
- (3) Such betterment charges shall also be leviable in respect of any land not comprised in the scheme but adjacent to the area comprised in the scheme.
- (4) Notwithstanding anything contained in sub-section (1), in respect of any land used for agricultural purposes at the time of the execution of the scheme, the betterment charges shall be leviable by the Board in accordance with such procedure as may be prescribed, only after such land is used, or converted for use, for non-agricultural purposes.

Notice to persons liable for betterment charges.

39. (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 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 enquiry and after hearing the person concerned, assess the amount of the betterment charges payable by the person.

Agreement for payment of betterment charges.

40. (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 interests 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.
- Recovery of betterment charges.** 41. All sums payable in respect of any land by any person in respect of betterment charges under section 38 or by any person under an agreement under section 40 shall be recoverable on behalf of the Board as an arrear of land revenue.
- Power to dispose of land.** 42. The Board may retain, lease, sell, mortgage, exchange or otherwise dispose of any land, building or other property vesting in it and situate in the area comprised in any housing scheme sanctioned under this Act.
- Dispute regarding re-constitution of plots.** 43. (1) Whereby the making of a housing scheme, any plots comprised in the area included in the scheme are reconstituted or any person is dispossessed, the Board shall after making such enquiry as it thinks fit, award to the person affected by such reconstruction or dispossession such compensation as it deems reasonable. 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 enquiry determine the amount of compensation and direct the Board to pay the same to the person entitled.

CHAPTER — V

TRIBUNAL

- Tribunal** 44. The Deputy Commissioner having jurisdiction in the concerned area shall act as one member Tribunal for the purpose of this Act.
- Duties of the Tribunal.** 45. The Tribunal shall decide —
- Whether any compensation is payable under section 28 ;
 - The amount of compensation in matters referred to it under section 31 ;
 - Disputes relating to betterment charges referred to it under section 40 ;
 - Disputes and the amount of compensation to be awarded under section 43 ; and

(e) Such other matters as may be prescribed by the rules made in this behalf.

- Powers of and the procedure before Tribunal.** 46. (1) In making enquiries the Tribunal shall have and exercise, as far as may be, the same powers and follow the same procedure as under the Code of Civil Procedure, 1908. (Central Act No. 5 of 1908)
- (2) Every order made by the Tribunal for the payment of money and for the delivery of the possession or removal of any structure shall be enforced by the Court of the Deputy Commissioner, as if it were the decree of the said Court.
- Decision of Tribunal to be final.** 47. The decision of Tribunal on any matter referred to it under this Act shall, subject to the provision of section 48, be final.
- Appeal to the High Court** 48. The Board or any person aggrieved by a decision of the Tribunal may within three months from the date of the decision, or such further time as the High Court may, for sufficient cause, allow, prefer an appeal to the High Court.

CHAPTER — VI

POWER TO EVICT PERSONS FROM BOARD PREMISES

- Power to evict certain persons from Board premises.** 49. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, 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) sub-let, without the permission of the Board, the whole or any part of such premises, or
 - (iii) made, or is making material additions to, or alterations in, such premises without the previous written permission of the Board, or
 - (iv) otherwise acted in contravention of any of the terms, expressed or implied, under which he is authorised to occupy such premises, or
- (b) that any person is in unauthorised occupation of any Board premises, the competent authority may, by notice served—
- (i) by registered 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 such 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 from the date of the service of the notice.

Provided that no such order shall be passed unless the person has been afforded an opportunity to show cause why such order should not be made.

- (2) If any person refuses or fails to comply with any order made under sub-section (1), the competent authority may evict that person from and take possession of, the premises and may for that purpose use such force as may be necessary.
- (3) If such a person, who has been ordered to vacate any premises under sub-clause (i) or (ii) of clause (a) of sub-section (1) within thirty days of the date of service of the notice or such longer time as the competent authority may allow, pays to the Board the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent authority, as the case may be, the competent authority shall, in lieu of evicting such person under sub-section (2), cancel its order made under sub-section (1) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

Explanation: For the purpose of this section and section 50, the expression, 'unauthorised occupation' in relation to any person authorised to occupy any Board premises, includes the continuance in occupation by him or by any person claiming through or under him of the Board premises after the authority under which he was allowed to occupy the said premises has been duly determined.

Power to recover rent or
damage as arrears
of land revenue.

50. (1) Subject to any rules made in this behalf and without prejudice to the provisions of section 49, where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, serve notice —

- (i) by registered posts, 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, and order that person to pay the damages within such time as may be specified in the notice. If such person refuses or fails to pay the arrears within the time specified in the notice, such arrears may be recovered from him as arrear 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 registered post, (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed; order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue.
- (3) No order shall be made under sub-section (2) until after the service 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.

Rent to be recovered by deduction from salary or wages in certain cases.

51. (1) Without prejudice to the provisions of section 49 and 50, any person who is an employee of the Government, or any undertaking or company incorporated under the Companies Act, 1956 or any other law for the time being in force, established under the law applicable to co-operative societies for the time being in force or a local authority and who has been allotted any Board premises, may execute an agreement in favour of the Government undertaking, Company, Co-operative Society or the local authority providing that the Government undertaking, Company, Co-operative Society or the local authority, as the case may be, under or by whom he is employed, shall be competent to deduct from the salary or wages payable to him, such amount as may be specified in the agreement and 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.

(Central Act
No. 1 of
1956)

- (2) On the execution of such agreement, the Government undertaking, Company, Co-operative Society 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 employees specified in the acquisition in accordance with the agreement and pay the amount so deducted to the Board.

Provided that no such agreement in favour of the local authority by the employee concerned shall be valid unless such local authority has agreed in writing to make such

deduction on account of rent from the salary or wages of the employee.

Appeal

52. (1) Any person aggrieved by an order of the competent authority under section 49 or section 50 may, within thirty days from the date of service of the notice under section 49 or section 50, as the case may be prefer an appeal to the Deputy Commissioner of the district in which the premises of the Board are situated:

Provided that the Deputy Commissioner may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

- (2) Where an appeal is preferred under sub-section (1) to the Deputy Commissioner, he may stay the enforcement of the order of the competent authority for such period and on such conditions as he deems fit.
- (3) Every appeal under this section shall be disposed of by the Deputy Commissioner as expeditiously as possible.

Finality of orders.

53. Order made by a competent authority or the Deputy Commissioner as the case may be, in the exercise of any power conferred by or under this chapter shall not be called in question in any court or other authority in respect of any actions taken or likely to be taken in pursuance of any power conferred by or under this chapter.

Penalty

54. (1) If any amount due under the Act or rules made thereunder is not paid by any person in compliance with the orders of the competent authority, such authority may, after giving such person an opportunity of being heard, impose upon him a penalty not exceeding twenty five percent of the amount due, if it has reason to believe that the person liable to pay the amount has wilfully failed to pay the same.
- (2) If the penalty so imposed is not paid within a period of ninety days the same shall be recoverable as arrears of land revenue.

Appeal on penalty.

55. Any person aggrieved by an order of the competent authority imposing any penalty under this Act, may within sixty days from the date of—
- (1) the service of notice; or
- (2) the imposition of penalty under section 54 as per case may be, appeal to the Deputy Commissioner of the district in which the premises of the Board are situated.

Provided that the Deputy Commissioner may entertain the appeal after the expiry of the said period of the sixty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

CHAPTER — VII
FINANCE, AUDIT AND ACCOUNTS

Board's fund

56. (1) The Board shall have a fund called the Mizoram Housing and Development Board Fund. (hereinafter referred to as the Fund).
- (2) The Board may accept grants, subventions, donations and gifts from the Central Government or the Government of Mizoram or local authority or any individual or body, whether incorporated or not, for all or any of the purposes of this Act.
- (3) The Government shall, every year make a grant to the Board of a sum equivalent to the administrative expenses of the Board.
- (4) 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 and all interest, profits and other moneys accruing to the Board, shall constitute the Fund.
- (5) Except as otherwise directed by the Government, all moneys and receipts specified in the foregoing provisions and forming part of the Fund shall be deposited in the State Bank of India or in any other Bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or invested in such securities as may be approved by the Government.
- (6) Such account shall be operated upon by such officers as may be authorised by the Board.

(Central Act No. 5
of 1970)

Application of fund.

57. All property, the 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.

Subventions and
loans to the Board.

58. (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.

Power of Board
to borrow.

59. (1) The Board may from time to time, 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.
- (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 of the other members 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 payment of interest at such rate as may be fixed by the Government.

Accounts and Audit.

60. (1) The Board shall cause to be maintained proper books of accounts and such other books in commercial pattern as the rules under this Act may require and shall prepare in accordance with such rules an annual statement of accounts.
- (2) The Board shall cause its accounts to be audited annually by such persons as the Government may direct.
- (3) As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together with a copy of the report of the auditor thereon to the 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.

Concurrent and special audits of accounts.

61. (1) Notwithstanding anything contained in section 60 the Government may order that there shall be a 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 a Chartered Accountant appointed by it of the accounts of the Board relating to any particular transactions or a class or a series of transactions or to a particular period.
- (2) When an order is made under sub-section (1), the Board shall cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit.

CHAPTER—VIII

MISCELLANEOUS

- Reports.**
62. The Board shall, before such date and in such form and at such intervals 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 Mizoram Gazette. Every such report shall be laid before the Mizoram Legislative Assembly as soon as may be after it is published.
- Other statements and returns.**
63. The Board shall also submit to the Government such statistic, returns, particulars or statements in regard to any proposed or existing housing schemes or labour housing schemes at such times and in such form and manner as may be prescribed or as the Government may from time to time direct.
- Power of entry.**
64. The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistance of workmen, enter into or upon any land, in order to—
- (a) make any inspection, survey, measurement, valuation or enquiry;
 - (b) take levels;
 - (c) dig or bore into the sub-soil;
 - (d) set boundaries and intended lines of work;
 - (e) make such levels, boundaries and lines of works and cutting trenches;
 - (f) do any other things;
- 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, except with the consent of the occupier thereof, or 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 referred to in clause (ii) to enable the inmates of any apartment occupied by women 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 purposes for which the entry is made, to the social and religious usages of the occupants of the premises entered.

Notice of suit
against Board.

65. No person shall institute 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 concerned 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.

Triennial valuation of
assets and liabilities
of the Board.

66. The Board shall triennially 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.

Power to make rules.

67. (1) The Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purpose 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 matters, namely :

(a) the allowances of members and remuneration and conditions of service of the Chairman under section 6 ;

(b) the manner and form in which contracts shall be entered into under section 15 ;

(c) the form of annual housing programme, budget and schedule of staff of officers and servants, particulars of housing schemes and other particulars to be contained in the programme under section 21 ;

(d) the form of notice under section 39 ;

(e) the rate of interest under section 40 ;

(f) other matters to be decided by the Tribunal under section 45 ;

(g) the form of notice under section 49 and 50 and any other manner in which they may be served ;

(h) the procedure to be followed in taking possession of any Board premises under section 49 ;

(i) the manner in which damages under section 50 may be assessed ;

(j) the manner in which appeals may be preferred under section 52 and the procedure to be followed in such appeals ;

(k) the conditions subject to which the Board may borrow any sum under section 59 ;

(l) the manner of preparation, maintenance and publication of accounts under section 60 ;

- (m) the date before which, the form in which, the interval at which and the matters on which reports shall be submitted under section 62;
- (n) the time at which and the form and manner in which statistics, returns, particulars and statements shall be submitted under section 63;
- (o) the manner in which the Board shall be superseded and reconstituted under section 77;
- (p) specifying the bye-laws, the contravention of any of which shall be an offence; and
- (q) any other matter which is to be or may be prescribed under this Act.

Power to make Regulations.

68. (1) The Board may, from time to time, with the previous sanction of the Government, by notification, make regulations consistent with this Act and with the rules made thereunder —
- (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; and
 - (c) for regulating its procedure and the disposal of its business.

Power to make bye-laws.

69. (1) The Board may make bye-laws, not inconsistent with this Act and the rules and regulations made thereunder, which may be necessary or expedient for the purpose of carrying out its duties and functions under this Act.
- (2) A bye-law made under this Section may provide that a contravention thereof shall be an offence punishable with fine not exceeding rupees one thousand.
 - (3) No bye-law made by the Board shall come into force until it has been confirmed by the Government with or without modification.
 - (4) All bye-laws made under this section shall be published in the Mizoram Gazette.

Rules or Regulations and bye-laws to be laid before the Mizoram Legislative Assembly

70. Every rule, regulation or bye-law made under this Act shall be laid as soon as may be, after it is made, before the Legislative Assembly of Mizoram while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session

in which it is so laid or the session immediately following, the Legislative Assembly of Mizoram agrees in making any modification in the rule, regulation or bye-law or the Legislative Assembly agrees that the rule, regulation or bye-law should not be made, the rule, regulation or bye-law, shall thereafter have effect, only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation or bye-law.

Penalty for contravention of bye-laws.

71. Whoever contravenes any bye-law made under section 69, 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.

Penalty for obstruction etc.

72. If any person —

- (a) obstructs or molests any person with whom the Board has entered into a contract, in the performance of 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 directions 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.

Cognizance of offences.

73. 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.

Members, Officers and employees of the Board to be public servants.

(Central Act No. 45 of 1860)

74. 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, 1860.

Protection of action taken under this Act.

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

Government's power to give direction to Board.

76. The Government may give the Board such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act, after giving an opportunity to the Board to

state its objections, if any, to such directions and after considering the said objections and it shall be the duty of the Board to comply with such directions.

Power to Supersede
the Board.

77. (1) If the Government is of the opinion that the Board is unable to perform, or has persistently made default in the performance of the duty imposed on it by or under this Act or has exceeded or abused its powers or has wilfully or without sufficient cause failed to comply with any directions issued by the Government under section 76; the Government may, by notification, supersede the Board for such period as may be specified in the notification:

~~Provided that before issuing a notification under this sub-section, the Government~~ shall give reasonable time to the Board to show cause why it should not be superseded and shall consider the explanation and objections, if any, of the Board.

- (2) Upon the publication of a notification under sub-section (1) superseding the authority—
- (a) all the members of the Board shall, notwithstanding that their term of office has not expired as from the date of supersession, vacate their offices as such members;
 - (b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Board shall, during the period of supersession be exercised and performed by such person or persons, as the Government may direct;
 - (c) all property vested in the Board shall, during the period of supersession, vest in the Government.
- (3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may—
- (a) extend the period of supersession for such further period as it may consider necessary; or
 - (b) ~~reconstitute the Board in the manner provided in section 3.~~

Power to remove
difficulties

78. If any difficulty arises in giving effect to the provisions of this Act or the rules, schemes or orders made thereunder, the Government may, by notification, remove the difficulty :

Provided that no such notification shall be made by the Government after the expiry of a period of three years from the date on which this Act receives the assent of the President.

K. N. Srivastava,
Secretary to the Govt. of Mizoram,
Law, Judicial & Parliamentary Affairs Department.