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#### STATEMENTS OF OBJECTS AND REASONS

##### I

**Act 11 of 1976.-** In urban areas there have been haphazard growth and development, much to the detriment of the general public, who have been deprived of even normal civic amenities. Unless the irregular growth is immediately checked and properly regulated, it will continue to grow and in course of time the position becomes irremediable. Existing municipal bodies with their numerous duties cannot effectively attend to this work. Establishment of separate bodies for the purpose, therefore, is very necessary. Such bodies can pay concentrated and undivided attention to this problem.

Also one of the very important items in the Prime Minister's 20 Point Programme is socialisation of urban lands. Implementation of this programme involves quick and speedy

process of acquisition of land, formation of layouts and providing civic amenities and distribution of sites to the deserving public. The municipal bodies cannot achieve this objective quickly and expeditiously. A separate body can do the work better.

Having regard to the urgency and importance of the matter an Ordinance was promulgated. This bill is to replace the Ordinance.

Initially such separate bodies are established in areas with population exceeding one lakh.

Hence this Bill.

(Obtained from L.A. Bill No.10 of 1976.)

## II

**Amending Act 68 of 1976.-** The Karnataka Improvement Boards Act, 1976 was been promulgated for the Development of areas in planned manner. There is no provision to give representation to the Scheduled Caste/Scheduled Tribes and also women in the Karnataka Improvement Boards Act, 1976 with a view to give them representation, a provision made and an amendment to the Section 4 of the Karnataka Improvement Boards Act, 1976 is proposed.

Hence this Bill.

(Published in the Karnataka Gazetted (Extraordinary) Part IV-2A dated 23-7-1976 as No. 3586 at page 2)

## III

**Amending Act 15 of 1981.-** Sub-section (1) of section 3 of the Improvement Boards Act, 1976 (Karnataka Act 11 of 1976) provides for the establishment of Improvement Boards in urban areas, that is, local areas within the jurisdiction of local authorities namely, municipal corporation, municipal council sanitary board or notified area committee.

The proposed amendments are intended to enable the Improvement Board to undertake development works outside the limits of a local authority wherever necessary,

Hence this Bill.

(Published in the Karnataka Gazetted (Extraordinary) Part IV-2A dated 3-2-1981 as No.99 at page 2.)

## IV

**Amending Act 19 of 1984.-** According to Section 1 of the Karnataka Improvement Boards Act 1976 every contract shall be mad eon behalf of the Board by the Chairman. However, no contract involving an expenditure exceeding Rs.25,000 shall be made except with the previous sanction of Government. No contract involving an expenditure exceeding Rs.10,000 but not exceeding Rs.25,000 shall be made without the previous sanction of the Improvement Board.

It is considered necessary to delegate greater financial powers to the Improvement Boards and the Chairman of the Improvement Boards so as to cut down delays in taking up development schemes. It is proposed to amend section 11 of the Karnataka Improvement Boards Act 1976 so as to give each Improvement Board the power to sanction a contract involving expenditure upto Rs.2,00,000 and to give the Chairman the power to sanction a contract upto Rs.50,000.

Further, Section 34 of the Act provides of the Board to enter into an agreement with the owner of any land or any interest therein whether situated within or without the urban area of the purchase of lease of such land or interest therein for the purpose of the said Act subject to the provisions of the Act and with the previous approval of the Government.

The proposed amendment is intended to delegate powers to the local officers namely the Divisional Commissioners and the Deputy Commissioners to approve purchase of land by the Board by agreement so that the Improvement Boards do not have to send every such proposal to Government for approval. According to the proposed amendment the Board may enter into an agreement with the previous approval of the Deputy Commissioner of respective Division where the total area of such land does not exceed five hectares and of the Divisional Commissioner of the Division where the total area of such land exceeds five hectares but does not exceed ten hectares.

Hence this Bill.

(Obtained from L.A. Bill No.36 of 1983)

## V

**Amending Act 34 of 1984.-** The problem of encroachments on lands belonging to Municipalities, Bangalore Development Authority, Improvement Boards and other Local Bodies has assumed serious proportions. It is necessary to provide deterrent punishment for such encroachments.

2. Hence it is proposed to introduce a provision to make encroachment on lands belonging to the City Improvement Trust Board, Mysore, Village Panchayats, Taluk Boards, Municipal Councils, Municipal Corporations, Improvement Boards and the Bangalore Development Authority an offence punishable with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees. Further, it is also proposed that any person who had unauthorisedly occupied land belonging to any of the said bodies and who fails to vacate such land in pursuance of an order under section 5(1) of the Karnataka Public premises (Eviction of Unauthorised Occupants) Act 1974, shall on conviction be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees, and with a further fine which may extend to Rs. 50 per acre of land or part thereof for every day on which the occupation continues after the date of first conviction. A person who intentionally aids or abets the commission of these offences shall also be liable to receive the same punishment. It is proposed to introduce this provision in the following statutes:

- (1) The City of Mysore Improvement Act, 1903.
- (2) Karnataka Village Panchayats and Local Boards Act, 1959.
- (3) Karnataka Municipalities Act, 1964.
- (4) Karnataka Municipal Corporations Act, 1976.
- (5) Karnataka Improvement Boards Act, 1976.
- (6) Bangalore Development Authority Act, 1976.

3. It is also proposed to extend the application of Chapter IIIA of the Karnataka Slum Areas (Improvement and Clearance) Act 1974 to the whole State and to make the Tahsildar of the Taluk the licensing authority, where there is already no licensing authority.

Hence this Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 6-2-1984 as No.104 at pages 8-9.)

## VI

**Amending Act 13 of 1985.-** Bagalkot town will get submerged with the construction of the Almatti Dam up to a crest level of 1680 feet in the 1st stage of the Upper Krishna Project. The Almatti Dam is expected to reach the crest level of 1680 feet by June, 1987. Hence Government has decided to shift the affected portion of Bagalkot town to a higher location and to construct a new township. It is proposed to constitute a statutory body with statutory powers called the Bagalkot Town Development Authority. The Authority shall take expeditious steps to shift that portion of Bagalkot town which is going to be submerged and for this purpose an Action Plan Committee shall be constituted. There shall also be a High Level Review Committee with the Chief Minister as Chairman. The Authority shall execute the work approved by the Action Plan Committee and shall comply with the directions issued from time to time by the Action Plan Committee and the High Level Review Committee. The Chief Engineer of the Bagalkot Town Development Authority shall be the Chief Executive and Administrative Officer of the Authority.

Hence this Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 20-3-1985 as No.151 at page 10.)

## VII

**Amending Act 40 of 1986.-** It is considered necessary to include the Minister for Urban Development as one of the members of the High Level Review Committee to review the progress of works done by the Bagalkot Town Development Authority under Section 12C of the Karnataka Improvement Boards Act, 1976. An Ordinance was promulgated for the said purpose.

This Bill seeks to replace the said ordinance.

Hence this Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 19-8-1986 as No.630 at page 2.)

## VIII

**Amending Act 12 of 2001.-** It is considered necessary to amend the Karnataka Improvements Boards Act, 1976 (Karnataka Act 11 of 1976) to incorporate section 37A to provide for Bulk allotment of lands to Group Housing Societies in Bagalkot Town which is being sub-merged due to rising height of Almatti Dam.

Hence the Bill.

(Vide L.A.Bill No.1 of 2001 File No. ಸಂವ್ಯಶಾಇ 30 ಶಾಸನ 2000)

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## KARNATAKA ACT No. 11 OF 1976

(First published in the Karnataka Gazette Extraordinary on the Eighth day of March, 1976).

**THE KARNATAKA IMPROVEMENT BOARDS ACT, 1976**

(Received the assent of the Governor on the Second day of March, 1976)

(As Amended by Acts 68 of 1976, 15 of 1981, 19 of 1984, 34 of 1984, 13 of 1985, 40 of 1986 and 12 of 2001)

**An Act to provide for the establishment of Improvement Boards for the development of urban areas in the State of Karnataka and for matters connected therewith.**

WHEREAS it is expedient to provide for the establishment of Improvement Boards for the development of urban areas in the State of Karnataka;

BE it enacted by the Karnataka State Legislature in the Twenty-seventh Year of the Republic of India as follows:-

**CHAPTER I****PRELIMINARY**

**1. Short title, extent and commencement.-** (1) This Act may be called the Karnataka Improvement Boards Act, 1976.

(2) It extends to the whole of the State of Karnataka.

(3) It shall be deemed to have come into force on the twentieth day of November, 1975 in the urban areas comprising the Hubli-Dharwar Municipal Corporation and the cities of Belgaum, Bellary, Bijapur, Bhadravathi, Davangere, Gulbarga and Shimoga, and on such date and in such other urban areas as the State Government may, by notification, specify and different dates may be specified for different urban areas.

**2. Definitions.-** (1) In this Act, unless the context otherwise requires,-

<sup>1</sup>[(a) 'Bagalkot Town Area' means the area comprising the Bagalkot City Municipality constituted or continued under the Karnataka Municipalities Act, 1964 and such other area adjacent thereto, as the Government may, from time to time, by notification specify;.]<sup>1</sup>

1. Inserted by Act 13 of 1985 w.e.f. 10.10.1984.

<sup>2</sup>[(aa)]<sup>2</sup> 'Board' means an Improvement Board established under section 3 for any urban area <sup>1</sup>[and includes the Bagakot Town Development Authority constituted under section 12-A;]<sup>1</sup>

1. Inserted by Act 13 of 1985 w.e.f. 10.10.1984.

2. Renumbered by Act 13 of 1985 w.e.f. 10.10.1984.

(b) 'Chairman' means the Chairman of the Board;

(c) 'development', with its grammatical variations means the carrying out of building, engineering or other operations in, on, over or under the land or the making of any material change in any building or land and includes re-development but does not include regulation and development of drinking water and drainage facilities and slum clearance or slum improvement;

(d) 'development scheme' means a scheme prepared and sanctioned under this Act for purposes of the development of an urban area;

(e) 'engineering operations' includes the formation or laying out of means of access to a road or the laying out of means of water supply;

(f) 'Government' means the State Government;

(g) 'improvement' with its grammatical variations means re-development of any built up area, whether partly built or fully built for the purpose of improving the environmental conditions of the locality by undertaking work such as widening of roads extending or augmenting civic amenities, community facilities, utilities and services but does not include regulation and development of drinking water and drainage facilities and slum clearance or slum improvement;

(h) 'improvement scheme' means a scheme prepared and sanctioned under this Act for purposes of the improvement of an urban area;

(i) 'land' includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(j) 'local authority' means a Municipal Corporation, Municipal Council, Sanitary Board or a Notified Area Committee constituted or continued under any law for the time being in force;

(k) 'member' means a member of the Board;

(l) 'planning authority' means a Planning Authority as defined in clause (7) of section 2 of the Karnataka Town and Country Planning Act, 1961;

(m) 'section' means a section of this Act;

(n) 'street' has the same meaning as in the Karnataka Municipalities Act, 1964;

(o) 'urban area' means any local area which is within the jurisdiction of a local authority <sup>1</sup>[and includes such other area adjacent to the limits of the local authority, as the Government may, from time to time, by notification, specify.]<sup>1</sup>

1. Inserted by Act 15 of 1981 w.e.f. 7.4.1981.

(2) All other words and expressions used herein but not defined shall have the meanings respectively assigned to them in the respective Municipal laws in force in the area.

## CHAPTER II

### IMPROVEMENT BOARDS

**3. Establishment and Incorporation of Improvement Boards.-** (1) As soon as may be, after the commencement of this Act the Government, may by notification, establish for the purposes of this Act a Board for any urban area to be called the "The Improvement Board of .....".

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and shall by the said name sue and be sued.

<sup>1</sup>[(3) The jurisdiction of the Board constituted in respect of any urban area shall stand extended to such other areas as may be notified under clause (o) of sub-section (1) of section 2 in respect of such urban area, with effect from the date of such notification.]<sup>1</sup>

1. Inserted by Act 68 of 1976 w.e.f. 1.12.1976.

**4. Constitution of the Board.-** The Board shall consist of the following members, namely:-

- (a) a Chairman who shall be appointed by the Government;
- (b) an officer of the Town and Country Planning Department not below the rank of an Assistant Director of Town and Country Planning appointed by the Government;
- (c) the Executive Engineer of the division;
- <sup>1</sup>[(cc) two persons, of whom one shall be a woman and one shall be a person belonging to the Scheduled Castes or the Scheduled Tribes, who shall be appointed by the Government;]<sup>1</sup>

1. Inserted by Act 68 of 1976 w.e.f. 1.12.1976.

- (d) two persons who are ordinarily resident in the urban area for which the Board is constituted, appointed by the Government; and
- (e) two elected representatives of the local authority concerned.

**5. Term of office.-** (1) Subject to the pleasure of the Government, the Chairman and other members appointed by the Government shall hold office for a period of three years:

Provided that the term of office of the representative of the local authority shall come to an end when he ceases to be a councillor or member or when the local authority is superseded.

(2) The Chairman or a member, other than an *ex-officio* member, may resign his office by writing under his hand addressed to the Government but shall continue in office until his resignation is accepted.

(3) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy or defect in the constitution of the Board.

**6. Casual vacancy.-** Any casual vacancy in the office of a member other than the Chairman occasioned by death, resignation or disqualification of such member or occasioned by virtue of the proviso to sub-section (1) of section 5 shall be filled within one month of the occurrence of the vacancy in the same manner and subject so far as may be, to the same conditions specified in section 4 <sup>1</sup>[or section 12-A]<sup>1</sup>:

1. Inserted by Act 13 of 1985 w.e.f. 10.10.1984.

Provided that the representatives of a superseded local authority shall be nominated by the Government:

Provided further that the member so chosen or nominated shall continue in office for the remainder of the term of the member in whose place he is appointed.

**7. Disqualification for office of membership.-** (1) A person shall be disqualified for being appointed as and for being a member if he,-

- (a) has been convicted and sentenced to imprisonment for an offence which in the opinion of the Government involves moral turpitude; or

- (b) is of unsound mind and stands so declared by a competent court;

or

- (c) is an undischarged insolvent; or

- (d) has been removed or dismissed from the service of the Central Government or a State Government or a corporation owned or controlled by the Central Government or a State Government; or

(e) has directly or indirectly by himself or his partner any share or interest in any work done by the order of the Board or in any contract or employment with or under or by or on behalf of the Board;

(f) being an elected member ceases to be a councillor or a member of the local authority concerned;

(g) is employed as paid legal practitioner on behalf of the Board or accepts employment as legal practitioner against the Board.

(2) A person shall not be disqualified under clause (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 clause by reason only of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board is inserted.

**8. Removal of member.-** The Government shall remove a member if,-

(a) he becomes subject to any of the disqualifications mentioned in section 7:

Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (e) of that section, unless he has been given an opportunity of making his representation against the proposal ; or

(b) he refuses to act or becomes incapable of acting; or

(c) he, without obtaining leave of absence from the Board, absents from three consecutive meetings of the Board; or

(d) in the opinion of the Government he has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given an opportunity of making his representation against the proposal.

**9. Meetings of the Board.-** (1) The meetings of the Board shall be convened by the Chairman and shall be held at any place within the jurisdiction of the Board.

(2) The Board shall meet at such times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum) as may be provided by the bye-laws.

(3) If, for any reason the Chairman is unable to attend any meeting, any other member chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes, the Chairman or in his absence, the person presiding shall have and exercise a second or casting vote.

(5) A member shall not, at any meeting of the Board take part in the discussion of or vote on any matter in which he has directly or indirectly by himself or his partner, any share or interest.

**10. Proceedings presumed to be good and valid.-** No disqualification of or defect in the appointment of any person acting as Chairman or member shall be deemed to vitiate any act or proceeding of the Board if such act or proceeding is otherwise in accordance with the provisions of this Act.

**11. Execution of contracts.-** (1) Every contract shall be made on behalf of the Board by the Chairman:

Provided that,-

(a) no contract involving an expenditure exceeding <sup>1</sup>[two lakhs]<sup>1</sup> rupees shall be made except with the previous sanction of the Government;

1. Substituted by Act 19 of 1984 w.e.f. 21.4.1984.

(b) (i) no contract involving an expenditure exceeding <sup>1</sup>[fifty thousand]<sup>1</sup> rupees but not exceeding <sup>1</sup>[two lakhs]<sup>1</sup> rupees shall, subject to clause (a), be made without the previous sanction of the Board;

(ii) no estimate or tender involving an expenditure of <sup>1</sup>[two lakhs]<sup>1</sup> rupees or more, shall, subject to clause (a), be sanctioned or accepted without the previous sanction of the Board.

1. Substituted by Act 19 of 1984 w.e.f. 21.4.1984.

(2) Sub-section (1) shall apply to every variation or abandonment of a contract or estimate.

(3) Every contract made by the Chairman shall, subject to the approval of the Board, be entered into in such manner and form as may be prescribed.

(4) Any contract not made and executed as provided in this section and the rules made thereunder shall not be binding on the Board.

**12. Duties of Chairman.-** The Chairman shall-

(1) attend every meeting of the Board, unless prevented by sickness or other reasonable cause;

(2) carry into effect the resolutions of the Board;

(3) keep and conduct the Board's correspondence;

(4) carry out and execute such schemes and works as the Government may require under sub-section (3) of section 13 and incur, subject to the other provisions of this Act, necessary expenditure therefor;

(5) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration and in matters concerning the accounts and records of the Board; and to the extent specified in section 54 dispose of all questions relating to the service conditions of officers and servants, and their pay, privileges and allowances;

(6) furnish to the Government a copy of the minutes of the Boards's proceedings and also furnish any returns or other information which the Government may, from time to time, call for; and

(7) perform such other duties as are imposed on him by or under this Act.

## **<sup>1</sup>[CHAPTER IIA**

### **BAGALKOT TOWN DEVELOPMENT AUTHORITY**

**12A. Constitution and incorporation of Bagalkot Town Development Authority.-**

(1) The Government shall by notification, constitute for the Bagalkot Town Area an authority to be called the Bagalkot Town Development Authority (hereinafter in this Chapter referred to as the Authority).

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and common seal, with power to acquire, hold and dispose of property and to contract and shall by the said name sue and be sued.

- (3) The Authority shall consist of the following members, namely :-
- (i) a Chairman who shall be appointed by the Government ;
  - (ii) the Member of the Parliament representing a part or whole of Bagalkot Town Area;
  - (iii) the Members of the Karnataka Legislative Assembly representing a part or whole of Bagalkot Town Area;
  - (iv) the President of the City Municipal Council Bagalkot;
  - (v) the Secretary to Government, Finance Department, Government of Karnataka, or his nominee ;
  - (vi) the Secretary to Government, Housing and Urban Development Department, Government of Karnataka, or his nominee ;
  - (vii) the Secretary to Government, Public Works, Command Area Development and Electricity Department, Government of Karnataka, or his nominee ;
  - (viii) the Chief Engineer, Upper Krishna Project, Dam Zone, Almatti ;
  - (ix) the Deputy Director of Town Planning, Belgaum ;
  - (x) the Deputy Commissioner, Bijapur District ;
  - (xi) three non-official members being residents of Bagalkot Town Area appointed by the Government ; and
  - (xii) the Chief Engineer of the Authority who shall be the member-secretary.

(4) The Authority shall execute the works approved by the Action Plan Committee constituted under section 12-B.

(5) Subject to the provisions of sections 12-A, 12-B, 12-C, 12-D, 12-E, 12-F and 12-G, the provisions of this Act shall *mutatis mutandis* apply to the Authority.

**12B. Action Plan Committee.-** (1) In addition to the other powers and duties of the Authority under this Act, the Authority shall take expeditious steps to shift that portion of the Bagalkot Town Area which is to be submerged by the Almatti Dam and for this purpose, there shall be constituted an Action Plan Committee consisting of the following members, namely :-

- (i) the Additional Chief Secretary to Government of Karnataka who shall be the Chairman ;
- (ii) the Commissioner and Secretary to Government, Revenue Department, Government of Karnataka ;
- (iii) the Secretary to Government, Housing and Urban Development Department, Government of Karnataka ;
- (iv) the Secretaries to Government, Public Works Command Area Development and Electricity Department Government of Karnataka ;
- (v) the Secretary to Government, Finance Department, Government of Karnataka.
- (vi) the Director, Karnataka Engineering Research Station, Krishnaraja Sagar ;
- (vii) the Chief Architect to Government of Karnataka ;
- (viii) the Director of Town Planning, Government of Karnataka;
- (ix) the Chief Engineer, Upper Krishna Project, Dam Zone, Almatti ;

- (x) the Divisional Commissioner, Belgaum Division, Belgaum;
- (xi) the Divisional Joint Director, Health and Family Welfare Services, Belgaum Division, Belgaum; and
- (xii) the Chief Engineer of the Authority who shall be the member-secretary.

(2) The Authority shall be bound by the directions, orders and instructions issued from time to time by the Action Plan Committee or the High Level Review Committee constituted under section 12C.

**12C. High Level Review Committee.-** To review the progress of works done by the Authority there shall be a High Level Review Committee consisting of the following members, namely :-

- (i) the Chief Minister, Karnataka, who shall be the Chairman ;
- (ii) the Minister in-charge of Public Works, Karnataka;
- (iii) the Minister in-charge of Irrigation, Karnataka ;
- (iv) the Minister in-charge of Bijapur District ;
- <sup>1</sup>[(iva) the Minister incharge of Urban Development, Karnataka;]<sup>1</sup>

1. Inserted by Act 40 of 1986 w.e.f. 6.6.1986.

- (v) the Additional Chief Secretary to Government of Karnataka;
- (vi) the Development Commissioner, Government of Karnataka;
- (vii) the Secretary to Government, Finance Department, Government of Karnataka ;
- (viii) the Secretary to Government, Housing and Urban Development Department, Government of Karnataka; and
- (ix) the Secretary to Government, Public Works, Command Area Development and Electricity Department, Government of Karnataka, or his nominee who shall be the member-convener.

**12D. Powers of different authorities.-** (1) The Chief Engineer of the Authority (hereinafter referred to in this Chapter as the Chief Engineer) may, on behalf of the Authority, sanction any estimates, call for tenders or enter into any contract or agreement the value or amount whereof shall not exceed ten lakhs of rupees in such manner and form as according to the law for the time being in force would bind him, if such contract or agreement were on his own behalf; and every such contract or agreement shall be reported to the Authority at its next meeting.

(2) The Authority may sanction any estimate, call for tenders or enter into any contract or agreement the value or amount whereof exceeds ten lakhs of rupees but does not exceed fifty lakhs of rupees; and where the value or amount of any estimate, contract or agreement exceeds fifty lakhs of rupees the same shall not be entered into except with the previous sanction of the Government.

(3) Every contract or agreement on behalf of the Authority other than a contract or agreement referred to in sub-section (1) shall be in writing and shall be signed by the Chief Engineer and sealed with the common seal of the Authority.

(4) The common seal of the authority shall be in the custody of the Chief Engineer who shall personally affix the seal to any contract or instrument.

(5) The acceptance of any tender shall be subject to such rules as may be prescribed.

(6) A contract not made or executed as provided in this section and the rules made thereunder shall be null and void and shall not be binding on the Authority.

**12E. Appointment of Chief Engineer.-** (1) The Government shall appoint an officer not below the rank of a Chief Engineer to be the Chief Engineer of the Authority.

(2) The Chief Engineer shall receive such monthly salary and other allowances as the Government may from time to time, determine.

(3) The Government may, from time to time, grant leave of absence for such period as it thinks fit to the Chief Engineer. A copy of every order granting such leave shall be communicated to the Chairman.

**12F. Powers and duties of Chief Engineer.-** (1) The Chief Engineer shall be the Chief Executive and Administrative Officer of the Authority.

(2) The Chief Engineer shall, in addition to performing such functions as are conferred on him by or under this Act or under any law for the time being in force,-

- (a) carry into effect the resolutions of the Authority ;
- (b) keep and conduct the Authority's correspondence ;
- (c) carry out and execute such schemes and works as the Government may direct and incur necessary expenditure therefor ;
- (d) be responsible for implementing the schemes of the Authority ;
- (e) operate the accounts of the Authority and be responsible for the maintenance of the accounts of the Authority ;
- (f) exercise supervision and control over the accounts and proceedings of all officers and servants of the Authority in matters of executive administration and in the matters concerning the accounts and records of the authority and exercise the powers of the Chairman under sub-section (1) of section 54 relating to the officers and servants of the Authority;
- (g) furnish to the Government a copy of the minutes of the Authority's proceedings and any return or other information which the Government may, from time to time, call for ;
- (h) authenticate by his signature all permissions, orders, decisions, notices and other documents of the Authority and the orders of the Chairman; and
- (i) have all the powers of a major Head of the Department of the State Government under the Karnataka State Civil Services Rules for the time being in force as respects the officers and servants of the Authority.

**12G. Powers to remove difficulties.-** (1) Notwithstanding anything contained in this Act, if any difficulty arises in giving effect to the provisions of this Act in its application to the Authority, the Government may, by order, make such modifications to the Act or to any rule or bye-law made thereunder as it may consider necessary to remove such difficulty.

(2) Every order made under sub-section (1) shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions, both Houses agree in making any modification to the order or the annulment of the order, the order, shall, with effect from the date on which the modification or annulment

is notified by the Government in the official Gazette, 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 done under such order.]<sup>1</sup>

1. Chapter IIA Inserted by Act 13 of 1985 w.e.f. 10.10.1984.

### CHAPTER III

#### DUTIES AND POWERS

**13. Power of Board to undertake works and incur expenditure for development, improvements, etc.-** (1) The Board may, subject to the control of the Government,-

(a) draw up detailed schemes (hereinafter referred to as development schemes or Improvement Schemes) for the development or improvement or both of the areas within its limits; and

(b) undertake and execute any such Development Schemes or Improvement Schemes as may be necessary from time to time and incur expenditure therefor.

(2) The Board may also from time to time make any new or additional development schemes or Improvement Schemes,-

(i) on its own initiative from its resources; or

(ii) at the request of the local authority concerned, if such local authority places at the disposal of the Board the necessary funds for framing and carrying out any such schemes:

Provided that the schemes of the Board referred to in clause (a) of sub-section (1) and in this sub-section shall be prepared in conformity with the Outline Development Plan or Comprehensive Development Plan, if any, of the Planning Authority of the area concerned.

(3) Notwithstanding anything contained in sub-sections (1) and (2) but subject to conformity with the Outline Development or Comprehensive Development Plans referred to in sub-section (2), the Government may, when it deems necessary, require the Board to take up any Development Scheme or Improvement Scheme or work and execute it in accordance with such terms and conditions as may be specified by the Government.

**14. Particulars to be provided for in a development scheme or Improvement Scheme.-** Every development scheme or improvement scheme under section 13,-

(1) shall, within the limits of the area comprised in the scheme, provide for,-

(a) acquisition of any land which, in the opinion of the Board, is necessary for the execution of the scheme; and

(b) laying or re-laying out of all or any land including the construction and reconstruction of buildings and the formation and alteration of streets;

(2) may, within the limits aforesaid, provide for,-

(a) raising any land which the Board may deem expedient to raise for the better drainage of the locality;

(b) forming open spaces for the better ventilation of the area comprised in the scheme or any adjoining area;

(c) the whole or any part of the sanitary arrangements required;

(d) sites for parks, playgrounds, stadium, recreation grounds, school buildings, markets, motor vehicles stands, theatres, police stations, post offices, co-operative

societies, public urinals and latrines, petrol service stations, hospitals, dispensaries, banks, burial and cremation grounds and sites for public purposes of other kinds;

(3) may, within the limits aforesaid, provide for the construction of houses for the accommodation of the persons to be displaced in the execution of the scheme and such accommodation shall be deemed to include shops.

**15. Procedure after preparation of the scheme.-** (1) When any development scheme or improvement scheme has been prepared, the Board shall prepare a draft of a notification stating the fact of a scheme having been made and naming a place where the particulars of the scheme, a map of the area comprised therein and a statement specifying the land which it is proposed to acquire and of the land in regard to which it is proposed to recover a betterment tax may be seen at all reasonable hours and shall,-

(a) communicate a copy of such notification to the local authority concerned which shall, within sixty days from the date of receipt thereof, forward to the Board, for transmission to the Government as hereinafter provided, any representations which the local authority may think fit to make with regard to the scheme; and

(b) cause a copy of the said notification to be published in the official Gazette and affixed in some conspicuous part of the Board's office, the Deputy Commissioner's office, the office of the local authority concerned and in such other places as the Board may consider necessary.

(2) If no representations is received from the local authority within the time specified in the communication under clause (a) of sub-section (1), the concurrence of the local authority to the proposal shall be deemed to have been given.

(3) During the thirty days next following the day on which such notification is published in the official Gazette, the Board shall serve a notice on every person whose name appears in the assessment list of the local authority within the local limits of whose jurisdiction the area comprised in the scheme is situated or in the land revenue register as being primarily liable to pay the property tax or land revenue assessment on any building or land which it is proposed to acquire in executing the scheme requiring such person to show cause within thirty days why such acquisition of the building or the land and the recovery of the betterment tax as specified in the notice should not be made.

**16. Forwardal of scheme.-** (1) Upon compliance with the foregoing provisions with respect to the publication and service of notices of the Scheme, the Board shall, after consideration of any representation received under section 15 and after making such modifications in the scheme as it may deem fit, apply to the Government for sanction to the scheme.

(2) The application for sanction shall, save in the case provided for by sub-section (3), be accompanied, by,-

(a) a description with full particulars of the scheme including the reasons for any modifications made therein;

(b) complete plans and estimates of the cost of executing the scheme;

(c) a statement specifying the land proposed to be acquired;

(d) any representation received under sub-section (1) of section 15;

(e) a schedule showing the rateable value, entered in the assessment list of the local authority at the date of the publication of a notification relating to the land under

section 15, or the land revenue assessment of all land specified in the statement under clause (c); and

(f) such further particulars, if any, as may be prescribed.

(3) When under any development scheme or improvement scheme provision is made for the construction of houses the Board may, after complying with the provisions of section 15, submit to the Government for sanction plans and estimates for the construction of such houses and on receipt of such sanction the provisions of section 17 shall, with all necessary modifications be applicable to the part of the scheme providing for the construction of such houses, as if such part were the scheme.

**17. Sanction to scheme and republication in case of modification.-** (1) The Government may sanction either with or without modification or may refuse to sanction or may return for reconsideration, a development scheme or improvement scheme submitted to it under section 16.

(2) If a scheme returned for reconsideration under sub-section (1) is modified by the Board, the Board shall, if the modification affects the boundaries of the area comprised in the scheme or involves the acquisition of any land not previously proposed to be acquired, publish the modified scheme in the manner specified in section 15.

**18. Upon sanction, declaration to be published giving particulars of land to be acquired.-** (1) Upon sanction of the scheme, the Government shall publish in the official Gazette a declaration stating the fact of such sanction and that the land proposed to be acquired by the Board for the purposes of the scheme is required for a public purpose.

(2) The declaration shall state the limits within which the land proposed to be acquired is situated, the purpose for which it is needed, its approximate area and the place where a plan of the land may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose, and the Board shall, upon the publication of the said declaration proceed to execute the scheme.

(4) If at any time it appears to the Board that an improvement can be made in any part of the scheme, the Board may alter the scheme for the purpose of making such improvement and shall subject to the provisions of sub-sections (5) and (6) forthwith proceed to execute the scheme as altered.

(5) If the estimated cost of executing the scheme as altered exceed, by a greater sum than five per cent of the estimated cost of executing the scheme as sanctioned, the Board shall not, without the previous sanction of the Government, proceed to execute the scheme as altered.

(6) If the scheme as altered involves the acquisition otherwise than by agreement, of any land other than that specified in the Schedule referred to in clause (e) of sub-section (2) of section 16 the provisions of sections 15 and 16 and of sub-section (1) of this section shall apply to the part of the scheme so altered, in the same manner as if such altered part were the scheme.

**19. Levy of betterment tax.-** (1) Where as a consequence of execution of any development or improvement scheme, the market value of any land in the area comprised in the scheme which is not required for the execution thereof has, in the opinion of the Board, increased or will increase, the Board shall be entitled to levy on the

owner of the land or any person having an interest therein a betterment tax in respect of the increase in value of the land resulting, from the execution of such 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 buildings, exceeds the value of the land prior to the execution of the scheme estimated in like manner, and the betterment tax shall be one-third of such increase in value.

**20. Assessment of betterment tax by the Board.-** (1) When it appears to the Board that any development or improvement scheme is sufficiently advanced to enable the amount of the betterment tax to be determined, the Board may, by an order made in this behalf, declare that for the purpose of determining the betterment tax the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to the owner of the property or any person having an interest therein that the Board proposes to assess the amount of the betterment tax in respect of the property under section 19.

(2) The Board shall then assess the amount of betterment tax payable by the person concerned after giving such person an opportunity of being heard and such person shall, within sixty days from the date of receipt of the notice in writing of such assessment from the Board, inform the Board in writing whether or not he accepts the assessment.

(3) When the assessment proposed by the Board is accepted by the person concerned within the period specified in sub-section (2) such assessment shall be final.

(4) If the person concerned does not accept the assessment or fails to give the Board the information required by sub-section (2) within the period specified therein the Board shall make a reference to the District Court for determining the betterment tax payable by such person.

**21. Manner of payment of betterment tax.-** The betterment tax determined under section 20 shall be paid within such time and in such number of instalments not exceeding ten as may be specified by the Board together with interest at such rates as may be prescribed.

**22. Recovery of betterment tax.-** Where any person liable to pay betterment tax fails to pay the same within the time specified by the Board or makes default in payment of two consecutive instalments or any three instalments, the Board shall be entitled to recover the whole of the amount due together with interest from the said person or his successor-in-interest in such land in the manner provided in Chapter VII of the Karnataka Municipalities Act, 1964, for the recovery of taxes and if the said money is not so recovered, the Chairman may, after giving public notice of his intention to do so, and not less than one month after the publication of such notice sell the land or the interest of the said person or his successor-in-interest in such land by public auction and may deduct the said money and the expenses of the sale from the proceeds of the sale and shall pay the balance (if any) to the defaulter.

**23. Payment no bar for acquisition under a fresh declaration.-** If any land, in respect of which the payment of a betterment tax has been accepted or determined under section 20 be subsequently required for any of the purposes of this Act, the acceptance or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act, 1894.

**24. Power of Board to take up works for further development.-** Notwithstanding anything contained in this Act, the Board may, with the previous sanction of the Government, take up such works in regard to any area as the Board considers necessary or desirable for the further development of that area.

**25. Crediting betterment tax collected to the funds of the local authority in certain cases.-** Where the increase in value of any land is as a result of the execution of a development or improvement scheme made at the request of a local authority and for which the local authority has placed at the disposal of the Board necessary funds, the betterment tax collected by the Board from the person concerned shall, after deducting ten percent thereof as collection charges, be credited by the Board to the local authority.

**26. Board to execute schemes within three years.-** The Board shall execute a development scheme or an improvement scheme within a period of three years from the date of sanction of the Scheme :

Provided that the Government may, by order, extend the time for execution.

## CHAPTER IV

### GENERAL

**27. Land vested in a local authority and required by the Board for formation or alteration of street to be vested temporarily in the Board.-** Whenever under any development or improvement scheme, the whole or any part of any existing public street or other land vested in a local authority is included in the site of any part of a street to be formed, altered widened, diverted, raised, re-arranged or reconstructed by the Board, the Board shall give notice to the local authority concerned that the whole or a part, as the case may be, of such existing street or other land (hereinafter called the "part required") is required by it as part of a street to be dealt with as aforesaid, and the part required shall, thereupon subject to the provisions of sub-section (1) of section 29, be vested in the Board.

**28. Board to exercise powers and functions of local authorities.-** (1) In any urban area or part thereof to which this Act applies, the Government may, by notification, declare that from such date and for such period and subject to such restrictions and modifications, if any, as may be specified in the notification, the powers and functions of the local authority or a standing committee thereof shall be exercised and discharged by the Board:

Provided that the local authority shall be consulted before making such declaration, if such area or part thereof lies within the limits of the local authority.

(2) On the making of a declaration under sub-section (1), notwithstanding anything contained in any other law for the time being in force, the local authority or any standing committee or officer thereof shall not be competent to exercise or discharge the powers or functions conferred or imposed on the Board by such declaration.

(3) The Board may delegate any of the functions exercisable by it under sub-section (1) to any officer or servant of the Board.

(4) The exercise or discharge of any of the powers or functions delegated under sub-section (3), shall be subject to such limitations, conditions and control as may be laid down by the Board.

**29. Streets on completion and open spaces to vest in and be maintained by the local authority.-** (1) The Government, after consulting the local authority and on being satisfied that any street formed by the Board has been duly levelled, paved, metalled, flagged, channelled, drained and sewered in the manner provided for in the plans of any Scheme sanctioned by the Government and that such lamps, lamp-posts and other apparatus as are, in its opinion, necessary for the lighting thereof and should be provided by the Board have been so provided shall declare such street to be a public street, and such street shall thereupon vest or re-vest, as the case may be, in the local authority and the local authority shall thenceforward maintain, keep in repair, light and cleanse such street. If the local authority concerned does not reply within sixty days when it is consulted by the Government, its concurrence shall be deemed to have been given.

(2) Any open space reserved for ventilation and the areas reserved for motor parks, playgrounds, public urinals and latrines, burial and cremation grounds in any part of the area within the jurisdiction of the local authority and provided by the Board as part of any development scheme or improvement scheme sanctioned by the Government shall be transferred on completion to the local authority and shall there upon vest in the local authority.

(3) Any dispute which arises between the Board and the local authority in regard to interpreting or implementing the provisions of this section shall be determined by the Government, whose decision shall be final.

**30. Board not to sell or otherwise dispose of sites in certain cases.-** The Board shall not sell or otherwise dispose of any sites for the purpose of constructing buildings thereon for the accommodation of persons until all the improvements specified to section 29 have been substantially provided for.

**31. Forming of new extensions or layouts or making new private streets.-** (1) Notwithstanding anything to the contrary in any law for the time being in force, no person shall form or attempt to form any extension or layout for the purpose of constructing buildings thereon without the express sanction in writing of the Board and except in accordance with such conditions as the Board may specify :

Provided that where any such extension or layout lies within the limits of a local authority, the Board shall not sanction the formation of such extension or layout without the concurrence of the local authority. The concurrence of the local authority shall be deemed to have been given if it fails to convey its opinion within sixty days after it is consulted :

Provided further that where the local authority and the Board do not agree on the formation of, or the conditions relating to the execution or layout, the matter shall be referred to the Government whose decision thereon shall be final.

(2) Any person intending to form an extension or layout or to make a new private street shall send to the Chairman, a written application with plans and estimates showing such particulars, as may be prescribed by bye-laws made by the Board.

(3) The provisions of this Act and of any rules or bye-laws made under it as to the level and width of streets and the height of buildings abutting thereon, shall apply also in the case of streets referred to in that sub-section shall be subject to the approval of the Board.

(4) Within six months after the receipt of any application under sub-section (2), the Board shall sanction the forming of the extension or layout or the making of streets on such conditions as it may think fit or disallow it or ask for further information with regard to it.

(5) The Board may require the applicant to deposit, before sanctioning the application, the amount necessary for meeting the expenditure for making roads, side-drains, culverts, under-ground drainage and water supply and lighting and the charges for such other purposes as the applicant may be called upon by the Board to deposit, provided he agrees to transfer the ownership of the roads, drains, water supply mains and open spaces laid out by him to the Board permanently without claiming any compensation therefor.

(6) Such sanction may be refused,-

(i) if the proposed street would conflict with any arrangements which have been made or which are, in the opinion of the Board likely to be made, for carrying out any general scheme of street improvement or other schemes of improvement or development by the Board ;

(ii) if the proposed street does not conform to the provisions of this Act, and the rules and bye-laws made under it ;

(iii) if the proposed street is not designed so as to connect at one end with a street which is already open ; or

(iv) if the layout, in the opinion of the Board, cannot be fitted with any existing or proposed development or improvement schemes of the Board.

(7) No person shall form a layout or make any new private street without the sanction of or otherwise than in conformity with the conditions imposed in this behalf by the Board. If the Board requires further information from the applicant, no steps shall be taken by him to form the layout or make the street until orders have been passed by the Board after the receipt of such information:

Provided that the passing of such orders shall not, in any case, be delayed for more than six months after the Board has received all the information which it considers necessary to enable it to deal finally with the said application.

(8) If the Board does not refuse sanction within six months from the date of receipt of the application under sub-section (2) or when information is called for under sub-section (7), within six months from the date such information is furnished, such sanctions shall be deemed to have been granted and the applicant may proceed to form the extension or layout or to make the street but not so as to contravene any of the provisions of this Act and the rules or bye-laws made under it.

(9) Every extension or layout for the formation of which sanction is granted or deemed to have been granted under this section shall be in conformity with the Outline Development Plan or the Comprehensive Development Plan, if any, of the Planning Authority.

(10) Any person who forms or attempts to form any extension or layout in contravention of the provisions of sub-section (1) or sub-section (2) or makes any street without or otherwise than in conformity with the orders of the Board under sub section (7) shall be liable, on conviction, to fine which may extend to one thousand rupees.

**32. Alteration or demolition of extension, layout or street.-** (1) If any person forms an extension or layout or makes any street referred to in section 31 or puts up any building without or otherwise than in conformity with the orders of the Board under the said section, the Board may, whether or not such person be prosecuted under this Act, by notice,-

(a) require him to show sufficient cause by a written statement signed by him and sent to the Board on or before such day as may be specified in the notice, why such extension, layout or street should not be altered to the satisfaction of the Board or if such alteration be deemed impracticable by the Board, why such extension, layout or street should not be demolished, or

(b) require him to appear before the Board either personally or by a duly authorised agent on such day and at such time and place as may be specified in the notice and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause to the satisfaction of the Board why such extension, layout or street should not be so altered or demolished, the Board, may for reasons to be recorded in writing direct the alteration or demolition of such extension, lay-out or street.

(3) If any person fails to comply with any direction issued under sub-section (2) the Board may carry out the direction and recover the cost incurred therefor from such person as if it were arrears of land revenue.

**1[32A. Prohibition of unauthorised occupation of land.-** (1) Any person who unauthorisedly enters upon and uses or occupies any land belonging to the Board to the use or occupation of which he is not entitled or has ceased to be entitled, shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees.

(2) Any person who having unauthorisedly occupied, whether before or after the commencement of the Karnataka Municipal Corporations and Certain other Laws (Amendment) Act, 1984 any land belonging to the Board to the use or occupation of which he is not entitled or has ceased to be entitled, fails to vacate such land in pursuance of an order under sub-section (1) of section 5 of the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974 (Karnataka Act 32 of 1974), shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees and with a further fine which may extend to fifty rupees per acre of land or part thereof for every day on which the occupation continues after the date of the first conviction for such offence.

(3) Whoever intentionally aids or abets the commission by any other person of an offence punishable under sub-section (1) or sub-section (2) shall, on conviction, be punishable with the same punishment provided for such offence under the said sub-sections.]<sup>1</sup>

1. Section 32A Inserted by Act 34 of 1984 w.e.f. 26.6.1984.

**33. Power of Board to order work to be carried out or to carry it out itself in default.-** (1) The Board may,-

(a) if any person permitted to carry out the work relating to the forming of the extension or lay-out or the making of a street, does not carry it out ; or

(b) if any private street or part thereof is not levelled, paved, metalled, flagged, channelled, sewerred, conserved or lighted to the satisfaction of the Board, by notice, require the person forming the extension or lay-out or the owners of such street or part and the owners of buildings and lands abutting such street or part, including in cases where the owners of the land or the building thereon are different the owners both of the land and of the building, to carry out any work which, in its opinion, may be necessary and within such time as may be specified in such notice.

(2) If any such work is not carried out within the time specified in the notice under sub-section (1), the Board may, if it thinks fit, execute it and the expenses incurred shall be paid by the persons or owners referred to in sub-section (1) in such proportions as may be determined by the Board, such expenses may be recovered from the persons concerned as if they were arrears of land revenue.

## CHAPTER V

### ACQUISITION OF LAND

**34. Board to have power to acquire land by agreement.-** Subject to the provisions of this Act and with the previous approval of the Government the Board may enter into an agreement with the owner of any land or any interest therein whether situated within or without the urban area for the purchase or lease of such land or interest therein for the purpose of this Act:

<sup>1</sup>[Provided that the Board may enter into an agreement with the previous approval of the Deputy Commissioner of the district where the total area of such land does not exceed five hectares and of the Divisional Commissioner of the division where the total area of such land exceeds five hectares but does not exceed ten hectares.]<sup>1</sup>

1. Inserted by Act 19 of 1984 w.e.f. 21.4.1984.

**35. Provisions applicable to the acquisition of land otherwise than by agreement.-** (1) The acquisition otherwise than by agreement of land within or without the urban area under this Act shall be regulated by the provisions, so far as they are applicable, of the Land Acquisition Act, 1894.

(2) For the purpose of sub-section (2) of section 50 of the Land Acquisition Act, 1894, the Board shall be deemed to be the local authority concerned.

(3) After the land vests in the Government under section 16 of the Land Acquisition Act, 1894 the Deputy Commissioner shall, upon payment of the cost of the acquisition, and upon the Board agreeing to pay any further costs which may be incurred on account of the acquisition, transfer the land to the Board, and the land shall thereupon vest in the Board.

## CHAPTER VI

### PROPERTY AND FINANCE

**36. Power of Government to transfer to Board lands belonging to it or to a local authority.-** (1) The Government may, by notification, for the purposes of this Act and subject to such limitations and conditions as it may impose and to the provisions hereinafter contained, transfer to and vest in the Board any land belonging to Government or to a local authority.

(2) No land belonging to a local authority shall be vested in the Board under sub-section (1) except after consulting such local authority.

(3) Whenever it appears to the Government that any land vested in the Board under sub-section (1) is not required by the Board for purposes of this Act or any other land vesting in the Board is required by the Government or local authority, the Government may, by notification, direct that the land shall revert in or stand transferred to the Government or the local authority concerned, as the case may be.

**37. Power of Board to lease, sell or transfer property.-** Subject to such restrictions, conditions and limitations as may be prescribed, the Board shall have power to lease, sell or otherwise transfer any movable or immovable property which belongs to it, and to appropriate or apply any land vested in or acquired by it for the formation of open spaces or for building purposes or in any other manner for the purpose of any development scheme.

**[37A. Power of the Bagalkot Town Development Authority to make bulk allotment.-** Notwithstanding anything contained in this Act or development scheme sanctioned under this Act, the Bagalkot Town Development Authority may, subject to any restriction, condition and limitation as may be prescribed, make bulk allotment by way of sale, lease or otherwise of any land which belongs to it or is vested in, or acquired by it, for the purpose of any development scheme,-

- (i) to the State Government; or
- (ii) to the Central Government; or
- (iii) to any Corporation, Body or Organisation owned or controlled by the Central Government or the State Government; or
- (iv) to any Housing Co-operative Society registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959); or
- (v) to any society registered under the Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960); or
- (vi) to a trust create wholly for the charitable, educational or religious purpose;

Provided that prior approval of the Government shall be obtained for allotment of land to any category listed above except category (i)]<sup>1</sup>

1. Section 37A Inserted by Act 12 of 2001 w.e.f. 11.4.2001.

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

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

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

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

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

**39. Board Fund, the items to be credited to such Fund and its deposit.-** (1) The Board shall have and maintain its own Fund to which shall be credited,-

(a) all moneys received by the Board from the Government by way of grants, loans, advances or otherwise;

(b) all fees, fines and charges received by the Board under this Act;

(c) all moneys received by the Board from the disposal of lands, buildings or other property movable or immovable;

(d) all moneys received by the Board by way of rents and profits or in any other manner from any other source.

(2) The Fund shall be applied by the Board in the administration of this Act and for no other purposes.

(3) The Board shall keep such sum of money out of its Fund as may be prescribed in the Government Treasury and any money in excess of it shall be deposited in a Scheduled Bank or invested in such manner as may be approved by the Government.

**40. Laying of annual estimate of income and expenditure.-** (1) The Chairman shall, at a special meeting to be held not later than the first day of February in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the first day of April then next ensuing in such detail and form as the Board shall, from time to time, direct.

(2) Such estimate shall make provision for the efficient administration of this Act and a copy of the estimate shall be sent by post or otherwise to each member of the Board at least ten clear days prior to the date of the meeting.

**41. Board to approve or amend such estimates.-** The Board shall consider the estimate so submitted to it and shall approve the same either unaltered or subject to such alterations as it thinks fit.

**42. Estimates to be submitted to Government for sanction.-** The estimate, as approved by the Board shall be submitted to the Government which may either sanction or disallow such estimate or any portion thereof and return the same for amendment. The Board shall forthwith amend the estimate so returned and shall re-submit the amended estimate to the Government. A copy of the estimate as sanctioned by the Government shall be sent to the local authorities concerned.

**43. Supplementary estimates may be prepared and submitted when necessary.-** The Board may, at any time during the year for which any estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to it. Every such supplementary estimate shall be considered and approved by the Board and submitted to the Government for sanction and a copy of the estimate as sanctioned shall be sent to the local authority concerned, in the same manner as if it were an original annual estimate.

**44. Provisions regarding expenditure.-** No sum shall be expended by or on behalf of the Board, unless included in the estimate or a supplementary estimate :

Provided that an expenditure not exceeding twenty-five thousand rupees may be incurred, though not so included, in unforeseen circumstances or to satisfy a decree of a court and in such a case the Chairman shall make a report, as soon as practicable, to the Government indicating the circumstances in which the expenditure was incurred and the source from which it is proposed to be met :

Provided further that any such expenditure shall be included in a supplementary estimate to be approved and sanctioned in the manner laid down in section 43.

**45. Power to make reappropriation.-** Subject to such rules as may be made under this Act, the Board may within the sanctioned budget make reappropriations from one sub-head to another or from one minor head to another minor head under the same major head of account.

**46. Audit of Accounts.-** (1) The accounts of the Board shall be audited annually by an auditor appointed by the Government.

(2) The auditor shall, for the purpose of the audit, have access to all the accounts and other records of the Board.

(3) The Board shall pay from its fund such charges for the audit as may be prescribed.

**47. Power of auditor to require production of documents and attendance of persons concerned.-** (1) The Auditor may,-

(a) require in writing the production of such vouchers, statement, returns, correspondence, notes or other documents in relation to the accounts as he may think fit;

(b) require in writing any salaried servant of the Board accountable for or having the custody or control of such vouchers, statements, returns, correspondence, notes or other documents or of any property of the Board or any person having directly or indirectly by himself or his partner, any share or interest in any contract with or under the Board to appear in person before him at the Board office and answer any question ;

(c) in the event of a clarification being required on any specific point from the Chairman or any officer or member in writing, require such person to furnish the clarification on such point.

(2) The auditor may, in any requisition made under sub-section (1) fix a reasonable period not being less than three days within which the said requisition shall be complied with.

(3) The auditor shall give to the Board not less than two weeks' notice in writing of the date on which he proposes to commence the audit :

Provided that notwithstanding anything contained in the sub-section, the auditor may, for special reasons which shall be recorded in writing, give shorter notice than two weeks or commence a special or detailed audit if so directed by the Government without giving notice.

**48. Penalty for disobeying requisition under section 47.-** Any person who wilfully neglects or refuses to comply with any requisition lawfully made upon him under clauses (a), (b) or (c) of sub-section (1) of section 47 shall, on conviction, be punished with fine which may extend to two hundred rupees:

Provided that no proceedings under this section shall be instituted except with the sanction of the Government or such other officer as the Government may authorise in this behalf :

Provided further that before giving such sanction the Government or the authorised officer shall call upon the person against whom the proceedings are to be instituted to show cause why the sanction should not be given.

**49. Audit Report.-** (1) The auditor shall include in his report a statement of,-

- (a) every payment which appears to him to be contrary to law;
- (b) the amount of any deficiency or loss which appears to have been caused by the gross negligence or misconduct of any person;
- (c) the amount of any sum received which ought to have been but is not brought into account by any person, and
- (d) any material impropriety or irregularity which he may observe in the accounts other than those mentioned in clauses (a), (b) and (c).

(2) Within three months after the completion of the audit, the auditor shall send a report on the accounts audited and examined to the Board.

**50. Board to remedy defects.-** (1) Within two months of the receipt of the report under section 49, the Chairman shall place it before a meeting of the Board together with a statement of the action taken or proposed to be taken to remedy any defect or irregularity that may have been pointed out in such report and an explanation in regard thereto and shall with the approval of the Board, remedy the defects or irregularities. He shall also as soon as may be, after the decision of the Board send to the Controller, State Accounts Department, intimation of having remedied the defects or irregularities pointed out in the report, or shall, within the said period, supply the Controller any further explanation in regard to such defects or irregularities as the Board may decide to give.

(2) On receipt of such intimation or explanation the Controller may,-

- (a) accept the explanation given by the Board and withdraw the objection;
- (b) direct that the matter be re-investigated at the next audit or at any earlier date; or
- (c) hold that the defects or irregularities have not been removed or remedied.

(3) The Controller, shall send a report to the Government and shall forward a copy of such report to the Chairman. The Controller shall state in the report whether in his opinion the defects or irregularities have or have not been removed or remedied and indicate whether the defects or irregularities can be regularised or whether they can be condoned. He shall also state whether the amounts to which the defects or irregularities relate should, in his opinion, be surcharged or charged. <sup>1</sup>[The audited accounts and the report shall be laid before each House of the State Legislature as soon as may be, after it is received by the Government.]<sup>1</sup>

1. Inserted by Act 13 of 1985 w.e.f. 10.10.1984.

(4) The Board shall include in its next administration report such portions of the report under section 49 as deal with defects and irregularities falling under clause (c) of sub-section (2), the explanation if any, given under sub-section (1) and the final report of the Controller thereon under sub-section (3).

(5) Nothing in this section shall preclude the Controller, at any time from bringing to the notice of the Government any matter which appears to him to involve criminal misappropriation or fraud or deserves special attention or immediate investigation.

**51. Government to surcharge or charge illegal payment or loss caused by negligence or misconduct.-** (1) The Government may, after considering the report of the Controller and after taking the explanation of the person concerned or making such

further enquiry as it may consider necessary, by order disallow any item which appears to it to be contrary to law and surcharge the same on the person making or authorising the making of the illegal payment; and may charge any person responsible therefor the amount of any deficiency or loss caused by the negligence or misconduct of that person, or any such amount received which ought to have been, but is not brought into account by that person and shall, in every such case, certify the amount due from such person.

(2) The Government shall state in writing the reason for its decision in respect of every surcharge or charge and shall send by registered post a copy thereof to the person against whom it is made.

(3) If a person to whom a copy of the Government decision is sent under sub-section (2) refuses to take delivery thereof he shall be deemed to have duly received it on the day on which it was refused by him.

**52. Recovery of surcharge and charge how made.-** (1) The amount surcharged or charged shall be paid by the person concerned within one month from the date of communication of the order under section 51, into the treasury or bank holding the funds of the Board.

(2) The said sum, if not so paid, shall be recovered as arrears of land revenue.

## CHAPTER VII

### OFFICERS AND SERVANTS OF THE BOARD

**53. Schedule of officers and servants to be submitted for sanction of Government.-** The Board shall, from time to time, prepare and submit for the sanction of the Government a schedule of the staff of officers and servants whom it may consider necessary and proper to employ for its purposes. Such schedule shall also set forth the amount and nature of the salaries and allowances which the Board proposes for each such officer or servant. No alteration in the sanctioned schedule shall be made without prior sanction of the Government.

**54. Appointments by whom to be made.-** (1) Subject to the provisions of section 365 of the Karnataka Municipalities Act, 1964 (Karnataka Act 22 of 1964), the rules and bye-laws made under this Act and of the schedule for the time being in force sanctioned by the Government under section 53 the powers of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board (not being officers of the Government lent to or working under the Board) shall be exercised, in the case of officers and servants whose monthly salary does not exceed two hundred and fifty rupees by the Chairman and in every other case by the Board :

Provided that in the case of officers of the Government lent to the Board, the Chairman may exercise the powers of granting leave and sanctioning increments and after following the prescribed procedure, of withholding increments and shall report the fact to the Head of the Department to which such officer belongs.

**Explanation.-** For purposes of section 365 of the Karnataka Municipalities Act, 1964, the Board shall be deemed to be a local authority.

(2) The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's misconduct or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance shall, subject to the aforesaid provisions, be exercised only by the Board.

(3) Any party aggrieved by an order of the Board under sub-section (2) may appeal to the Government within thirty days of the order.

## **CHAPTER VIII**

### **CONTROL**

**55. Control by Government.-** The Board shall carry out such directions as may be issued to it from time to time by the Government under the provisions of the Act for the efficient administration of the Board and its affairs.

**56. Action in case of defaults by Board.-** If the Board fails to carry out any direction issued under section 55 within the period, if any, fixed in such direction, the Government may make arrangements to take such action and recover all expenses connected therewith from out of the Board's Fund.

**57. Power to cancel or modify order, etc.-** If in the opinion of the Government the execution of any order or resolution of the Board or the doing of anything which is about to be done or being done by or on behalf of the Board is unjust, unlawful or improper or is causing or is likely to cause loss or damage to or prejudice to the interests of the Board or is causing or likely to cause injury or annoyance to the public or breach of the peace, the Government may, by order, cancel or modify such order or resolution or pass such other order as it deems fit :

Provided that before passing an order under this section, the Government shall give the Board an opportunity of making representation against the proposed order :

Provided further that pending action under this section, the Government may direct the stay of the execution of any order or resolution of the Board or the doing of anything by or on behalf of the Board subject to such conditions as it may think fit.

**58. Supersession of the Board.-** (1) If the Government is satisfied that the Board has made default in performing any duties imposed on it by or under this Act or any other law or has abused its power or is acting in a manner prejudicial to the interests of the Board or its finances the Government may by notification, supersede and reconstitute the Board:

Provided that before issuing the notification under this sub-section the Government shall give an opportunity to the Board to make a representation why it should not be superseded and shall consider the representation, if any, made.

(2) After the supersession of the Board and until it is reconstituted, the powers, duties and functions of the Board shall be exercised by such officer or officers as the Government may appoint.

**59. Dissolution of the Board.-** (1) Where the Government is satisfied that the purpose for which the Board was established has been substantially achieved so as to render the existence of the Board unnecessary, it may, by order published in the official Gazette, declare that the Board shall be dissolved with effect from such date as may be specified in the order and thereupon the Board shall be deemed to be dissolved accordingly.

(2) From the said date,-

(a) all properties, funds, dues which are vested in or releasible by the Board shall vest in or be releasible by the local authority concerned ;

(b) all Government lands placed at the disposal of the Board shall revert to the Government;

(c) all liabilities which are enforceable against the Board shall be enforceable against the local authority concerned; and

(d) for the purpose of carrying out any development which has not been fully carried out by the Board and for the purpose of realising the properties, funds and dues referred to in clause (a), the functions of the Board shall be discharged by the local authority concerned.

(3) When the Board is dissolved under sub-section (1), the Government may pass such orders as it deems necessary in respect of the officers and servants of the Board.

**60. Penalty for being interested in contracts with the Board.-** If any member or officer or servant of the Board knowingly acquires, directly or indirectly by himself or by a partner, employer or servant, any share or interest in any contract or employment with, by or on behalf of the Board, he shall be deemed to have committed the offence under section 168 of the Indian Penal Code :

Provided that a person shall not be deemed to have any share or interest, in such contract or employment by reason only of his having a share or interest if any, in any newspaper in which any advertisement relating to the affairs of the Board is inserted.

**61. Members and officers to be public servants.-** Every member and every officer or other employee of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

**62. Sanction of prosecutions.-** No court shall take cognizance of an offence under this Act, the rules or bye-laws made thereunder except on the complaint made with the previous sanction of the Board by such officer as the Board may authorise in this behalf.

**63. Fines to be credited to Board Fund.-** All fines recovered under this Act by or under the order of a court shall be paid to the credit of the Board Fund.

**64. Recovery of sums due.-** Save as otherwise provided in section 22 all sums due by any person to the Board on account of sale proceeds of property vested in or acquired by the Board or otherwise howsoever and remaining in arrears after fifteen days from the date of service on such person of a notice of demand may be recovered in any one or more of the following ways, namely:-

(1) by distraint and sale, by or under the orders of the Board, of the movable property of such person ; and

(2) as arrears of land revenue, on the written application of the Board in this behalf to the Deputy Commissioner of the district in which proceedings are required to be taken.

**65. Protection of action taken in good faith.-** No suit, prosecution or other legal proceedings shall lie against the Board, the Chairman, member, officer or servant of the Board or any person acting under the orders or directions of the Board for anything which is in good faith done or intended to be done under this Act or any rule or bye-law made thereunder.

**66. Service of notice.-** Save as otherwise provided any notice or order issued or made under this Act shall be served in the prescribed manner.

**67. Offences by companies.-** (1) Where an offence under this Act is committed by a company, the company as well as every person in charge of and responsible to the

company for the conduct of its business at the time of the commission of the offence, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.-** For the purpose of this section,-

(a) 'company' means a body corporate and includes a firm or other association of individuals ; and

(b) 'director' in relation to a firm means a partner in the firm.

**68. Effect of other laws.-** (1) Save as provided in this Act the provisions of this Act shall be in addition to and not in derogation of any other law.

(2) Where a Board is constituted for and is functioning in any urban area the provisions contained in Chapter VIII of the Karnataka Municipalities Act, 1964 (Karnataka Act 22 of 1964), shall not be applicable to such area.

## CHAPTER IX

### MISCELLANEOUS

**69. Rules.-** (1) The Government may, by notification and after previous publication, make rules to carry 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 matters, namely:-

(a) allowances payable to the Chairman and non-official members;

(b) the manner and form in which any contract of the Board may be executed under section 11;

(c) the further particulars to be furnished in the application for sanction of a scheme under section 16;

(d) the manner of payment of betterment tax;

(e) the procedure, conditions and restrictions subject to which and the form in which the Board may let on hire, lease, sell or otherwise convey any movable or immovable property;

(f) the amount of money to be kept by the Board in the Government Treasury;

(g) the form in which, and the time within which, the budget estimates of the Board shall be prepared and submitted to the Government;

(h) any other matter for which rules have to be made or necessary under this Act.

(3) In making a rule under this section, the Government may provide that a person guilty of a breach thereof shall be punishable with fine which may extend to one hundred rupees and in the case of continuing breach, with additional fine which may extend to fifty rupees for every day during which such breach continues after receipt of a notice from the Board requiring such person to discontinue the breach.

(4) A rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under sub-section (5) every rule made under this Act shall have effect as if enacted in this Act.

(5) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive session aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date on which the modification or annulment is notified by the Government in the official Gazette, 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 such rule.

**70. Power of Board to make bye-laws.-** (1) Subject to the provisions of this Act and the rules made thereunder the Board may from time to time, make, alter or rescind bye-laws,-

(a) for regulating the delegation of the powers and duties of the Board to an officer of the Board ;

(b) for the guidance of persons employed by it under this Act ;

(c) for regulating the matters relating to the recruitment, discipline and other conditions of service of the officers and servants of the Board, not being officers of the Government lent to or working under the Board;

(d) for the management, use and regulation of houses constructed under any scheme;

(e) for regulating the construction and reconstruction of buildings in regard to the following matters, namely, the notice to be submitted, the line of frontage with neighbouring buildings, the free space to be left about the building, the level and width of foundation, the stability of structure and materials to be used and the provision to be made for drainage, and ventilation;

(f) for the forming of extensions or lay-outs and the laying out of private streets, the information and plans to be submitted with the application for permission to form extensions or lay-outs and to make private streets, and for regulating the level and width of streets and the height of buildings abutting thereon;

(g) relating to the construction of footpaths, erection of street lights and planting of trees ; and

(h) generally for carrying out the purposes of this Act.

(2) In making a bye-law under sub-section (1), the Board may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees and in the

case of a continuing breach with additional fine which may extend to fifty rupees for every day during which such breach continues after notice is received from the Board requiring such person to discontinue the breach.

(3) Any such bye-law may also provide that a person contravening the same shall be required to remedy the mischief, if any caused by such breach.

(4) The Board shall, before making any bye-law under this section, publish in the official Gazette for the information of persons likely to be affected thereby, a draft of the proposed bye-law together with a notice specifying a date not being earlier than thirty days from the date of publication of the draft of the proposed bye-law on or after which the draft will be taken into consideration, and shall before making the bye-law consider any objection or suggestion received with respect to the said draft before the date so specified.

(5) No bye-law made by the Board under this section shall have effect until it has been approved by the Government and every such bye-law shall be submitted to the Government along with a statement containing the views of the Board on the objections and suggestions if any, received and a copy of the notice published under the sub-section (4) and every objection or suggestion received with respect to the draft bye-law.

(6) The Government while approving a bye-law may make any change therein which appears to it to be necessary.

(7) Every bye-law as approved by the Government shall be published in the official Gazette and shall come into force from such date not being earlier to the date of publication of the bye-laws in the Gazette as may be specified by the Board and when no such date is specified, on the date of such publication.

**71. Rules and bye-laws to be exhibited.-** The rules and bye-laws made under sections 69 and 70 shall be exhibited at such places as may be prescribed and copies shall be made available for sale by the Board.

**72. Repeal of the Karnataka Ordinance No. 20 of 1975.-** (1) The Karnataka Improvement Board Ordinance, 1975 (Karnataka Ordinance No. 20 of 1975) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

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