

ALE'S

Diglot Edition

द्विभाषी संस्करण

THE UTTAR PRADESH AVAS EVAM VIKAS PARISHAD ADHINIYAM, 1965

(U.P. Act. No. 1 of 1966)

With ALLIED RULES

उत्तर प्रदेश आवास एवं विकास परिषद् अधिनियम, 1965

(अधिनियम संख्या 1 सन् 1966)

साथ में सम्बन्धित नियमावली

संकलनकर्ता

आर.के.मिश्रा एडवोकेट
उच्च न्यायालय इलाहाबाद

ALLAHABAD LAW EMPORIUM

Allahabād-211001 (U.P.) INDIA

**THE UTTAR PRADESH AVAS
EVAM VIKAS PARISHAD
ADHINIYAM, 1965**

Diglot

उत्तर प्रदेश आवास एवं विकास परिषद्
अधिनियम, 1965.

THE UTTAR PRADESH AVAS EVAM VIKAS PARISHAD ADHINIYAM, 1965

<i>Section</i>	<i>Page</i>
CHAPTER I	
Preliminary	
1. Short title, extent and commencement.....	1
2. Definitions.....	1
CHAPTER II	
Establishment and Conduct of Business of the Board	
3. Constitution of the Board.....	3
4. Disqualifications for being Upadhyaksh etc.	4
5. Term of office of Upadhyaksha.....	5
6. Provisions regarding office of Upadhyaksha.....	5
7. Provisions relating to Housing Commissioner.....	5
8. Appointment of officers and servants.....	5
9. Units.....	6
10. Avas Samitis.....	6
11. Supervision and control by Housing Commissioner.....	6
12. Delegation of powers.....	6
13. Disqualification from participating in proceedings on account of interest.....	7
14. Acts not to be invalidated by informality, vacancy, etc.....	7
CHAPTER III	
Functions and Powers of the Board	
15. Functions of the Board.....	7
16. Housing or Improvement Scheme when to be framed by the Board.....	9
17. Matters to be provided for in housing or improvement schemes.....	9
18. Types of housing and improvement schemes.....	10
19. Grihsthan Yojana.....	11

<i>Section</i>	<i>Page</i>
20. Malin Basti Sudhar Aur Nipatan Yojana	11
21. Punarvas Yojana.....	12
22. Sarak Yojana.....	12
23. Bhavi Sarak Yojana	13
24. Prasar Yojana	14
25. Bhoomi Vikas Yojana.....	14
26. Bazar Yojana.....	15
27. Barh Yojana	15
28. Notice of housing and improvement scheme	15
29. Notice of proposed acquisition or levy of betterment fee	16
30. Objections.....	16
31. Abandonment, modification or sanction of scheme	16
32. Commencement of scheme	17
33. Alteration of scheme after commencement.....	17
34. Execution of scheme	18
35. Restriction on building in area proposed for or comprised in a scheme	18
36. Special Powers relating to execution of Malin Basti Sudhar Aur Nipatan Yojana	19
37. Provisions regarding tenants in Area comprised in Malin Basti Sudhar Aur Nipatan Yojana	21
38. Transfer to Board of building or land vested in local authority	23
39. Transfer of private street or square to Board for purpose of scheme	23
40. Repairs of streets vested in the Board	24
41. Transfer of streets and open spaces to local authority	24
42. Arrangements during work in street.....	25
43. Power to close public street or square.....	25
44. Effect of schemes under this Act on powers of other local authorities	26

<i>Section</i>	<i>Page</i>
45. Transfer of land, etc. by State Government to Board for purposes of scheme or management, etc.....	26
46. Power of Board to undertake other projects at the instance of others.....	27
47. Execution of other schemes by the Board.....	27
48. Supervision and centage charges.....	28
49. Power of State Government to call for the records of the Board and to modify or annul any scheme	28
CHAPTER IV	
Betterment Fee	
50. Declaration regarding betterment fee	28
51. Assessment of betterment fee.....	29
52. Notice of demand.....	29
53. Betterment fee as a charge on land	30
54. Recovery or betterment fee, etc, as arrears of land revenue	30
CHAPTER V	
Property, Contract and Finance	
55. Power to acquire land.....	30
56. Power to acquire and dispose of land by agreement.....	30
57. Execution and registration of contracts, etc.....	31
58. Financial provisions.....	31
59. Debentures	31
60. Repayment of loans.....	32
61. Grants and loans by Government.....	32
62. Additional stamp duty on transfers of property	32
63. Accounts and audit.....	33
CHAPTER VI	
Tribunal	
64. Functions and constitution or Tribunal	34
65. Transfer of pending cases to the Tribunal	35
66. Finality of decisions of Tribunal	35
67. Other provisions relating to awards and orders of Tribunal	35

*Section**Page*

CHAPTER VII

Eviction from and Recovery of Rent and Damages Relating to Board Premises

68. Exclusion of U.P. Control of Rent and Eviction Act III of 1947	36
69. Summary procedure for eviction and recovery of rent, etc.	36
70. Appeal.....	38
71. Recovery of rent through deduction from salary or wages	38
71-A. Deleted.....	39
72. Bar of jurisdiction of courts.....	39

CHAPTER VIII

Offences and Penalties

73. Penalty for building in contravention of schemes.....	39
74. Penalty for obstructing contractor or removing mark	39
75. Penalty for acquiring share or interest in contract, etc, with the Board	40
76. Penalty in other Cases	40
77. Offenders liability to pay compensation.....	40
78. Offences by companies.....	40
79. Procedure	41
80. Duty of police officers.....	41
81. Compounding of offences.....	41

CHAPTER IX

Miscellaneous

82. Power to direct removal of unauthorised erections	41
83. Exercise of powers and functions of local authority	42
84. Power of entry	42
85. General power to pay compensation	43
86. Adhyaksh, etc. to be deemed public servants	43
87. Protection for acts done in good faith	43

<i>Section</i>	<i>Page</i>
88. Suits and legal proceedings	43
89. Mode of proof of documents of the Board	43
90. Copies from assessment books to be furnished by local authorities to Board	44
91. Mode of recovery of dues and penalties.....	44
CHAPTER X	
External Control	
92. Control of the State Government over the Board and other local authorities	44
93. Dissolution of the Board	44
CHAPTER XI	
Rules and Regulations	
94. Powers to make Rules	45
95. Power to make regulations	48
CHAPTER XII	
Repeal and Transitional Provisions	
96. Repeal, amendments and savings.....	49
97. Dissolution of Improvement Trust and its conse- quences	50
98. Power to remove difficulties.....	52
Schedule	52
<i>Rule</i>	<i>Page</i>
• U.P. Avas Evam Vikas Parishad (Remuneration Payable to the Adhyaksh and Allowances Payable to the Members of the Board) Rules, 1967.....	55
• U. P. Avas Evam Vikas Parishad (Grant of Loans and Advances) Rules, 1968.....	59
• U.P. Avas Evam Vikas Parishad (Constitution of Avas Samitis) Rules, 1967.....	60
• U.P. Avas Evam Vikas Parishad (Delegation of Powers by the board and the Housing Commissioner) Rules, 1968	62
• The U.P. Avas Evam Vikas Parishad (Form and Manner of Service of Notice) Rules, 1967	64

<i>Rule</i>	<i>Page</i>
• The U.P. Avas Evam Vikas Parishad (Provisions Regarding Tenants in Area Comprised in Malin Basti Sudhar aur Nipatan Yojana) Rules, 1968	66
• U.P. Avas Evam Vikas Parishad (Acquisition and Disposal of Land) Rules, 1969	69
• U.P. Avas Evam Vikas Parishad (Remuneration to the Presiding Officer of the Tribunal and Execution of Awards and Order of the Tribunal) Rules, 1967	73
• The U.P. Avas Evam Vikas Parishad (Agreement for Recovery of Rent Through Deduction from Salary or Wages) Rules, 1967	74
• The U.P. Avas Evam Vikas Parishad (Fixation of Costs Payable in Proceeding for Eviction and Recovery of Rent) Rules, 1967	75
• The U.P. Avas Evam Vikas Parishad (Recovery of Expenses of Alteration or Demolition of Building) Rules, 1966	76
• U.P. Avas Evam Vikas Parishad (Allotment of Temporary Alternative Accommodation to Occupiers of Buildings in the Area of Malin Basti Sudhar aur Nipatan Yojna) Rules, 1968	77
• The U.P. Avas Evam Vikas Parishad (Determination of Rate of Interest and Instalments for Recovery of Expenses of Improvement) Rules, 1968	78
• The Uttar Pradesh Urban Planning and Development (Assessment, Levy and Collection of Land use Conversion Charge) Rules, 2014	80
• The Uttar Pradesh Real Estate (Regulation and Development) Rules, 2016	87
• Government orders	138
• Notification	151

THE UTTAR PRADESH AVAS EVAM VIKAS PARISHAD ADHINIYAM, 1965

(U.P. Act No. I of 1966)

(As Amendment by U.P. Act No. 7 of 2010)

(Approved by U.P. Legislative Assembly on 17th August, 1965 and U.P. Legislature Council on 6th September 1965.)

(In pursuance of Article 201 of Constitution of India President is pleased to approved on 28th January 1966, published in U.P. Gazette, Extra., on 16th February, 1966.)

An Act to provide for the establishment, incorporation and functioning of a housing and development board in Uttar Pradesh

It is hereby enacted in the Sixteenth Year of the Republic of India as follows:

CHAPTER I

Preliminary

1. Short title, extent and commencement.—(1) This Act may be called the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965.

(2) It extends to the whole of Uttar Pradesh excluding cantonment areas.

(3) It shall come into force in such area and on such date as the State Government may by notification in the *Gazette* appoint; and different dates may be appointed for different areas of Uttar Pradesh.

2. Definitions.—In this Act, unless the context otherwise require—

- (a) "Adhyaksh" means the Adhyaksh of the Board;
- (b) "appointed day", in relation to any area, means the day on which this Act comes into force in that area;
- (c) "betterment fee" means the fee liveable under Chapter IV;
- (d) "Board" means the Uttar Pradesh Avas Evam Vikas Parishad established under this Act;
- (e) "Board premises" means any premises belonging to, or vested in, the Board or taken on lease by the Board or which are entrusted to, or are in the possession or control of, the Board for the purposes of this Act;
- (f) "building" means a house, out-house, stable, shed, hut (other than a hut made of mud appurtenant to or situated in a

cultivated field in any area outside the limits of a city, municipality, town area or notified area) or other enclosure or structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever and whether used as a human dwelling or otherwise, and includes any verandah, platform, plinth, staircase, door-step or wall, including compound wall other than a boundary wall of a garden or of agricultural land not appurtenant to a house, but does not include a tent or other such portable temporary shelter;

- (g) "City" means any local area constituted to be a city under Section 3 of the ¹[Uttar Pradesh Municipal Corporation Act, 1959] (U.P. Act No. II of 1959);
- (h) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to any thing attached to the earth;
- (i) "Master Plan" means a Master Plan prepared under any law for the time being in force;
- (j) "municipality" means a municipality as defined in clause (9) of Section 2 of the U. P. Municipalities Act, 1916 (U. P. Act No. II of 1916);
- (k) ²["Municipal Corporation Act"] means a ²[Municipal Corporation Act] established under Section 4 of the [Uttar Pradesh Municipal Corporation Act, 1959] (U.P. Act No. II of 1959);
- (l) ³["notified area"] means a notified area as defined in sub-section (2) of Section 337 of the U.P. Municipalities Act, 1916 (U.P. Act No. II of 1916);
- (m) "premises" means any building or part of building, and includes—
 - (i) any garden, grounds, land and out-houses appertaining to such building or part; and
 - (ii) any fittings affixed to such building or part for the more beneficial enjoyment thereof;
- (n) "prescribed" means prescribed by rules;
- (o) "prescribed authority" means any authority appointed by the State Government by notification in the Gazette to perform all or any of the functions of a prescribed authority under this Act;
- (p) "regulations" means regulations made under this Act;
- (q) "rules" means rules made under this Act;
- (r) "State Government" means the Government of Uttar Pradesh;

1. Subs. by U.P. Act No. 12 of 1994 (w.e.f. 30th May, 1994).

2. Subs. by U.P. Act No. 12 of 1994 (w.e.f. 30th May, 1994).

3. Vide U.P. Act No. 12 of 1994 now is "Nagar Panchayat."

- (s) ¹["town area"] any local area declared or defined under Section 3 of the ²[U.P. Town Areas Act, 1914] (U. P. Act No. II of 1914) to be a town area;
- (t) "Tribunal" means a Tribunal constituted under Section 64;
- (u) "Unit" means a Housing Unit established under Section 9; and
- (v) except in clauses (f), (g) and (j), references to a 'City', or 'municipality' shall be construed as including references to areas lying within a distance of five kilometres beyond the limits of such City or municipality.

CHAPTER II

Establishment and Conduct of Business of the Board

3. Constitution of the Board.—(1) The State Government shall by notification in the *Gazette* establish a Board to be called the Uttar Pradesh Avam Vikas Parishad.

(2) The Board shall be a body corporate, with the name aforesaid, having perpetual succession and common seal and may sue and be sued in its corporate name and shall be competent, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract and do all things necessary for the purposes of this Act.

(3) For the purposes of the Land Acquisition Act, 1894, (Act I of 1894), the Local Authorities Loans Act, 1914 (Act IX of 1914) and any other law for the time being in force the Board shall be deemed to be a local authority.

(4) The Board shall have its head office at a place to be specified by the State Government and also an office at the headquarters of each Unit and may have offices at such other places as it may consider necessary or be directed by the State Government.

³[(5) The Board shall consist of,—

- ⁴["(a) the Minister, Housing and Urban Planning Department Uttar Pradesh—Adhyaksh *ex officio*;
- (a-1) the Principal Secretary/Secretary to the Government of Uttar Pradesh in Housing and Urban Planning Department—Karyakari Adhyaksh/Sadasya *ex officio*".
- (b) three Upadhyakshas who shall be the non-official members appointed by the State Government,
- (c) the Principal Secretary/Secretary to the Government of Uttar Pradesh in the Finance Department—*ex officio* member,
- (d) the Principal Secretary/Secretary to the Government of Uttar Pradesh in the Urban Development Department—*ex officio* member,
- (e) the Principal Secretary/Secretary to the Government of Uttar Pradesh in the Bureau of Public Enterprises Department—*ex officio* member,

1. *Vide* U.P. Act No. 12 of 1994 now is "Nagar Panchayat."

2. U.P. Town Areas Act, 1914 repealed by U.P. Act No. 12 of 1994 (w.e.f. 30th May, 1994).

3. Sub-sections (5), (6) and (7) subs. by U.P. Act No. 11 of 2007 (w.e.f. 15th June, 2007).

4. Section 3 in sub-section (5) clause (a) and (a-1) subs. by U.P. Act No. 7 of 2010, published in U.P. Gazette, Extra., Part I, Section (ka), dated 2nd March, 2010.

- (f) the Chief Town and Country Planner Uttar Pradesh—*ex officio* member,
- (g) the Director, Central Building Research Institute Roorkee—*ex officio* member,
- (h) the Housing Commissioner, Uttar Pradesh Awas Evam Vikas Parishad—*ex officio* member,
- (i) the Chief Engineer, Uttar Pradesh Awas Evam Vikas Parishad—*ex officio* member,
- (j) the Finance Controller, Uttar Pradesh Awas Evam Vikas Parishad—*ex officio* member,
- (k) the Chief Architect Planner, Uttar Pradesh Awas Evam Vikas Parishad—*ex officio* member.

¹[(6) The officers referred to in clause (c), clause (d), clause (e), clause (g) may instead of attending a meeting of the Board himself depute an officer next junior to him available in his department to attend the meeting. The officer so deputed shall have the right to take part in the proceedings of the meeting and shall also have the right to vote.

²[(7) The appointment of an Upadhyaksha referred to in clause (b) shall be notified Gazette."

³[(8) The Karyakari Adhyaksh shall in the absence of Adhyaksh perform the functions and discharge the duties of the Adhyaksh with the approval thereof."

4. Disqualifications for being ⁴[Upadhayaksh] etc.—A person shall be disqualified for being chosen as and for being the [an Upadhyaksha] of the Board if he—

- (a) has been convicted of an offence involving moral turpitude;
- (b) is an undischarged insolvent;
- (c) is of unsound mind and stands so declared by a competent court;
- (d) holds, except as provided in Sections 6 and 7, any office of profit under the Board;
- (e) has directly or indirectly, by himself or by any partner, employer or employee, any share or interest, whether pecuniary or of any other nature, in any contract or employment with, by, or on behalf of, the Board; or
- (f) is a director or a secretary, manager or other officer or any company which has any share or interest in any contract or employment with, by, or, on behalf of, the Board:

Provided that a person shall not be disqualified under clause (e) or clause (f) by reason only of his, or the company of which he is a director, secretary, manager or other officer, having a share or interest in—

-
1. Sub-sections (5), (6) and (7) subs. by U.P. Act No. 11 of 2007 (w.e.f. 15th June 2007).
 2. Sub-sections (5), (6) and (7) subs. by U.P. Act No. 11 of 2007 (w.e.f. 15th June 2007).
 3. Sub rules (8) Inserted by U.P. Act No. 7 of 2010, published in U.P. Gazette, Extra., Part I, Section (ka), dated 2nd March, 2010.
 4. The words "the Adhayaksha or a Member" the words "an Upadhayaksha" subs by U.P. Act No. 11 of 2007 (w.e.f. 15th June, 2007).

- (i) any sale, purchase, lease or exchange of immovable property or any agreement for the same;
- (ii) any agreement for loan of money or any security for payment of money only;
- (iii) any newspaper in which any advertisement relating to the affairs of the Board is published;
- (iv) the occasional sale to the Board, up to a value not exceeding ten thousand rupees in any one year, of any article in which he or the company regularly trades.

Explanation—A person shall not be deemed to have 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 a company which has such share or interest.

1["5. Term of office of Upadhyaksha.—(1) An Upadhyaksha shall hold office for a period of three years unless his term is determined earlier by the State Government by notification in the Gazette.

(2) An Upadhyaksha may at any time by writing under his hand addressed to the State Government resign his office and on such resignation being accepted he shall be deemed to have vacated the office.

2["6. Provisions regarding office of Upadhyaksha.—The Upadhyaksha shall be paid from the Board's fund such remuneration as may be prescribed.

7. Provisions relating to Housing Commissioner.—(1) There shall be a Housing Commissioner appointed by the State Government for the purposes of this Act.

(2) The conditions of service of the Housing Commissioner shall be such as may be prescribed. He shall be remunerated from the Board's fund.

(3) The State Government may, if it is of opinion that special circumstances so require, appoint the Housing Commissioner to be the Adhyaksh in addition to his own duties.

(4) The State Government may also appoint the Housing Commissioner as an authority under any other law for the time being in force.

8. Appointment of officers and servants.—^{3["(1) Subject to such control and restrictions as may from time to time be imposed by the State Government, by special or general orders, the Board may appoint such officers and servants as it considers necessary for the efficient performance of its functions."}

(2) The Board may, with the previous approval of the State Government appoint a servant of the Central or the State Government or of a local authority on any of the posts under it on such terms and conditions as may be agreed upon.

1. Sections 5 and 6 subs. by U.P., Act No. 11 of 2007. (w.e.f. 15th June, 2007).

2. Sections 5 and 6 subs. by U.P., Act No. 11 of 2007. (w.e.f. 15th June, 2007).

3. Sub-section (1) subs. by U.P. Act No. 47 of 1976.

9. Units.—(1) The Board may by resolution establish a Housing Unit for any City and, with the previous approval of the State Government, for any other area for the efficient performance of its functions in that area.

(2) Every Unit shall form part of the establishment of the Board and shall consist of such officers and servants as may be considered necessary by the Board.

(3) Every Unit shall be under the charge of an officer who shall be under the administrative control of the Housing Commissioner and shall also exercise, perform and discharge such powers, duties and functions as may be delegated to him under Section 12.

(4) So far as may be and subject to the rules, the accounts of income and expenditure of each Unit shall be kept separately and the savings of any one Unit shall be spent over that area only to which that Unit relates.

10. Avas Samitis.—(1) The State Government may for any Unit constitute a local advisory committee to be called Avas Samiti consisting of a Chairman and such other members and on such terms and conditions as may be prescribed.

(2) The Chairman of the Avas Samiti shall be—

- (a) in the case of a City, the Nagar Pramukh of the Nagar Mahapalika thereof;
- (b) in the case of a municipality, the President of the municipal board thereof;
- (c) in the case of any other area (which may include a municipality or part thereof), the President or Chairman of any local authority having jurisdiction in that area, to be appointed by the State Government.

(3) The Board shall consult the Avas Samiti concerned on such matters as may be prescribed and may also consult it on any other matter.

11. Supervision and control by Housing Commissioner.—Subject to the provisions of this Act and the rules, the Housing Commissioner shall exercise supervision and control over all officers and servants of the Board.

12. Delegation of powers.—(1) Subject to the provisions of this Act and the rules, the Board may by general or special order delegate, either unconditionally or subject to such conditions, including the condition of review by itself, as may be specified in the order, to any committee appointed by it or to the Housing Commissioner or any officer of the Board such of its powers and duties under this Act, as it may deem necessary.

(2) Subject to the provisions of this Act and the rules, the Housing Commissioner may by general or special order delegate, either unconditionally or subject to such conditions, including the condition of

review by himself, as may be specified in the order, to any officer of the Board such of his powers and duties under this Act, not being powers and duties delegated to him under sub-section (1), as he may deem necessary.

13. Disqualification from participating in proceedings on account of interest.—(1) A member of the Board or of an Avas Samiti or of a committee appointed by the Board who—

- (a) has any share or interest of the nature described in clause (e) or clause (f) of Section 4 in respect of any matter, or
- (b) has acted professionally, in relation to any matter, on behalf of any person having therein any such share or interest as aforesaid,

shall not, notwithstanding anything contained in the proviso to Section 4, vote or take part in any proceeding of the Board, Avas Samiti or committee relating to such matter.

(2) If any member of the Board or of an Avas Samiti or of a committee appointed by the Board has, directly or indirectly, any interest in any land situated in an area comprised in any of the schemes framed under this Act, or in an area in which it is proposed to acquire land for any of the purposes of this Act, he shall not take part in any meeting of the Board, Avas Samiti or committee in which any matter relating to such land is considered.

(3) Nothing in sub-section (1) or sub-section (2) shall prevent any member of the Board, Avas Samiti or committee from voting on, or taking part in the discussion of, any resolution or question relating to any subject other than a subject referred to in those sub-sections.

14. Acts not to be invalidated by informality, vacancy, etc.—No act done or proceeding taken under this Act by the Board, an Avas Samiti or a committee appointed by the Board shall be invalidated merely on the ground of—

- (a) any vacancy or defect in the constitution of the Board, Avas Samiti or committee; or
- (b) any defect or irregularity in the appointment of a person acting as a member thereof; or
- (c) any defect or irregularity in such act or proceeding not affecting the substance.

CHAPTER III

Functions and Powers of the Board

15. Functions of the Board.—(1) Subject to the provisions of this Act and the rules and regulations, the functions of the Board shall be—

- (a) to frame and execute housing and improvement schemes and other projects;
- (b) to plan and co-ordinate various housing activities in the State and to ensure expeditious and efficient implementation of housing and improvement schemes in the State;

- (c) to provide technical advice for and scrutinise various projects under housing and improvement schemes sponsored or assisted by Central Government or the State Government;
- (d) to assume management of such immovable properties belonging to the State Government as may be transferred or entrusted to it for this purpose;
- (e) to maintain, use, allot, lease, or otherwise transfer plots, buildings and other properties of the Board or of the State Government placed under the control and management of the Board;
- (f) to organise and run workshops and stores for the manufacture and stock-piling of building materials;
- (g) on such terms and conditions as may be agreed upon between the Board and the State Government, to declare houses constructed by it in execution of any scheme to be houses subject to the U. P. Industrial Housing Act, 1955 (U.P. Act No. XXIII of 1955);
- (h) to regulate building operations;
- (i) to improve and clear slums;
- (j) to provide roads, electricity, sanitation, water-supply and other civic amenities and essential services in areas developed by it;
- (k) to acquire movable and immovable properties for any of the purposes before mentioned;
- (l) to raise loans from the market, to obtain grants and loans from the State Government, the Central Government, local authorities and other public corporations, and to give grants and loans to local authorities, other public corporations, housing co-operative societies and other persons for any of the purposes before mentioned;
- (m) to make investigation, examination or survey of any property or contribute towards the cost of any such investigation, examination or survey made by any local authority or the State Government;
- (n) to levy betterment fees;
- (o) to fulfil any other obligation imposed by or under this Act or any other law for the time being in force; and
- (p) to do all such other acts and things as may be necessary for the discharge of the functions before mentioned.

(2) Subject to the provisions of this Act and the rules and regulations, Board may undertake, where it deems necessary, any of the following functions, namely—

- (a) to promote research for the purpose of expediting the construction of and reducing the cost of buildings;

- (b) to execute works in the State on behalf of public institutions local authorities and other public corporations, and departments of the Central Government and the State Government;
- (c) to supply and sell building materials;
- (d) to co-ordinate, simplify and standardise the production of building materials and to encourage and organise the prefabrication and mass production of structural components;
- (e) with a view to facilitating the movement of the population in and around any city, municipality, town area or notified area to establish, maintain and operate any transport service; to construct, widen, strengthen or otherwise improve roads and bridges and to give financial help to others for such purposes;
- (f) to do all such other acts and things as may be necessary for the discharge of the functions before mentioned.

16. Housing or Improvement Scheme when to be framed by the Board.—(1) A housing or improvement scheme may be framed by the Board of its own motion or at the instance of a local authority and shall be framed when so directed by the State Government.

(2) The Board may refuse to frame and execute a housing or improvement scheme at the instance of a local authority if the Board is satisfied that such scheme is unnecessary or not feasible or that the funds at its disposal do not permit the framing or execution of such scheme, and intimate its refusal to the authority. The Board shall intimate its decision within one year from the date of receipt of the request from the local authority that a scheme be framed.

(3) Any local authority aggrieved by the refusal of the Board under sub-section (2) may, within two month from the date of receipt of the intimation, appeal to the State Government who may pass such orders thereon as it thinks fit and the Board shall give effect to such orders.

17. Matters to be provided for in housing or improvement schemes.—Notwithstanding anything contained in any other law for the time being in force, and without prejudice to other provisions of this Chapter, a housing or improvement 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 re-laying out of any land comprised in the scheme;
- (c) the distribution or redistribution of sites belonging to owners of the property comprised in the scheme;
- (d) the improvement or clearance of dwellings or portions of dwellings unfit for human habitation;
- (e) the demolition of buildings or portions of buildings causing obstruction in the proposed lay-out;

- (f) the construction or re-construction of buildings;
- (g) the sale (including sale on hire-purchase basis), lease or exchange of any property comprised in the scheme;
- (h) the construction or alteration of roads, streets, lanes, bridges, culverts or causeways;
- (i) the drainage, water-supply or lighting of the streets included in the scheme;
- (j) the provision of schools, community buildings, parks (including children's parks), swimming pools, playing fields, open spaces, and approaches thereto, for the benefit of any area comprised in the scheme or any adjoining area;
- (k) the making of sanitary arrangements required for the area comprised in the scheme, including the conservation of and the prevention of injury to or contamination of rivers or other sources and means of water supply;
- (l) the provision of accommodation for any class of persons;
- (m) the provision of facilities for communication and transport;
- (n) the collection of such information and statistics as may be necessary for the purposes of this Act;
- (o) the reclamation, development or reservation of lands for markets, commercial and industrial sites, gardens, playing fields and tree plantation;
- (p) the provision of restaurants, shops, markets, fuel depots, laundries, and other amenities in the area comprised in the scheme;
- (q) the advance of loans for the purposes of the scheme; and
- (r) any other matter which may be prescribed:

Provided that any such scheme shall, so far as may be, conform with the Master Plan, if any, for the time being in force.

18. Types of housing and improvement schemes.—(1) A housing or improvement scheme shall be of one of the following types, or a combination of two or more of such types or of special features thereof, namely—

- (a) *Grihsthan Yojana* (house accommodation scheme);
- (b) *Malin Basti Sudhar Aur Nipatan Yojana* (slum improvement and clearance scheme);
- (c) *Punarvas Yojana* (re-housing scheme);
- (d) *Sarak Yojana* (street scheme);
- (e) *Bhavi Sarak Yojana* (deferred street scheme);
- (f) *Prasar Yojana* (expansion scheme);
- (g) *Bhumi Vikas Yojana* (land development scheme);
- (h) *Bazar Yojana* (market scheme);
- (i) *Barh Yojana* (flood scheme).

(2) The State Government may, on such terms and conditions as it may after consultation with the Board think fit to impose, direct the Board to undertake any housing or improvement scheme of a type not specified in sub-section (1).

19. Grihsthan Yojana.—(1) Whenever the Board is of opinion that it is expedient or necessary to meet the need for house accommodation in any area, the Board may frame a *Grihsthan Yojana* (house accommodation scheme).

(2) Such scheme shall specify the lay-out of the area where the houses are to be constructed and may provide for the building of houses by the Board and by others.

(3) The Board may lease out or sell, including sale on hire-purchase basis, any house so built by the Board.

(4) The Board may provide in the area roads, streets, drainage, water-supply, street lighting, community buildings and other amenities.

20. Malin Basti Sudhar Aur Nipatan Yojana.—(1) Whenever it appears to the Board—

- (a) that in any area, any buildings used or intended or likely to be used as dwelling houses are unfit for human habitation, or
- (b) that danger to the safety, health or morals of the inhabitants in any area or in the neighbourhood of such area is likely to be caused by—
 - (i) the narrowness, closeness, or faulty arrangement or design or condition of streets or buildings or groups of buildings in such area, or
 - (ii) over-crowding in such area, or
 - (iii) want of light, air, ventilation, or of proper conveniences in such area, or
 - (iv) any other sanitary defect in such area,

the Board may frame a *Malin Basti Sudhar Aur Nipatan Yojana* (slum improvement and clearance scheme) in respect of such area.

(2) Such scheme may provide for—

- (a) the reservation of sites for, and the construction and provision of roads, streets, lanes and open spaces and other amenities, and the enlargement of the existing roads, streets, lanes, open spaces and other amenities in the area;
- (b) the re-laying out of the sites of the area;
- (c) the acquisition by the Board of any site or building comprised in the area;
- (d) the carrying out of and maintenance of works of improvement on lands and buildings in the area;
- (e) the regulation of erection, re-erection or alteration of, or addition to, buildings in the area;

- (f) the alteration or demolition of the existing buildings and their appurtenances on the sites of the area;
- (g) the construction of houses and other buildings on the sites of the area;
- (h) the advance of moneys to the owners on such terms and conditions as may be provided under the scheme with a view to assist them in re-constructing or altering existing buildings or erecting new buildings in accordance with the scheme.

21. Punarvas Yojana.—Whenever the Board is of opinion that it is necessary to provide accommodation for persons—

- (a) who are displaced or likely to be displaced by the execution of any housing or improvement scheme under this Act, or
- (b) whose removal from any area is necessary for relieving congestion in that area,

the Board may frame a *Punarvas Yojana* (re-housing scheme) for the construction, maintenance and management of such dwelling houses and shops or for providing such open plots along with roads, streets and open spaces as may be deemed necessary.

22. Sarak Yojana.—(1) Whenever the Board is of opinion that for the purposes of—

- (a) providing building sites, or
- (b) remedying defective ventilation, or
- (c) creating new or improving existing means of communication and facilities for traffic, or
- (d) affording better facilities for conservancy,

it is expedient to lay out new streets or alter existing streets (including bridges, cause-ways and culverts) in any area, the Board may frame a *Sarak Yojana* (street scheme) for such area.

(2) Such scheme may, within the limits of the area comprised in the scheme, provide for the following matters, namely—

- (a) the acquisition of any land which, in the opinion of the Board is necessary for the scheme;
- (b) the re-laying out of all or any of the lands so acquired including the construction and reconstruction of buildings by the Board or by persons authorised by the Board in that behalf and the laying out, construction and alteration of streets and thoroughfares;
- (c) the drainage, water-supply and lighting of streets and thoroughfares so laid-out, constructed or altered;
- (d) the reclaiming or raising or lowering the level of any land vested in, or acquired by the Board for the purposes of the scheme; and
- (e) the provision of open spaces for the better ventilation of the area comprised in the scheme.

23. Bhavi Sarak Yojana.—(1) Whenever the Board is of opinion that it is necessary to provide for the future widening of any street by altering the existing alignments of such street but that it is not necessary immediately to acquire all or any of the properties lying within the proposed improved alignments, the Board may frame a *Bhavi Sarak Yojana* (deferred street scheme), defining the alignment on each side of the street, and specify the time-limit for the execution of such scheme, which may be extended by the Board from time to time.

Provided that such time-limit including extensions, if any, made by the Board shall in no case exceed twenty years from the date of coming into force of the scheme.

(2) Such scheme shall provide for the following matters, namely—

- (a) the acquisition of the whole or any part of any property lying within the defined alignments of the street within the time-limit for the execution of the scheme;
- (b) the relaying out of all or any of such properties, including the construction and reconstruction of buildings by the Board or by any other person, and the formation and alignment of the street; and
- (c) the drainage, water-supply and lighting of the streets so formed or altered.

(3) After such scheme has come into force—

- (a) no person shall, within the time-limit for the execution of the scheme, erect, re-erect, add to or alter any building so as to make it project into the defined alignments of the street except with the previous written permission of the Board;
- (b) if the Board fails to acquire or to institute proceedings for the acquisition of any property situate within the defined alignments of the street, the owner of such property may at any time, within the time-limit for the execution of the scheme, or within three years thereafter, give the Board notice requiring it to acquire or to institute proceedings for the acquisition of such property before the expiration of six months from the date of such notice, and hereupon the Board shall acquire by agreement, or institute such proceedings by notice under clause (c) and acquire, the property accordingly; and if the Board fails to do so, it shall pay such compensation as may be determined in accordance with the provisions of this Act and the rules;
- (c) the Board shall, before proceeding to acquire any property lying within the defined alignments of the street, give (i) in respect of any property regarding which it has received a notice under clause (b), fifteen days' notice; and (ii) in respect of other property, six months notice to the owner of its intention to acquire such property:

- (d) notwithstanding anything contained in the Uttar Pradesh Nagar Mahapalika Adhinyam, 1959 (U.P. Act No. II of 1959), the U.P. Municipalities Act, 1916 (U.P. Act No. II of 1916), the Uttar Pradesh Kshetra Samitis and Zila Parishads Adhinyam, 1961 (U.P. Act No. XXXIII of 1961), or any other enactment constituting a local authority in an area in which a scheme under this section has been notified, such local authority shall not have power to define or prescribe any alignment of the street within the area comprised in the scheme and any such alignment previously defined or prescribed within such limits shall cease to be operative.

24. Prasar Yojana.—(1) Whenever the Board is of opinion that it is expedient to control and provide for the future expansion or development of a City, municipality, town area or notified area, the Board may frame a *Prasar Yojana* (expansion scheme) and specify the time-limit, which may be extended by the Board from time to time, for the execution of the scheme:

Provided that such time-limit including extensions, if any, made by the Board shall in no case exceed twenty years from the date of coming into force of the scheme.

(2) Such scheme shall specify the proposed lay-out of the area to be developed and the purposes for which particular portions thereof are to be utilised.

(3) After any such scheme has come into force, no person shall, without the previous written permission of the Board, erect, re-erect, add to, or alter any building within the area comprised in the scheme.

(4) If the Board refuses to grant permission to any person to erect, re-erect add to or alter any building on his land in the area aforesaid, and does not proceed to acquire such land within one year from the date of such refusal the Board shall pay such compensation as may be determined under this Act and the rules to the person for any damage sustained by him in consequence of such refusal.

Provided that if the Board neither grants nor refuses to grant permission as aforesaid within a period of three months from the receipt of an application duly presented in that behalf it shall be deemed to have refused permission on the date of expiration of such period.

25. Bhoomi Vikas Yojana.—(1) Whenever the Board is of opinion that it is expedient to provide building sites in any area, the Board may frame a *Bhoomi Vikas Yojana*. (land development scheme).

(2) Such scheme shall specify the proposed lay-out of the area to be developed and the purposes for which particular portions thereof are to be utilised.

(3) The Board may provide roads, streets, open spaces, drainage, water supply, street lighting and other amenities for the area comprised in the scheme.

(4) The Board may lease out or sell, including sale on hire-purchase basis, the building sites in the area comprised in the scheme.

26. Bazar Yojana.—(1) Whenever it appears to the Board that any area is lacking in adequate facilities for marketing, shopping or commerce or that the existing markets or professional or commercial establishments are inconvenient to producers, bankers, traders, members of professions, consumers, customers or clients, or that it is otherwise expedient to improve, alter or demolish the existing markets or commercial or professional centres or lay out new markets or centres in any area, the Board may frame a *Bazar Yojana* (market scheme) for the area.

(2) A *Bazar Yojana* may provide for—

- (a) the construction of *mandis*, shops, stalls, godowns, restaurants, cinemas, commercial houses, professional offices, petrol pumps, mechanical servicing and repair stations, laundries and other requisite buildings and structures;
- (b) the laying of roads, streets, lanes, side-walks, parks and parking spaces, the provision of water-supply, bus stands, and stands for cycle and other vehicles, lavatories, resting places and others services and amenities;
- (c) the acquisition by the Board of any site or building comprised in the area included in the scheme; and
- (d) the transfer by the Board of any market to any local authority or other person, either absolutely or for management, on such terms and conditions as may be agreed upon with such local authority or person.

27. Barh Yojana.—(1) Whenever it appears to the Board that any area has been or is likely to be affected by the flooding of any river or rivulet or by water logging, the Board may frame a *Barh Yojana* (flood scheme) for such area.

(2) A *Barh Yojana* may provide for—

- (a) the construction of structures for the protection of houses and essential supply installations affected or likely to be affected by flood;
- (b) the repair or reconstruction of houses damaged by flood;
- (c) the construction of drains and other outlets for drainage of accumulated water;
- (d) the raising of the level of any area;
- (e) the re-laying of sites in any area;
- (f) the acquisition of any land necessary for the scheme;
- (g) the evacuation of the inhabitants of any locality affected or endangered by flood and the provision of alternative accommodation for them.

28. Notice of housing and improvement scheme.—(1) When any housing or improvement scheme has been framed, the Board shall prepare a notice to that effect specifying—

- (a) the boundaries of the area comprised in the scheme;
 - (b) the dates, hours and place or places at which a map of the area, particulars of the scheme, and details of the land proposed to be acquired and of the land in respect of which betterment fee is proposed to be levied may be seen; and
 - (c) the date by which objections to the scheme may be made.
- (2) The Board shall—
- (a) cause the said notice to be published weekly for three consecutive weeks in (i) the Gazette and (ii) two daily newspapers having circulation in the area comprised in the scheme at least one of which shall be a Hindi newspaper; and
 - (b) send a copy of the notice to the local authority or authorities within whose jurisdiction the area comprised in the scheme lies.

(3) The Housing Commissioner shall cause copy of any document referred to in clause (b) of sub-section (1) to be delivered to any applicant on payment of such fee as may be provided by regulations.

29. Notice of proposed acquisition or levy of betterment fee.—Within six weeks from the date on which any notice is first published under Section 28 in respect of any housing or improvement scheme the Board shall serve a notice in such form, on such persons or classes of persons and in such manner as may be prescribed, stating that the Board proposes to acquire any specified land or building for the execution of the scheme or proposes to levy betterment fee.

30. Objections.—(1) Any local authority to whom a copy of the notice has been sent under clause (b) of sub-section (2) of Section 28 may within sixty days from the receipt of the copy of the notice file any objection against the scheme.

(2) Any person on whom a notice under Section 29 has been served may within thirty days from the service of the notice, or within such further time as the Board may, for sufficient cause, allow, make an objection in writing to the board against the scheme or the proposed acquisition or levy.

(3) Any other person may file an objection against the scheme within the time specified in the notice under Section 28.

31. Abandonment, modification or sanction of scheme.—(1) After considering the objections, if any, received in pursuance of the foregoing provisions and after giving an opportunity of being heard to the objectors, the Board may, so far as may be, within six months from the date of receipt of the last such objection, either abandon the scheme, or, if the estimated cost of the scheme does not exceed twenty lakhs of rupees, sanction it with or without modifications, and if the estimated cost of the scheme exceeds twenty lakhs of rupees, submit it to the State Government for sanction with such modifications, if any, as the Board may suggest.

(2) The State Government may sanction with or without modifications, or refuse to sanction, or return for reconsideration, any scheme submitted to it under sub-section (1).

(3) If a scheme returned for reconsideration under sub-section (2) is modified by the Board it shall be republished in accordance with Section 28—

- (a) if the modification affects the boundaries of the area comprised in the scheme or involves acquisition of any land or building not previously proposed to be acquired; or
- (b) if the modification is in the opinion of the Board of sufficient importance to require republication,

and on such republication the procedure prescribed in Sections 29 and 30 shall, so far as may be applicable, be followed as if the republication were an original publication under Section 28.

32. Commencement of scheme.—(1) Whenever the Board or the State Government sanctions a housing or improvement scheme, it shall be notified in the *Gazette*.

(2) The notification under sub-section (1) in respect of any scheme shall be conclusive evidence that the scheme has been duly framed and sanctioned.

(3) Any person who, or a local authority which, had filed objections under Section 30, aggrieved by the decision of the Board sanctioning a housing or improvement scheme may, within thirty days from the date of the notification under sub-section (1), appeal to the State Government whose decisions thereon shall be final.

(4) If the State Government cancels or alters the scheme as a result of an appeal filed under sub-section (3), the cancellation or alteration shall be notified in the *Gazette*.

(5) The scheme shall come into force—

- (a) if sanctioned by the State Government, on the date of the notification under sub-section (1);
- (b) if sanctioned by the Board—
 - (i) where no appeal is preferred under sub-section (3), on the expiry of thirty days from the date of the notification under sub-section (1); and
 - (ii) where an appeal is preferred and the scheme is on appeal maintained with or without alteration, on the date of the decision of the appeal, and where more appeals than one are preferred, on the date of the decision of the appeal last decided.

33. Alteration of scheme after commencement.—(1) At any time after a housing or improvement scheme has come into force and before it has been fully executed, the Board may for reasons to be recorded alter or cancel it :

Provided that—

- (a) if any alteration is likely to increase the estimated cost of executing a scheme by more than ten per cent or if any altered scheme is estimated to cost more than twenty lakhs of rupees, the alteration shall not be made without the previous sanction of the State Government;
- (b) before making any alteration which involves acquisition, otherwise than by agreement, of any land or building not proposed to be acquired in the original scheme, or owing to which any land not previously liable under the scheme to payment of betterment fee becomes liable to such payment, the Board shall serve a notice, in such form, on such persons or classes of persons and in such manner, as may be prescribed, of the proposed alteration, and consider the objections, if any, received in pursuance of the notice within thirty days from the service of the notice or within such further time as the Board may, for sufficient cause, allow, and give an opportunity of being heard to the objectors;
- (c) no scheme estimated to cost over twenty lakhs of rupees shall be altered or cancelled without the previous sanction of the State Government.

(2) Any alteration or cancellation of a scheme under sub-section (1) shall be notified in the *Gazette* and have effect from the date of such notification, so, however, that any such modification shall be without prejudice to the validity of anything previously done under the original scheme.

34. Execution of scheme.—(1) After a housing or improvement scheme has come into force the Board shall forthwith proceed to execute it, and in the case of a *Bhavi Sarak Yojana* (deferred street scheme) or *Prasar Yojana* (expansion scheme) complete it within the time-limit specified in the scheme or as extended by the Board. On the execution of the scheme being completed the Board shall by notification in the *Gazette* make a declaration to that effect.

(2) Nothing in sub-section (1) shall be construed to prohibit the Board from employing any agency of the State Government or of a local authority, with the consent of that Government or authority, in the execution of any scheme.

35. Restriction on building in area proposed for or comprised in [a scheme].—(1) Where a notice has been published under Section 28 in respect of a ²[Housing or improvement scheme] no person shall, until the scheme is abandoned, or sanctioned, and if the scheme has come into force, during a period of two years from the date of its commencement,

1. The words "Malin Basti Sudhar Aur Nipatan Yojana" the words "a scheme" subs. by U.P. Act No. 47 of 1976.

2. Sub-section (1), for the words "Malin Basti Sudhar Aur Nipatan Yojana (Slum Improvement and clearance scheme)", the words "housing or improvement scheme" substituted. by U.P. Act No. 47 of 1976.

erect, re-erect, add to, or alter any building or otherwise develop any land in the area comprised in the scheme except in accordance with the scheme and subject to such restrictions and conditions as the Housing Commissioner may, upon an application for permission in this behalf, by order impose.

(2) A person aggrieved by an order of the Housing Commissioner refusing permission or imposing restrictions or conditions under sub-section (1) may, within such time as may be prescribed, appeal to the Board whose decision thereon shall be final.

36. Special Powers relating to execution of Malin Basti Sudhar Aur Nipatan Yojana.—(1) At any time after a *Malin Basti Sudhar Aur Nipatan Yojana* (slum improvement and clearance scheme) has come into force, the Housing Commissioner may, in respect of the area comprised in the scheme,—

- (a) serve upon the owner of any building or land a notice requiring him within such reasonable time, being not less than forty-five days, as may be specified in the notice or as may be extended by him from time to time, to execute any work of improvement specified therein on the building or land, and in the event of default, cause to be done, through such agency as may be specified by him in this behalf, all or any of the things required by the notice to be done;
- (b) serve upon the owner of a building which in his opinion is not fit for human habitation and is not capable at a reasonable expense of being rendered so fit and upon every other person having, within the knowledge of the Housing Commissioner, an interest in the building, whether as a lessee, mortgagee, or otherwise, a notice to show cause, within such time as may be specified in the notice, as to why an order of demolition of the building be not made, and after giving such persons reasonable opportunity of being heard, direct the owner to demolish the same within six weeks of the date of vacation thereof or within such further period as may be allowed, and in the event of default, cause the same to be demolished through such agency as may be specified by him in this behalf;
- (c) for any of the purposes mentioned in clauses (a) and (b), serve a notice upon any occupier of a building or land to vacate the same within a period specified therein, being not less than thirty days from the date of the service of the notice, and in the event of default, cause the building or land to be vacated, and use such force for that purpose as may be necessary.

(2) In case the Housing Commissioner causes any work of improvement to be carried out under sub-section (1) the expenses incurred thereon, to be determined by the Housing Commissioner, together with interest at such rates as may be prescribed, from the

date of demand till the date of payment, shall be recoverable by the Board, in such instalments as may be prescribed, from the owner of the building or the land, as the case may be, as arrears of land revenue:

Provided that the liability of the owner, on his satisfying the Housing Commissioner that he—

- (a) has been receiving the rent of the building or land merely as agent or trustee for some other person, and
- (b) has not in his hands on behalf of that other person sufficient money to satisfy the whole demand,—

shall be limited to the total amount of money in his hands as agent or trustee.

(3) In case the Housing Commissioner causes any building to be demolished under sub-section (1) the expenses incurred on the demolition shall be deemed to have been reimbursed in full from the sale proceeds, if any, of the materials thereof. The balance, if any, of the sale proceeds of the materials, after deducting the expenses incurred on the demolition of the building and on the sale of the materials, to be determined by the Housing Commissioner, shall be paid to the owners:

Provided that if the owner desires to remove the materials or any portion thereof before the sale he may remove the same after payment to the Housing Commissioner of the entire expenses incurred on the demolition within such time as may be allowed.

(4) Where any work of improvement has been carried out in any building under sub-section (1) and is maintained by the Board, the expenses of such maintenance, to be determined by the Housing Commissioner, shall be recoverable by the Board from the occupier of the building as arrears of land revenue.

(5) Where there are more persons than one who are owners or occupiers of the building or land or have an interest in the building, whether as lessees, mortgagees or otherwise, the Housing Commissioner may determine the liability of each such person in respect of the expenses determined under sub-section (2), sub-section (3) or sub-section (4).

(6) Where any building is ordered to be vacated in pursuance of an order under this section, the Housing Commissioner shall, as far as may be, offer temporary alternative accommodation to the occupier of the building in such manner and to such extent as may be prescribed.

(7) Any person aggrieved against an order determining the amount of expenses under sub-section (2), sub-section (3) or sub-section (4) or making an apportionment under sub-section (5) may appeal against the order to the Tribunal within such time as may be prescribed, and the decision of the Tribunal thereon shall be final.

Explanation—For the purposes of this section, the terms "occupier", "owner", and "work of improvement" shall have the same meanings as given to them in clauses (f), (g) and (l) of Section 2 of the Uttar Pradesh Slum Areas (Improvement and Clearance) Act, 1962 (U. P. Act XVIII of 1962), as amended from time to time, subject to the modification that in the said clause (l) the words "Housing Commissioner", shall stand substituted for the words "competent authority", and the expression "reasonable expense" shall have the same meaning as given to it in sub-section (1) of Section 4 of the said Act.

37. Provisions regarding tenants in Area comprised in Malin Basti Sudhar Aur Nipatan Yojana.—(1) In an area in which a *Malin Basti Sudhar Aur Nipatan Yojana* is in force, notwithstanding anything contained in any other law for the time being in force, no person shall, except with the previous permission in writing of the prescribed authority—

- (a) institute any suit or proceeding for obtaining any decree or order for the eviction of a tenant from any building or land in the area, or
- (b) where any decree or order is obtained in any suit or proceeding instituted before the commencement of the scheme for the eviction of a tenant from any building or land in such area, execute such decree or order:

Provided that nothing in this sub-section shall apply to or in relation to the eviction under any law of a tenant from any building or land belonging to the Government, the Board or any other local authority.

(2) In granting or refusing to grant the permission under sub-section (1), the prescribed authority shall follow such procedure as may be prescribed and shall take into account the following factors, namely—

- (a) whether alternative accommodation within the means of the tenant would be available to him if he were evicted;
- (b) whether the eviction is in the interest of slum, improvement or clearance in the area;
- (c) such other factors, if any, as may be prescribed.

(3) Any person aggrieved by an order of the prescribed authority granting or refusing to grant the permission referred to in sub-section (1) may, within such time as may be prescribed, prefer an appeal to the Tribunal whose decision thereon shall be final.

(4) Where a tenant in occupation of any building in such area vacates any building or is evicted therefrom on the ground that it was required for the purpose of executing any work of improvement or for the purpose of demolition and re-erection of the building, the tenant may, within such time as may be prescribed, file a declaration with the prescribed authority that he desires to be replaced in occupation of the building after the completion of the work of improvement or re-erection of the building, as the case may be.

(5) On receipt of such declaration, the prescribed authority shall by order require the owner of the building to furnish to it, within such time as may be prescribed, the plans of the work of improvement or re-erection of the building and estimates of the cost thereof and such other particulars as may be necessary and shall, on the basis of such plans and estimates and particulars, if any, furnished and having regard to the provisions of sub-section (8) and after holding such inquiry as it may think fit, provisionally determine the rent that would be payable by the tenant if he were to be replaced in occupation of the building in pursuance of the declaration made by him under sub-section (4).

(6) The rent provisionally determined under sub-section (5) shall be communicated in the prescribed manner to the tenant and the owner.

(7) If the tenant after the receipt of such communication intimates in writing to the prescribed authority within such time as may be prescribed that when he is replaced in occupation of the building in pursuance of the declaration made by him under sub-section (4), he would pay to the owner, until the rent is finally determined under sub-section (8), the rent provisionally determined under sub-section (5), the prescribed authority shall direct the owner to place the tenant in occupation of the building after the completion of the work of improvement or re-erection of the building, as the case may be, and the owner shall be bound to comply with such direction.

(8) Where any such building is let to a tenant in pursuance of a direction issued under sub-section (7) the tenant shall, notwithstanding any law relating to the control of rent in force in the area, be liable to pay to the owner such rent as may, on application given in this behalf to the prescribed authority within ninety days from the completion of the work of improvement or re-erection of the building, as the case may be, or within such further time as may on sufficient cause being shown be allowed, be finally determined by the prescribed authority, which shall be as follows:

- (a) if any work of improvement has been executed in relation to the building, an annual rent of a sum equivalent to the aggregate of the following amounts, namely:
 - (i) the annual rent the tenant was paying immediately before he vacated the building for the purpose of execution of the work of improvement;
 - (ii) six per cent of the cost of the work of improvement; and
 - (iii) six per cent of the cost of any land which may have been acquired for the purpose of effecting such improvement;
- (b) if the building has been re-erected, an annual rent of a sum equivalent to four per cent of the aggregate cost of reconstruction of the building and the cost of the land on which the building is re-erected.

Explanation—For the purposes of this sub-section, the cost of the land shall be deemed to be a sum equivalent to the compensation payable in respect of the land if it were acquired by the Board under Section 55, and the date of commencement of the work of improvement or the re-election of the building were the date with reference to which the market value of the land were adjudged under Section 23 of the Land Acquisition Act, 1894 (Act No. I of 1894), as modified by the said Section 55.

(9) Any party aggrieved against the determination of rent under sub-section (8) may, within such time as may be prescribed, prefer an appeal to the Tribunal whose decision thereon shall be final.

(10) Where the rent is finally determined under sub-section (8), or on appeal under sub-section (9), then the amount of rent paid by the tenant before such determination shall be adjusted against the rent so finally determined and if the amount so paid falls short of, or is in excess of, the rent finally determined, the tenant shall pay the deficiency, or be entitled to a refund, as the case may be.

38. Transfer to Board of building or land vested in local authority.—(1) Whenever any building or land or any street, or any part thereof, vested in a local authority lies within the area comprised in any housing or improvement scheme, the Board may give notice to that local authority that the same is required for the purposes of the scheme, and thereupon such building, land or street, or part thereof, shall vest in the Board.

(2) Where the Board makes a declaration while giving notice under sub-section (1) that such land, street, or part, as the case may be, will be retained by the Board only until it re-vests in the local authority as a street or an open space, or part thereof, under Section 41, no compensation shall be payable by the Board to the local authority except in respect of buildings, if any, situated on that land.

(3) Except as provided in sub-section (2), where any land or vests in the Board under sub-section (1) the Board shall pay to the local authority as compensation, a sum equal to the market value of such building the local land or building or both, as the case may be, as on the date on which the scheme comes into force.

(4) Where after a declaration has been made under sub-section (2), the land does not re-vest in the focal authority, the Board shall pay to the local authority compensation in respect of such land in accordance with the provisions of sub-section (3).

(5) If any question arises as to whether any building, land or street, or any part thereof, is required for the purposes of the scheme or as to whether compensation is payable under this section, or as to the amount of such compensation, the matter shall be referred to the State Government whose decision thereon shall be final.

39. Transfer of private street or square to Board for purpose of scheme.—(1) Whenever any private street or square or part thereof

which the public or any section of the public has right to pass along or use and which is not vested in the Board or in any local authority is required for executing any housing or improvement scheme, the Board shall cause to be affixed in a conspicuous place in or near such street or square or part a notice signed by the Housing Commissioner and—

- (a) stating the purpose for which such street or square or part is required, and
- (b) declaring that the Board will, on or after a date to be specified in the notice, take over charge of such street or square or part from the owner thereof,

and shall simultaneously send a copy of such notice to the owner of such street or square or part.

(2) After considering the objections, if any, received in writing before the date specified in this behalf in the notice, the Board may take over charge of such street or square or part, and the same shall thereupon vest in the Board.

(3) When the Board alters or closes any private street or square or part thereof which has vested in it under sub-section (2), it shall pay to the previous owner compensation determined on the basis of the market value, on the date of vesting, of his rights therein.

(4) If the alteration or closure of any such street or square or part causes damage or substantial inconvenience to the owners of property adjacent thereto, or to the residents in the neighbourhood, the Board shall forthwith provide some other reasonable means of access for the use of persons who were entitled to use such street or square or part as a means of access to any property or place, and if the provision of such means of access does not sufficiently compensate any such owner or resident for such damage or inconvenience, the Board shall also pay him reasonable compensation in money.

40. Repairs of streets vested in the Board.—Whenever the Board allows any street vested in it to be used for public traffic, it shall keep the street in good repair and do all things necessary for the safety and convenience of persons using it.

41. Transfer of streets and open spaces to local authority.—(1) The Board may hand over any street laid-out or altered by and vested in it to the local authority within whose jurisdiction it lies, after giving it one month's notice, when—

- (a) any such street has been duly levelled and metalled,
- (b) lamp posts necessary for the lighting of such street have been provided, and
- (c) water, drains and sewers have been provided in such street, in the manner provided in the scheme.

(2) When any open space for the purposes of ventilation or recreation has been provided by the Board in executing any housing or improve-

ment scheme, the Board may resolve that such space shall, on completion of the scheme be transferred to the local authority concerned, and thereupon notice of the resolution shall be given to such authority.

(3) The local authority may, on receipt of a notice under sub-section (3), make objections to the Board or may require the Board before any such open space is so transferred to enclose, level, turf, drain and lay out such space and provide foot-paths and lamp-posts therein. The Board shall consider such objections and requirements and then pass a final resolution reaffirming or modifying the proposal.

(4) Such street or open space shall, upon the expiry of the period of notice or in accordance with the final resolution, as the case may be, vest in, and thenceforth be maintained, kept in repair, lighted and cleansed by, the local authority.

(5) If any difference of opinion arises between the Board and the local authority in respect of any matter referred to in this section, the matter shall be referred to the State Government whose decision thereon shall be final and binding on the Board and the local authority.

42. Arrangements during work in street.—(1) When any work which may lawfully be done, is being executed by the Board in any street vested in it, the Board may direct that such street shall, during the progress of such work, be either wholly or partially closed to traffic generally or to traffic of any specified description:

Provided that the Board shall, so far as may reasonably be practicable, make adequate provision for—

- (a) the passage of or diversion of traffic;
- (b) securing access to all premises approached from such street; and
- (c) any drainage, water-supply, or means of lighting which is interrupted by reason of the execution of the work.

(2) When any such direction has been given, the Board shall affix in a conspicuous place in or near the street an order prohibiting traffic to the extent so directed, and fix such bars, chains, or posts across or in the street as it may think proper for ensuring compliance with the order.

43. Power to close public street or square.—(1) The Board may—

- (a) turn, divert, discontinue, the public use of, or permanently close, any street vested in it or any part thereof; or
- (b) discontinue the public use, of, or permanently close, any square vested in it of any part thereof.

(2) Whenever the Board discontinues the public use of, or permanently closes, any street or square vested in it, or any part thereof, it shall pay such compensation as may be determined in accordance with the rules to any person who sustains special damage by reason of such discontinuance or closure.

(3) When any street or square vested in the Board, or any part thereof, is permanently closed under sub-section (1), the Board may sell or lease so much of the same as is no longer required by it.

44. Effect of schemes under this Act on powers of other local authorities.—(1) Where the State Government is of opinion, after a notice of a housing or improvement scheme in relation to any area has been published under Section 28, that it is expedient in the public interest that any scheme framed under the Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959, covering the same area or part thereof should not be further proceeded with, whether by way of notification, consideration, sanction, abandonment or otherwise, under the said Adhiniyam, it may, after giving to the Nagar Mahapalika concerned an opportunity of making written objections, direct that the scheme shall not be so proceeded with or that it shall be proceeded with subject to such modifications as may be specified, and further that proceedings, if any, relating to the scheme or such part thereof as may be specified shall stand transferred to the Board, and thereupon the Board shall proceed further with the scheme or part thereof, as the case may be, from the stage at which it was transferred to it, in accordance with the corresponding provisions of this Act:

Provided that the Board may, if it thinks fit, recall any step or proceeding already gone through under the said Adhiniyam, and take that step or proceeding afresh, under the corresponding provisions of this Act.

(2) If a notice has been published under Section 28, no Nagar Mahapalika or other local authority having jurisdiction over any area comprised in the scheme shall, without the permission of the State Government, dispose of any property in such area or do anything on or in relation to any such property so as to alter the character of the property or make any outlay or improvement on or cause any damage to such property.

(3) The State Government may, by general or special order, provide for adjustment between conflicting or overlapping schemes under this Act and under the said Adhiniyam.

Explanation—The expression "corresponding provision of this Act" means, in case of doubt, such provision as may be specified by the State Government by general or special order to be the corresponding provision for that purpose.

45. Transfer of land, etc. by State Government to Board for purposes of scheme or management, etc.—The State Government may, after consultation with the Board, transfer to it any land belonging to or vested in the State Government or acquired under the provisions of the Uttar Pradesh Slum Areas (Improvement and Clearance) Act, 1962 (U.P. Act XVIII of 1962, or made available to the competent authority under the said Act, being either under its direct management or under the management of any local authority, on such terms and conditions,

including the condition of resumption by the Government on the occurrence of a specified contingency, as the Government may think fit to impose.

46. Power of Board to undertake other projects at the instance of others.—The Board may undertake the execution of any housing or other building project at the request of the State Government or, with the previous approval of the State Government, at the request of any other person on such terms and conditions as may be agreed upon.

47. Execution of other schemes by the Board.—(1) Without prejudice to the power of the State Government under sub-section (2), the Board may, on such terms and conditions as may be agreed upon between the Board and any other local authority, take over the execution or further execution of any housing or improvement scheme undertaken by such local authority, and the Board shall thereafter execute such schemes as if it had come into force under sub-section (5) of Section 32 of this Act.

(2) Where the State Government is of opinion that it is expedient in the public interest that an improvement scheme sanctioned or partly executed under the Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959 should be further proceeded with by the Board, it may, after giving to the Nagar Mahapalika concerned an opportunity of making written objections, direct that the execution or further execution of any such scheme be transferred to the Board on such terms and condition as it may deem fit, and the Board shall there after execute such scheme as if it had come into force under sub-section (5) of Section 32 of this Act.

(3) Whenever the execution or further execution of a scheme is under taken by the Board under sub-section (1) or sub-section (2), the Board shall have the same power of levying betterment fee in relation to such scheme as if the scheme were framed and sanctioned under this Act :

Provided that the declaration referred to in Section 50 may, in the case of any such scheme, be made by a notice, which shall be published in the *Gazette* and two daily newspapers having circulation in the area comprised in the scheme, at least one of which shall be a Hindi newspaper, and a copy of which shall be sent to the local authority or authorities within whose jurisdiction the area comprised in the scheme lies. Thereupon the provisions of Sections 29 and 30 shall, *mutatis mutandis*, apply so far as they relate to the proposal to levy betterment fee, and the Board may, after considering the objections, if any, received in pursuance of the said provisions and after giving an opportunity of being heard to the objectors, either abandon or, with or without modifications, confirm the proposal.

(4) Whenever the execution or further execution of a scheme is transferred to the Board under sub-section (1) or sub-section (2), any legal

proceeding, including any proceeding under the Land Acquisition Act, 1894, (Act No. I of 1894), pending in relation to that scheme by or against the Nagar Mahapalika may be continued, prosecuted or enforced by or against the Board.

48. Supervision and centage charges.—The Board may include in the cost of any housing or improvement scheme framed by it or any work undertaken by it supervision and centage charges at such rates as may be fixed by it :

Provided that the rate so fixed shall not be more than twelve and a half per cent of the other cost of the scheme or work.

49. Power of State Government to call for the records of the Board and to modify or annul any scheme.—(1) Notwithstanding anything contained in the foregoing provisions of this Chapter, the State Government may at any time call for and examine the records of the Board relating to any housing or improvement scheme which is proposed to be or has been framed by the Board or which is being executed by it, and modify, annul or remit for reconsideration to the Board any such scheme or direct that the scheme be executed with such modifications as may be specified, or issue such other directions as it may deem fit :

Provided that if any modification involves acquisition, otherwise than by agreement, of any land or building not proposed to be acquired in the original scheme, or if owing to any modification any land not previously liable under the original scheme to payment of betterment fee becomes liable to such payment, the modification shall not be made without giving an opportunity to the persons so affected of making objections against the proposed modification.

(2) The State Government may stay the execution of any such scheme pending the passing of orders under sub-section (1).

(3) Any modification of a scheme under sub-section (1) shall be notified in the *Gazette* and shall have effect from the date of such notification, so, however, that any such modification shall be without prejudice to the validity of anything previously done under the original scheme.

CHAPTER IV

Betterment Fee

50. Declaration regarding betterment fee.—(1) When by the execution of a housing or improvement scheme, any land in the area comprised in the scheme which is not required for the execution thereof will, in the opinion of the Board, be increased in value, the Board, in framing the scheme, may declare that betterment fee 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 resulting 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 buildings, exceeds the value of the land prior to the execution of the scheme estimated in the like manner; and the betterment fee shall be one-third of such increase in value.

(3) The Board may, with the previous approval of the State Government, declare that such betterment fee shall be payable also in respect of any land which is not situated in the area comprised in the scheme but is adjacent to, and within half a kilometre of the boundaries of, that area, if such land will be increased in value consequent on the execution of the scheme.

51. Assessment of betterment fee.—(1) When it appears to the Board that the scheme is sufficiently advanced to enable the amount of the betterment fee to be determined, the Board shall, by resolution passed in this behalf, declare that for the purpose of determining such fee, the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to every person on whom a notice has been served under Section 29 or to the successor-in-interest of such person, as the case may be, that the Board proposes to assess the amount of betterment fee payable in respect of such land under Section 50.

(2) After giving such person an opportunity of being heard, the Board shall in the manner prescribed, assess the amount of betterment fee payable by him, and serve on him a copy of the order of assessment.

(3) The assessment made under sub-section (2) shall, subject to the result of appeal if any, under sub-section (4), be final.

(4) Any person aggrieved against an order of levy or assessment under sub-section (2), may file an appeal before the Tribunal within such time and in such manner as may be prescribed.

(5) The Tribunal may, after giving an opportunity of hearing to the parties in the prescribed manner, pass such orders it may deem fit.

(6) The Tribunal may, pending decision of the appeal, pass such interim orders as it may deem fit.

52. Notice of demand.—(1) When the amount of betterment fee has been assessed under Section 51, the Board shall by notice require the assessee to pay the betterment fee so assessed in such annual instalments, not exceeding ten, and by such dates as may be fixed in this behalf:

Provided that an assessee may at any time pay the entire amount of the betterment fee or of the balance then due, and in such case, he may be allowed such rebate as may be prescribed.

(2) Where any instalment of betterment fee is not paid by the date fixed under sub-section (1), interest at such rate, not exceeding six per cent per annum, as may be prescribed, shall be payable by the assessee from such date and shall be deemed to be part of the betterment fee.

53. Betterment fee as a charge on land.—(1) Any person liable to pay betterment fee in respect of any land may, at any time, at his option, instead of paying the same to the Board, execute an agreement with the Board leaving the payment of the betterment fee or the balance thereof, as the case may be, outstanding as a charge on his interest in such land, subject to the annual payment, in perpetuity, of interest on such amount at the rate of six per cent per annum.

(2) Every payment due from any person in respect of a betterment fee, including a payment referred to in sub-section (1), shall notwithstanding anything contained in any law or agreement for the time being in force, be the first charge upon the interest of such person in such land, subject to the prior payment of land revenue, if any, due to the State Government, on such land.

(3) If any instalment of interest due under an agreement executed in pursuance of sub-section (1) be not paid on the due date, or within such period of grace as may be prescribed, the betterment fee or the balance thereof, as the case may be, shall become payable on that date, in addition to such instalment.

(4) At any time after an agreement has been executed in pursuance of sub-section (1) any person may pay off the amount for which the charge has been created, with the interest due up to the date of such payment.

54. Recovery or betterment fee, etc, as arrears of land revenue.—All moneys payable in respect of any land by any person under this Chapter in respect of betterment fee or any interest due thereon up to the date of realisation, shall be recoverable by the Board from the said person or his successor-in-interest as arrears of land revenue.

CHAPTER V

Property, Contract and Finance

55. Power to acquire land.—(1) Any land or any interest therein required by the Board for any of the purposes of this Act, may be acquired under the provisions of the Land Acquisition Act, 1894 (Act No. I of 1894), as amended in its application to Uttar Pradesh, which for this purpose shall be subject to the modification specified in the Schedule to this Act.

(2) If any land in respect of which betterment fee has been levied under this Act is subsequently required for any of the purposes of this Act, such levy shall not be deemed to prevent the acquisition of the land under the Land Acquisition Act, 1894 (Act No. I of 1894).

56. Power to acquire and dispose of land by agreement.—Subject to such conditions and restrictions as may be prescribed, the Board may—

- (1) by agreement with any person, purchase, lease or exchange any land or any interest therein required by it for any of the purposes of this Act; or

- (2) retain or sell, exchange, lease or otherwise dispose of any land vested in or acquired by it :

Provided that in transferring by sale, exchange, lease or otherwise, any land acquired for any scheme under this Act, preference to such extent and in such manner as may be prescribed shall be given to the persons whose land was acquired for such scheme.

57. Execution and registration of contracts, etc.—(1) Every contract or assurance of property on behalf of the Board shall be in writing and executed by such authority and in such manner as may be prescribed.

(2) Notwithstanding anything contained in the Indian Registration Act, 1908 (Act No. XVI of 1908), it shall not be necessary for the Housing Commissioner or any officer of the Board authorised to execute on behalf of the Board any agreement or other instrument to appear in person or by agent at any registration office in any proceedings connected with the registration of any such agreement or instrument or to sign as provided in Section 58 of that Act:

Provided that the registering officer to whom such instrument is presented may, if he thinks fit, refer to the Housing Commissioner or such officer for information respecting the same and shall, on being satisfied of the execution thereof, register the instrument.

58. Financial provisions.—(1) The Board shall have its own fund which shall be deemed to be a local fund and to which shall be credited all moneys received by or on behalf of board.

(2) The Board's fund shall be kept in the State Bank of India or, with the previous sanction of the State Government, in the U.P. Co-operative Bank or in a scheduled bank:

Provided that nothing in this sub-section shall be deemed to preclude the Board from retaining such balances in cash as may be necessary for current payments or from investing any portion of the fund not required for immediate expenditure in any of the securities described in Section 20 of the Indian Trusts Act, 1882 (Act No. II of 1882).

(3) Subject to such conditions and limitations as may be prescribed, the Board may from time to time raise loans or enter into financial arrangements for the purposes of this Act.

(4) Subject to such conditions and limitations as may be prescribed, the Board may grant loans and advances, on such terms and conditions as it may determine, to any other local authority, any co-operative society, or to any other person for the construction of houses.

59. Debentures.—(1) The Board may, from time to time, with the previous sanction of the State Government, issue debentures for such amounts and on such terms and conditions as may be prescribed.

(2) The State Government may guarantee, in such manner as it thinks fit, the payment of the principal and interest, or of either the principal or the interest, of any debentures issued under sub-section (1) :

Provided that the State Government, shall, so long as any such guarantees are in force, lay before both Houses of the State Legislature in every year during the budget session, a statement of the guarantees, if any, given during the current financial year and an up-to-date account of the total sums, if any, which have been paid out of State revenues by reason of any such guarantees or paid into State revenues toward repayment of any money so paid out.

(3) Debentures issued by the Board under this section shall be issued, transferred, dealt with and redeemed in such manner as may be prescribed.

60. Repayment of loans.—(1) The Board shall, for the purpose of repayment of any loan raised by it, establish a sinking fund in such manner as may be prescribed.

(2) Every such sinking fund shall be maintained, invested and applied in such manner as may be prescribed.

(3) The Board may, and if so directed by the State Government, shall, create a trust in the prescribed manner for investment of a sinking fund and for repayment of the loans for which such fund was established.

61. Grants and loans by Government.—The State Government may, from time to time, make grants or advance loans to the Board for the purposes of this act on such terms and conditions as the State Government may determine.

62. Additional stamp duty on transfers of property.—(1) The duty imposed by the Indian Stamp Act, 1899 (Act No. II of 1899), on any deed of transfer of immovable property shall, in the case of immovable property situated within the area in which this Act is in force, be increased by two per cent ¹[on the amount or value of the consideration with reference to which the duty is calculated under the said act].

Provided that the Board may, with the previous approval of the State Government, enhance the aforementioned percentage of the increase in stamp duty up to five.

(2) All collections resulting from the said increase shall, after deduction of incidental expenses, if any, be allocated and paid by the State Government to the Board alone or to the Board and the Nagar Mahapalika or the municipal board, as the case may be, in such proportions as may from time to time be determined in such manner and in accordance with such principles as may be prescribed.

(3) For the purposes of this section, Section 27 of the Indian Stamp Act, 1899 (Act No. II of 1899), shall be read as if it specifically required the particulars referred to therein to be separately set forth in respect of—

1. Sub-section (1), for the words "on the value of the property transferred or in the case of usufructuary mortgage on the amount secured by the instrument" the words "on the amount or value of the consideration with reference to which the duty is calculated under the said Act" substituted; by U.P. Act No. 29 of 1966.

- (a) the property situated within the area where this Act is in force, and
- (b) the property situated outside such area.

(4) For the purposes of this section, Section 64 of the Indian Stamp Act, 1899 (Act No. II of 1899), shall be so read and construed as if it referred to the Board as well as to the State Government.

(5) The provisions of clause (g) of sub-section (2) of Section 172 and Section 191 of the Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959 (U.P. Act No. II of 1959), and of clause (xiii-B) of Section 128 and Section 128-A of the U. P. Municipalities Act, 1916 (U. P. Act No. II of 1916) ¹[shall not apply in relation to any Local area in which this Act is in force] and the provisions of this section shall prevail.

²["The provisions of Section 6, 8 and 24 of the U.P. General Clauses Act, 1904, shall apply in relation to such cesser as they apply in relation to repeal and re-enactment."]

63. Accounts and audit.—³["(1) (a) The Housing Commissioner shall lay before the Board, at a special meeting to be held before the commencement of a financial year, a budget of the Board for that year.

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

- (i) the housing and improvement schemes, which the Board proposes to execute whether to part or whole during that year;
- (ii) the due fulfilment of all the liabilities of the Board; and
- (iii) the efficient administration of this Act;

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

(c) The Board shall after considering the budget sanction it with or without modifications, and submit the same to the State Government for approval.

(d) The State Government may either approve the budget as sanctioned by the Board, or return it to the Board for such modifications as the State Government may direct.

(e) Where a budget is so returned the Board shall forthwith make such modifications and submit the budget as so modified to the State Government, which may then approve it.

(i) The Housing Commissioner may, at any time during the financial year for which a budget has been approved by the State Government, lay before the Board a supplementary budget and the foregoing provisions

1. Sub-section (5), for the words "shall to the extent of any repugnancy with the provisions of this section cease to have effect", the words " shall not apply in relation to any local area in which this Act is in force" substituted by U.P. Act No. 10 of 1978.

2. Proviso added by U.P. Act No. 29 of 1966.

3. Sub-section (1) subs. by U.P. Act No. 47 of 1976.

for this sub-section shall *mutatis mutandis* apply to such supplementary budget."

(2) The Board shall maintain the accounts and prepare the balance-sheet in such form and manner as may be prescribed.

(3) The accounts of the Board shall be audited by such auditor in such manner and at such time as may be prescribed, and the auditor so appointed shall have such powers of requiring the production of documents and the furnishing of information respecting such matters, and such powers in respect of disallowance and surcharge against the Adhyaksh, the Housing Commissioner and members, officers and servants of the Board for any loss, waste or misapplication of the fund or property of the Board through neglect or misconduct on their part, and shall follow such procedure in respect of surcharge and recovery of the amount surcharged, and in respect of disallowance and surcharge be subject to such appeal and in such manner as may be prescribed.

(4) The accounts of the Board as certified by the auditor, together with the audit report thereon, shall be forwarded annually to the State Government who may issue such instructions to the Board in respect thereof as it may deem fit, and the Board shall comply with such instructions.

(5) The State Government shall—

- (a) cause the accounts of the Board, together with the audit report thereon, received by it under sub-section (4) to be laid annually before each House of the State Legislature, and
- (b) cause the accounts of the Board to be published in the prescribed manner and make available copies thereof for sale at a reasonable price.

CHAPTER VI

Tribunal

64. Functions and constitution or Tribunal.—(1) The State Government may, by notification in the *Gazette*, constitute one or more Tribunals for the purposes of—

- (a) performing the functions of the Court with reference to the acquisition of land for the Board under the Land Acquisition Act, 1894 (Act No. I of 1894), as modified by the Schedule to this Act;
- (b) determining, in case of dispute and on reference in the prescribed manner, the compensation payable by the Board under the various provisions of this Act;
- (c) deciding appeals relating to levy or assessment of betterment fee;
- (d) deciding appeals under Sections 36 and 37 ¹[* * *]; and

1. The words "and Chapter VII" Omitted by U.P. Act No. 22 of 1972.

(e) deciding such other matters as may be prescribed.

(2) The Tribunal shall exercise jurisdiction with respect to such area as may be specified in the notification under sub-section (1).

(3) The Tribunal shall consist of a civil judicial officer not below the rank of District Judge.

Explanation—The expression "District Judge" includes an Additional District Judge.

(4) Except as otherwise provided by or under this Act, the Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act No. VI of 1908), shall follow the same procedure as laid down in that Code, and shall be deemed to be a civil court within the meaning of Sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act No. V of 1898), and any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code (Act No. XLV of 1860).

(5) The judicial officer appointed as Tribunal shall be paid such remuneration as may be prescribed.

(6) The Tribunal may, with the previous sanction of the State Government, appoint such officers and servants as it considers necessary for the conduct of its business, and the remuneration and other conditions of service of such officers and servants shall be such as may be prescribed.

(7) The remuneration payable to the judicial officer appointed as Tribunal and other officers and servants of the Tribunal shall be paid out of the fund of the Board.

65. Transfer of pending cases to the Tribunal.—Any case pending before a Tribunal constituted under the Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959 (U. P. Act No. II of 1959), with reference to acquisition of land for a Mahapalika in connection with an improvement scheme under the said Adhiniyam which, under sub-section (1) of Section 44 or sub-section (1) or sub-section (2) of Section 47, is transferred to the Board, shall, upon such transfer, stand transferred to the Tribunal constituted under Section 64 having jurisdiction with respect to that City, and thereupon that Tribunal shall proceed further with the case, from the stage at which it was transferred to it, in accordance with the provisions of this Act and the rules.

66. Finality of decisions of Tribunal.—(1) An award of the Tribunal in a case relating to the acquisition of land under the Land Acquisition Act, 1894 (Act No. I of 1894), as modified by the Schedule to this Act, shall be deemed to be an award of the Court under that Act and shall, subject to the provisions of Section 54 of that Act, be final.

(2) Any other decision of the Tribunal under this Act shall be final.

67. Other provisions relating to awards and orders of Tribunal.—(1) An award or any other order made by the Tribunal for payment of

money, for delivery of possession or for removal of any structure shall be deemed to be a decree and the statement of the grounds of such award or order a judgment within the meaning of clause (2) and clause (9) respectively of Section 2 of the Code of Civil Procedure, 1908 (Act No. V of 1908).

(2) Every such award or order shall also state the amount of cost incurred by either party and by what persons and in what proportion they are to be paid.

(3) No award or order of the Tribunal shall be chargeable with stamp duty, and a person claiming under an award or order shall be entitled to one free copy of the same.

(4) An award or order referred to in sub-section (2) shall be executable by such Court as may be prescribed.

CHAPTER VII

Eviction from and Recovery of Rent and Damages Relating to Board Premises

¹[68. Exclusion of U.P. Control of Rent and Eviction Act III of 1947.]—The provisions of the U.P. (Temporary) Control of Rent and Eviction Act, 1947 (U.P. Act No. III of 1947), shall not apply to any accommodation let out by the Board:

Provided that nothing in this section shall permit the eviction of a person in occupation of any accommodation from before the date of its acquisition by the Board save in accordance with the provisions of that Act or of Section 69.

²[69. Summary procedure for eviction and recovery of rent, etc.]—(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Act IV of 1882), the Code of Civil Procedure, 1908 (Act No. V of 1908), or any other law for the time being in force, if the prescribed authority is of opinion—

- (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 not less than three months; or
 - (ii) sub-let, without the permission in writing of the Board, the whole or any part of such premises ; or
 - (iii) otherwise acted in contravention of any of the terms, express 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 prescribed authority may issue in the manner

1. Section 68 Omitted by U.P. Act No. 28 of 1976.

2. Section 69 Omitted by U.P. Act No. 22 of 1972.

hereinafter provided a notice in writing calling upon the person, if any, authorised to occupy as well as any other person who may be in occupation of the whole or any part of the premises to show cause why an order of eviction and recovery of arrears of rent and damages, if any, should not be made.

(2) The notice under sub-section (1) shall specify—

- (a) the grounds on which the order of eviction or of recovery of arrears of rent or damages is proposed to be made; and
- (b) the date by which cause against the proposed order may be shown, such date being not earlier than fifteen days from the date of issue of the notice, provided that the prescribed authority, may on application allow further time on such terms, as to payment of the amount claimed in the notice or otherwise, as it deems fit.

(3) The prescribed authority shall cause the notice under sub-section (1) to be served by having it affixed on the outer door or some other conspicuous part of the Board premises and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.

(4) Where the prescribed authority knows or has reason to believe that any person is in occupation of the Board premises, then, without prejudice to the provisions of sub-section (3), it shall cause a copy of the notice to be served on him by registered post or delivery or tender to him or in such other manner as may be prescribed.

(5) If, after considering the cause, if any, shown by any person in pursuance of the notice under sub-section (1) and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the prescribed authority is satisfied that any of the circumstances mentioned in sub-section (1) exists, or existed on the date of the issue of the notice, it may on a date to be fixed for the purpose, make an order, stating reasons therein, directing that the Board premises shall be vacated by all persons who may be in occupation thereof or any part thereof and may further order that any person shall pay such amount of arrears of rent or damages as may be specified in the order.

(6) If a person who has been asked to show cause under sub-clause (i) or sub-clause (iii) of clause (a) of sub-section (1) pays to the Board within the time allowed, the rent in arrears together with interest thereon at six per cent per annum and such costs as may be prescribed, or, as the case may be, remedies to the satisfaction of the prescribed authority the breach of the terms contravened by him, the prescribed authority shall, in lieu of evicting such person under sub-section (5), discharge the notice, and thereupon such person shall continue to hold the premises on the same terms on which he held them immediately before such notice was served on him.

(7) The prescribed authority shall, for the purpose of holding any inquiry under this Chapter, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act No. V of 1908), when trying a suit, in respect of the following matters, namely—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents; and
- (c) any other matter which may be prescribed,

and shall be deemed to be a civil court within the meaning of Sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act No. V of 1898), and any proceeding in such inquiry shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code (Act No. XLV of 1860).

(8) If any person refuses or fails to comply with an order of eviction under sub-section (5) within thirty days from the date of the order or such longer time as the prescribed authority may allow, the prescribed authority or any other officer duly authorised by it in this behalf, may evict him from, and take possession of, the Board premises, and may for that purpose use such force as may be necessary.

(9) Any arrears of rent or damages ordered to be paid under sub-section (5), may be recovered as arrears of land revenue.

Explanation—For the purposes of this section, a person continuing in occupation of any Board premises after the authority under which or the capacity in which he was allowed to occupy the premises has been duly determined or, as the case may be, has ceased, shall also be deemed to be in "unauthorised occupation", and a person shall not, merely by reason of the fact that he had paid any amount as rent, be deemed to be in authorised occupation.

1[70. Appeal.—(1) Any person aggrieved by an order of the prescribed authority under sub-section (5) of Section 69 may, within thirty days from the date of such order, prefer an appeal to the Tribunal:

Provided that the Tribunal may entertain an appeal after the expiry of such period if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within time.

(2) Where an appeal is preferred from an order of the prescribed authority, the Tribunal may stay the enforcement of that order for such period and on such terms as it deems fit.

(3) The Tribunal may, after giving to the parties an opportunity of being heard, confirm, set aside or modify the order under appeal, or remand the case to the prescribed authority.

71. Recovery of rent through deduction from salary or wages.—

(1) If any Board premises are let out to a person who is employed by the State Government or a local authority or in a factory or industrial

establishment, he may execute an agreement in such form as may be prescribed in favour of the Board providing that the State Government or the local authority or other employer, as the case may be, 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 to pay the amount so deducted to the Board in satisfaction of the rent due to him in respect of such premises.

(2) On the execution of such agreement, the State Government or local authority or other employer, as the case may be, shall, if so required by the Board in writing, make the deduction from the salary or wages of the employee in accordance with the agreement, and pay the amount so deducted to the Board, anything contained in the Payment of Wages Act, 1936 (Act No. IV of 1936) notwithstanding.

(3) The deduction of any amount under sub-section (2) shall operate as a complete discharge of the liability of the employee to the Board in respect of the amount so deducted.

Explanation—The terms "factory" and "industrial establishment" shall have the meanings respectively assigned to them by the Payment of Wages Act, 1936 (Act No. IV of 1936).

¹[71-A. [* * *]

²[72. **Bar of jurisdiction of courts.**—No order made by the prescribed authority in the exercise of any power conferred by or under this Chapter shall be called in question in any court.

CHAPTER VIII

Offences and Penalties

73. Penalty for building in contravention of schemes.—If any person erects, re-erects, adds to, or alters any building in contravention of the provisions of clause (a) of sub-section (3) of Section 23, sub-section (3) of Section 24 or Section 35, he shall be punishable with fine which may extend to ten thousand rupees, and, in case of continuing breach, with further fine which may extend to five hundred rupees for each day during which the breach continues after the first conviction.

74. Penalty for obstructing contractor or removing mark.—If any person—

- (a) obstructs or molests any person with whom the Board has entered into a contract, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Act or any rule or regulation or
- (b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised by this Act or any rule or regulation,

1. Section 71-A and 72 Omitted by U.P. Act No. 22 of 1972.

2. Section 71-A and 72 Omitted by U.P. Act No. 22 of 1972.

he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

75. Penalty for acquiring share or interest in contract, etc, with the Board.—If the Adhyaksh or any member of the Board acquires, directly or indirectly, by himself or by any partner, employer or employee, any share or interest, pecuniary or of any other nature, in any contract or employment with, by or on behalf of the Board, not being a share or interest which does not disqualify for being chosen or continuing as Adhyaksh or member, or

if any officer or servant of the Board acquires, directly or indirectly, by himself or by any partner, employer or employee, any share or interest, whether pecuniary or of any other nature, other than a share or interest mentioned in clause (i) or clause (ii) of the proviso to Section 4, in any contract, or, except in so far as concerns his employment as such officer or servant, in any employment with, by or on behalf of the Board, he shall be punishable with simple imprisonment for a term which may extend to one year, or with fine, or with both,

76. Penalty in other Cases.—If any person contravenes any provision of this Act or of any rule or regulation he shall, if no other penalty is provided for such contravention, be punishable with fine which may extend to five hundred rupees, and in case of continuing breach, with further fine which may extend to twenty-five rupees for each day during which the breach continues after the first conviction.

77. Offenders liability to pay compensation.—(1) When any person is convicted of any offence under this Act the Court convicting such person may, on application made in this behalf by the Board, call upon such person forthwith to show cause as to why he should not pay compensation to the Board for the damage caused by his act in respect of which he is convicted.

(2) The Court shall consider any cause shown by such person and, after making such inquiry as it may deem fit, may direct that such compensation, not exceeding one thousand rupees as it may determine, be paid to the Board.

(3) The amount of compensation directed to be paid under sub-section (2) shall be recoverable as fine.

78. Offences by companies.—(1) If the person committing an offence punishable under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, 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 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 any such offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of any managing agent, secretaries and treasurers, director, manager, secretary or other officer of the company, such managing agent, secretaries and treasurers, 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 purposes of this section—

- (a) "company" means a body corporate and includes a firm or other association of individual; and
- (b) "director", in relation to a firm, means a partner in the firm.

79. Procedure.—(1) 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 an officer of the Board duly authorized in this behalf, within six months next after the commission of the offence.

(2) No court inferior to that of a magistrate of the First Class shall try any offence punishable under this Act.

80. Duty of police officers.—It shall be the duty of every police officer—

- (a) to co-operate with the Housing Commissioner for carrying into effect and enforcing the provisions of this Act and the rules;
- (b) to communicate without delay to the proper officer or servant of the Board any information which he receives of a design to commit or of the commission of any offence against this Act or any rule; and
- (c) to assist the Housing Commissioner or any officer or servant of the Board requiring his aid for the lawful exercise of any power vesting in the Housing Commissioner or any such officer or servant under this Act or any rule.

81. Compounding of offences.—Any offence punishable under this Act may either before or after the institution of the prosecution be compounded by the Housing Commissioner, or by any officer authorized in this behalf by the Housing Commissioner by a general or special order, on such terms as the Housing Commissioner or other officer, as the case may be, thinks fit.

CHAPTER IX

Miscellaneous

82. Power to direct removal of unauthorised erections.—(1) The Housing Commissioner may by notice require the owner of a building referred to in Section 73 to stop further work on such building and to alter or demolish the same in such manner and within such time as may be specified in the notice.

(2) Where the notice under sub-section (1) is not complied with, the Housing Commissioner may cause the building or any portion thereof to be altered or demolished, as the case may be, and he may recover the expense incurred in so doing from the owner in such manner as may be prescribed.

83. Exercise of powers and functions of local authority.—In an area in respect of which a housing or improvement scheme is in force, the State Government may, by notification in the *Gazette*, declare that for the period during which the scheme remains in force such powers and functions exercisable by a local authority or its chief executive officer under the enactment constituting such local authority, and subject to such exceptions or modifications as may be specified in the notification, shall be exercised by the Board or the Housing Commissioner, as the case may be.

84. Power of entry.—(1) The Housing Commissioner or any person authorized by him by general or special order in this behalf may, with or without assistants or workmen, enter into or upon any land, in order—

- (a) to make any inspection, survey, measurement, valuation or inquiry;
- (b) to take levels;
- (c) to dig or bore into the sub-soil;
- (d) to set out boundaries and intended lines of work;
- (e) to mark such levels, boundaries and lines by placing marks and cutting trenches; or
- (f) to do any other thing necessary for the purposes of this Act or any rule or regulation :

Provided that—

- (a) no such entry shall be made between sunset and sunrise;
- (b) no dwelling house or place shall be so entered, except with the consent of the occupier thereof, without giving the occupier at least twenty-four hours notice of the intention to make such entry;
- (c) reasonable opportunity and facility shall be allowed to the women occupying any part of a house to withdraw; and
- (d) due regard shall, so far as feasible, be had to the special and religious usages of the occupants of the premises entered into.

(2) Whenever the Housing Commissioner or a person authorized under sub-section (1) enters into or upon any land in pursuance of that sub-section, he shall, at the time of such entry, pay or tender payment for the damage, if any, to be caused by any act as aforesaid; and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Board, whose decision thereon shall be final.

85. General power to pay compensation.—In any case 'not otherwise expressly provided for in this Act, the Board may pay reasonable compensation to any person who sustains damage by reason of the exercise of any power vested by or under this Act in the Board or the Housing Commissioner or any officer or servant of the Board.

86. Adhyaksh, etc. to be deemed public servants.—¹[The Adhayaksh, the Up-Adhayakshas] the Housing Commissioner, and all members, officers and servants of the Board, members of committees constituted under this Act, the Tribunal, the prescribed authority and all other persons entrusted with the execution of any functions under this Act, shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (Act No. XLV of 1860).

87. Protection for acts done in good faith.—No suit, prosecution or other legal proceeding shall lie against the State Government, the Board or any committee thereof, the Adhyaksh, the Housing Commissioner, the Tribunal, the prescribed authority or any officer or servant of the State Government or the Board for anything which is in good faith done or supported or intended to be done in pursuance of this Act or any rule or regulation.

88. Suits and legal proceedings.—(1) The Housing Commissioner may, on behalf of the Board and subject to its control,—

- (a) institute, defend, or withdraw from any legal proceedings; and
- (b) admit, compromise or withdraw any claim.

(2) No suit shall be instituted against the Board the Adhyaksh, the Housing Commissioner, the Tribunal, the prescribed authority or any member, officer or servant of the Board, in respect of any act done or purported or intended to be done under this Act or any rule or regulation until the expiration of two months next after notice in writing has been delivered to, or left at the office of, the Board, the Adhyaksh the Housing Commissioner, the Tribunal, the prescribed authority, or such officer or servant, as the case may be, stating in cause of action, the name and place of abode of the abode of the intending plaintiff, and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left.

89 Mode of proof of documents of the Board.—(1) A copy of an entry in any register, or of any receipt, application, plan, notice, order, or other document in the possession of the Board, shall, if duly certified by an officer authorized in this behalf, be received as *prima facie* evidence of the entry or document and be admitted as evidence of the matter or transaction therein recorded in every case where, and to the same extent as, the original entry or document would, if produced, have been admissible to prove such matters.

(2) No member, officer or servant of the Board shall, in any legal proceeding to which the Board is not a party, be required to produce any

1. The words "The Adhayaksh" the words "The Adhayaksh, the upadhayakshas" subs by U.P. Act No. 11 of 2007. (w.e.f. 15 June 2007).

register or document, the contents of which can be proved under sub-section (1) by a certified copy, or to appear as a witness to prove the matter or transaction recorded therein, unless the court, for reasons to be recorded, considers it necessary to make such an order.

90. Copies from assessment books to be furnished by local authorities to Board.—The chief executive officer of a local authority shall, at the request of the Housing Commissioner, furnish him with a copy of, or an extract from, any assessment list of the local authority.

91. Mode of recovery of dues and penalties.—Without prejudice to any other mode of recovery provided by or under this Act or any other law for the time being in force, any sum due on account of penalty, damages, tax or fee, recoverable under this Act, or any sum due to the Board on account of rent or premium or on account of any deduction made under Section 71 or of any loan granted by the Board for construction or improvement of houses or on account of the price of houses sold on hire purchase, shall be recoverable as arrears of land revenue.

CHAPTER X

External Control

92. Control of the State Government over the Board and other local authorities.—(1) The Board shall—

- (a) submit to the State Government such reports and returns in such forms and at such intervals as may be prescribed;
- (b) furnish to the State Government such documents, returns, statements, estimates or other information regarding any matter under the control of the Board as may be directed by the State Government.

(2) The State Government may give the Board such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act, and it shall thereupon be the duty of the Board to comply with such directions.

(3) Without prejudice to other provisions of this Act, and notwithstanding anything contained in any other law for the time being in force, the State Government may give any local authority such directions as in its opinion are necessary or expedient for enabling the Board to carry out the purposes of this Act; and thereupon it shall be the duty of the local authority to comply with such directions.

93. Dissolution of the Board.—(1) If the State Government is of opinion that the Board has failed to carry out its functions under this Act or that for any other reason, it is not necessary to continue the Board, it may, by notification in the *Gazette*, dissolve the Board from such date as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) dissolving the Board—

- (a) the Adhyaksh, the Housing Commissioner and all members of the Board shall, as from the date of dissolution, vacate their offices;
- (b) all the powers and functions which may, by or under this Act, be exercised and performed by or on behalf of the Board or the Housing Commissioner shall, as from the date of dissolution, be exercised and performed by, and all subsisting contracts, agreements and other instruments to which the Board or the Housing Commissioner is a party or which are in favour of the Board or the Housing Commissioner may be enforced or acted upon, and all suits, appeals and other legal proceedings pending by or against the Board or the Housing Commissioner may be continued, prosecuted or enforced, by or against the State Government or such authority or person as it may appoint in this behalf;
- (c) the fund of and other properties vested in the Board shall vest in the State Government; and
- (d) all liabilities, legally subsisting and enforceable against the Board, shall be enforceable against the State Government to the extent of the fund and properties of the Board vested in it.

(3) Nothing in this section shall affect the liability of the State Government in respect of debentures guaranteed by it under sub-section (2) of Section 59.

(4) Notwithstanding anything contained in the foregoing provisions of this section, the State Government may at any time again establish a Board under Section 3 and appoint a Housing Commissioner under Section 7, and thereupon.

- (a) the powers and functions as well as the rights and liabilities in relation to contracts, agreements and other instruments, and suits, appeals and other legal proceedings referred to in clause (b) of sub-section (2) shall re-vest in the Board or the Housing Commissioner, as the case may be;
- (b) the fund and other properties referred to in clause (c) of sub-section (2) remaining with the State Government after meeting any liabilities referred to in clause (d) thereof shall re-vest in the Board.

CHAPTER XI

Rules and Regulations

94. Powers to make Rules.—(1) The State Government may, by notification in the *Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the remuneration payable to the Adhyaksh and the allowances, if any, payable to the members of the Board and the Avas Samitis;
- (b) the conditions of service of the Housing Commissioner;

- (c) the manner of maintenance of accounts of income and expenditure of the Units, including the apportionment of common income and expenditure between the various Units;
- (d) the composition of the Avas Samitis and the terms and conditions on which their members shall hold office;
- (e) the matters on which the Board shall consult an Avas Samiti;
- (f) the exercise of supervision and control by the Housing Commissioner over officers and servants of the Board;
- (g) the delegation of powers by the Board under sub-section (1) or by the Housing Commissioner under sub-section (2) of Section 12;
- (h) the matters to be provided for in a housing or improvement scheme;
- (i) the determination and payment of compensation by the Board under clause (b) of sub-section (1) of Section 23, sub-section (4) of Section 24 and sub-section (2) of Section 43 and the procedure for reference to the Tribunal in case of dispute about it;
- (j) the form and manner in which, and the persons or classes of persons on whom, notice shall be served under Section 29 or under proviso (b) to sub-section (1) of Section 33;
- (k) the factors that shall be taken into consideration under sub-section (2), the time within which declaration may be filed under sub-section (4), plans, estimates and other particulars may be furnished under sub-section (5) and intimation may be given under sub-section (7), and the manner in which the communication shall be made under sub-section (6) of Section 37 ;
- (l) the limitation for appeals under sub-section (2) of Section 35, sub-section (7) of Section 36, sub-sections (3) and (9) of Section 37 and sub-section (4) of Section 51;
- (m) the rate of interest, and the instalments in which the expenses of improvement shall be recovered, under sub-section (2) of Section 36 ;
- (n) the manner in which and the extent to which alternative accommodation shall be offered under sub-section (6) of Section 36 ;
- (o) the procedure to be followed by the Tribunal and the prescribed authority in proceedings before them;
- (p) the manner of assessment of betterment fee under sub-section (2) of Section 51;
- (q) the rebate that may be allowed under the proviso to sub-section (1), and the rate of interest payable under sub-section (2) of Section 52 ;

- (r) the period of grace for payment of an instalment under sub-section (3) of Section 53;
- (s) the conditions and limitations subject to which the Board may acquire and dispose of land by agreement;
- (t) the extent to which and the manner in which preference may be given, while disposing of land by agreement, to the persons whose land was acquired for a scheme under this Act;
- (u) the authority and the manner of execution of contracts and assurances on behalf of the Board;
- (v) the conditions and limitations subject to which the Board may raise loans or enter into financial arrangements;
- (w) the terms and conditions of debentures to be issued by the Board and the manner in which such debentures shall be issued, transferred, dealt with and redeemed;
- (x) the conditions and limitation subject to which the Board may grant loans and advances;
- (y) the establishment, maintenance, investment and application of a sinking fund, and the creation of trust under sub-section (3) of Section 60;
- (z) the manner in which and the principles according to which the net realisations of additional stamp duty shall be allocated and paid by the State Government to the Board and the Nagar Mahapalika or the municipal board under sub-section (2) of Section 62;
- (aa) the manner of submission of statements and supplementary statements of programme of the activities of the Board and financial estimates in respect thereof, and the dates by which they shall be submitted to the State Government for its approval;
- (bb) the form and manner in which the balance-sheet and the accounts of Board shall be prepared or maintained;
- (cc) the qualifications or the specification of auditors, the manner and intervals of audit, the powers of the auditors relating to requisition of documents and information, the matters respecting which the production of documents and the furnishing of information may be required by them, the powers of the auditors in respect of disallowance and surcharge, the manner in which proceedings for surcharge and recovery of the amount surcharged shall be undertaken, and the forum and the manner of appeal against such disallowance and surcharge;
- (dd) the manner of publication of the accounts to the Board;
- (ee) the matters which a Tribunal may decide under clause (e) of sub-section (1) of Section 64;

- (ff) the remuneration to be paid to the presiding officer, and the conditions of service of other officers and servants, of the Tribunal;
- (gg) the court which shall execute an award or order of a Tribunal under sub-section (4) of Section 67 ;
- (hh) the costs payable in proceedings under sub-section (6) of Section 69 ;
- (ii) the matters in respect of which the prescribed authority shall, under sub-section (7) of Section 69, have the powers of a civil court;
- (jj) the form of agreement under Section 71;
- (kk) the manner in which expenses of alteration or demolition may be recovered by the Housing Commissioner under sub-section (2) of Section 82;
- (ll) the forms in which and the intervals at which returns and reports shall be submitted by the Board to the State Government;
- (mm) the forms of notices under this Act and the manner of their service;
- (nn) any matter for which regulation may be made by the Board under Section 95;
- (oo) any other matter for which rules are to be or may be made under this Act.

(3) All rules made under this Act shall, as soon as may be after they are made, be laid before each House of the State Legislature, while it is in session, for a total period of not less than fourteen days extending in its one session or more than one successive sessions and shall, unless some later date is appointed, take effect from the date of their publication in the *Gazette*, subject to such modifications or annulments as the two houses of the Legislature may agree to make, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

95. Power to make regulations.—(1) The Board may, by notification in the *Gazette*, make regulations providing for—

- (a) the time and place of, and the manner of convening, the meetings of the Board and its committees and Avs Samitis and their postponement and adjournment;
- (b) the procedure and the conduct of business at meetings of the Board and of its committees and Avs Samitis;
- (c) the appointment, constitution and procedure of committees;
- (d) the delegation of powers by the Housing Commissioner and officers of the Board;
- (e) the duties of officers and servants of the Board;
- (f) the conditions of service of officers and servants of the Board;

- (g) the preparation of plans and estimates for works;
- (h) the preparation of budgets and estimates;
- (i) the authority on which moneys may be paid from the Boards fund;
- (j) the manner of publication of public notices;
- (k) the stamping of facsimile of signatures of the Housing Commissioner and officers of the Board on notices, bills and other documents;
- (l) the fees payable for copies or documents, estimates and plans issued by the Board;
- (m) the management, use and allotment of buildings constructed under any housing or improvement scheme;
- (n) any other matter which is to be or may be provided for by regulations under this Act or the rules.

(2) If any regulation is repugnant to any rule then the rule whether made before or after the regulation shall prevail and the regulation shall to the extent of the repugnancy be void.

CHAPTER XII

Repeal and Transitional Provisions

96. Repeal, amendments and savings.—(1) On and from the day on which this Act comes into force in an area, the U.P. Town Improvement Act, 1919 (U.P. Act No. VIII of 1919), the U.P. Town Improvement (Appeals) Act, 1920 and the U.P. Town Improvement (Adaptation) Act, 1948 (U.P. Act No. XLVII of 1948) shall stand repealed in their application to that area and all references in any other law in force to an improvement trust constituted under the U.P. Town Improvement Act 1919 (U.P. Act No. VIII of 1919), and to the Chairman of such trust shall in relation to that area be construed as references respectively to the Board and the Housing Commissioner.

(2) The operation of the Uttar Pradesh Slum Areas (Improvement and Clearance) Act, 1962 (U.P. Act No. XVIII of 1962), shall in respect of any area in which a *Malin Basti Sudhar Aur Nipatan Yojana* is in force, remain suspended for the period during which such scheme remains in force, and the provisions of Section 6 of U.P. General Clauses Act, 1904 (U. P. Act No. I of 1904), shall apply in relation to such suspension as if the suspension amounted to repeal of the said enactment by this Act.

(3) The operation of the Uttar Pradesh (Regulation of Building Operations) Act, 1958 U.P. Act No. XXXIV of 1958) ¹[Chapter XIII of the Uttar Pradesh Nagar Mahaplika Adhiniyam, 1959, Sections 178 to 186 of the U.P. Municipalities Act, 1916 (or the said sections as extended under Section 338 thereof or under Section 38 of the U.P. Town Areas Act, 1914) or, as the case may be, of Sections 162 to 171 of the U.P. Kshetra

1. Subs by U.P. Act No. 29 of 1966.

Samities and Zila Parishads Adhiniyam, 1961] shall in respect of any area in which a *Bhavi Sarak Yojana* a *Prasar Yojana* or a *Malin Basti Sudhar Aur Nipatan Yojana* is in force, remain suspended for the period during which any such scheme remains in force, and the provision of Section 6 of the U.P. General Clauses Act, 1904 (U.P. Act No. 1 of 1904) shall apply in relation to such suspension as if the suspension amounted to repeal of the said enactments by this Act.

¹[(4) In the U.P. Industrial Housing Act, 1955 (U.P. Act No. XXIII of 1955),—

- (i) for the expressions "Housing Commissioner", "Deputy Housing Commissioner" and "Assistant Housing Commissioner", wherever occurring, the expressions "Labour Commissioner", "Deputy Labour Commissioner (Housing)" and "Assistant Labour Commissioner (Housing)" shall respectively be substituted;
- (ii) in clause (c) of Section 2, the words and figure "sub-section (1) of shall he omitted;
- (iii) in Section 3—
 - (a) in sub-section (1), after the words "any local authority" the words "other than the Uttar Pradesh Avas Evam Vikas Parishad" shall be inserted;
 - (b) the following shall be added as a new sub-section after sub-section (2);

"(3) This Act shall also apply to such houses constructed in execution of any scheme under the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965, as may be declared by the said Parishad by notification in the *Official Gazette* to be houses subject to this Act."

97. Dissolution of Improvement Trust and its consequences.—(1)

On and from the day on which this Act comes into force in an area, any Improvement Trust constituted for that area or part thereof shall stand dissolved and all its assets and liabilities shall stand transferred to and vested in the Board.

(2) The betterment tax in respect of any land which the Improvement Trust was immediately before the appointed day entitled to levy, assess or recover may be levied, assessed or recovered by the Board as if it were a betterment fee leviable under this Act.

(3) Every scheme and all proceedings relating thereto under the U.P. Town Improvement Act, 1919 (U.P. Act VIII of 1919), including proceedings for the levy, assessment or recovery of betterment tax, pending on the appointed day shall stand transferred to the Board, which shall proceed further with the scheme or with the execution thereof or with the levy, assessment or recovery of betterment fee in connection therewith, from, the stage at which it was transferred to it, in accordance with the corresponding provisions of this Act:

1. Clause (4) omitted by U.P. Act No. 22 of 1972.

Provided that the Board may, if it thinks fit, recall any step or proceeding already gone through under the said Act and take that step or proceeding afresh under the corresponding provision of this Act.

Explanation—The expression "corresponding provision of this Act" means in case of doubt, such provision as may be specified by the State Government, by general or special order, to be the corresponding provision for that purpose.

(4) Unless otherwise expressly provided by or under this Act, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which an Improvement Trust is a party or which are in favour of such Trust shall have force and effect against or in favour of the Board, as the case may be, and may be enforced or acted upon as if, instead of the Improvement Trust, the Board had been a party thereto or as if they had been entered into or made in favour of the Board.

(5) If on the appointed day any suit, appeal or other legal proceeding of whatever nature by or against any Improvement Trust is pending the same may be continued, prosecuted or enforced by or against the Board.

Explanation—For the purposes of this sub-section, "legal proceeding" includes any proceeding under the Land Acquisition Act, 1894 (Act No. I of 1894).

(6) Every whole-time employee of an Improvement Trust shall, on and from the appointed day, become an employee of the Board, and shall hold his office by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to gratuity, if any, and other matters as he would have held the same on the appointed day if this Act had not come into force, and shall continue to do so until his remuneration, terms and conditions are duly altered by the Board.

(7) If any dispute arises as to whether any person was a whole-time employee of an improvement as to his remuneration and terms and conditions of service immediately before the appointed day, it shall be referred to the State Government whose decision thereon shall be final.

(8) Notwithstanding anything contained in any law for the time being in force, the transfer of the services of any employee of an Improvement Trust to the Board shall not entitle any such employee to any compensation, and no such claim shall be entertained by any court, tribunal or other authority.

(9) Where an Improvement Trust has established a provident fund or superannuation fund or any other fund for the benefit of its employees, the moneys standing to the credit of any such fund on the appointed day, together with any other assets belonging to such fund, shall stand transferred to and vested in the Board.

98. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, or, by reason of anything contained in this Act, of any other enactment for the time being in force, the State Government may, as occasion requires, by order direct that this Act shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as it may deem to be necessary or expedient.

(2) Any order made under sub-section (1) may be made so as to be retrospective to any date not earlier than the appointed day.

(3) No order shall be made under sub-section (1) in relation to any area after the expiry of three years from the appointed day.

(4) An order made under sub-section (1) shall be laid, as soon as may be, before both the Houses of State Legislature.

SCHEDULE

[See Section 55]

Modifications in the Land Acquisition Act, 1894 (Act No. I of 1894), as amended in its application to Uttar Pradesh (hereafter called the said Act).

1. Amendment of Section 3 of the said Act.—After clause (h) of Section 3 of the said Act, the following new clauses shall be deemed to be *added*, namely—

"(i) 'local authority' includes the Board;

(j) 'Board' means the Uttar Pradesh Avam Vikas Parishad established under the Uttar Pradesh Avam Vikas Parishad Adhiniyam, 1965."

2. Effect of notices under this Act.—(1) The first publication, in the *Official Gazette*, of a notice of any housing or improvement scheme under Section 28 or under clause (a) of sub-section (3) of Section 31 of the Act shall be substituted for and have, in relation to any land proposed to be acquired under the scheme, the same effect as publication in the *Official Gazette*, and in the locality, of a notification under sub-section (1) of Section 4 of the said Act, except where a notification under Section 4 or a declaration under Section 6 of the said Act has previously been made and is still in force, and the provisions of Section 5-A of the said Act shall be inapplicable in the case of such land.

(2) The issue of a notice under clause (c) of sub-section (3) of Section 23 of this Act in the case of land acquired under a *Bhavi Sarak Yojana* and the publication of a notification under sub-section (1) or, as the case may be, under sub-section (4) of Section 32 of this Act in the case of land acquired under any other housing or improvement scheme under this Act shall be substituted for and have the same effect as a declaration by the State Government under Section 6 of the said Act, unless a declaration under the last mentioned section has previously been made and is still in force.