

The Delhi Urban Shelter Improvement Board Bill, 2010

A

BILL

to provide for the establishment of the Delhi Urban Shelter Improvement Board in the National Capital Territory of Delhi and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Sixty First Year of the Republic of India as follows: -

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Delhi Urban Shelter Improvement Board Act, 2010.
- (2) It extends to the whole of the National Capital Territory of Delhi.
- (3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires, -
 - (a) "Board" means the Delhi Urban Shelter Improvement Board constituted under sub-section (1) of section 3 of this Act;
 - (b) "building" includes a house, out-house, stable, latrine, urinal shed, hut, jhuggi, wall (other than a boundary wall) or any other structure whether made of masonry, brick, wood, mud, metal or any other material but does not include any portable shelter;

- (c) "Delhi" means the National Capital Territory of Delhi;
- (d) "Government" means the Lt. Governor of the National Capital Territory of Delhi appointed by the President under article 239 and designated as such under article 239AA of the Constitution;
- (e) "improvement" in relation to any jhuggi jhopri basti means the activity of improvement as provided under section 11 of this Act;
- (f) "jhuggi" means a structure whether temporary or pucca, of whatever material made, with the following characteristics, namely:-
- (i) it is built for residential purpose;
 - (ii) its location is not in conformity with the land use of the Delhi Master Plan;
 - (iii) it is not duly authorized by the local authority having jurisdiction; and
 - (iv) it is included in a jhuggi jhopri basti declared as such by the Board, by notification;
- (g) "jhuggi jhopri basti" means any group of jhuggis which the Board may, by notification, declare as a jhuggi jhopri basti in accordance with the following factors, namely:-
- (i) the group of jhuggis is unfit for human habitation;
 - (ii) it, by reason of dilapidation, overcrowding, faulty arrangement and design of such jhuggis, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors, is detrimental to safety, health or hygiene; and
 - (iii) it is inhabited at least by fifty households as existing on 31st March, 2002:

Provided that the Board may, by order, attach any jhuggi or jhuggis scattered in the nearby areas to any jhuggi jhopri basti and such jhuggi or jhuggis shall be deemed to be part of such jhuggi jhopri basti;

- (h) "katra" includes a residential building or group of buildings in which more than one household share common facilities which is traditionally and popularly known in Delhi as a "katra".
- (i) "land" includes benefits arising out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by law over any street;
- (j) "Lieutenant Governor" means the Lieutenant Governor of the National Capital Territory of Delhi appointed by the President under article 239 of the Constitution;
- (k) "local authority" includes the Delhi Development Authority, the Municipal Corporation of Delhi, the New Delhi Municipal Council, the Delhi Cantonment Board, and any other authority performing the functions of a local authority;
- (l) "Master Plan" means the Master Plan for Delhi prepared under the Delhi Development Act, 1957 (61 of 1957);
- (m) "occupier" includes-
 - (i) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;
 - (ii) an owner in occupation of, or otherwise using his land or building;
 - (iii) a rent-free tenant of any land or building;
 - (iv) a licensee in occupation of any land or building;
 and any person who is liable to pay to the owner damages for the use and occupation of any land or building;
- (n) "official Gazette" means the official gazette of Delhi;
- (o) "owner" in respect of clause (b) of section 38 and section 40 of this Act shall have the same meaning as assigned in clause (37) of section 2 of the Delhi Municipal Corporation Act, 1957 (66 of 1957), whereas in respect of sub-section (2) of section 10, sub-section

- (1) of section 11 and sub-sections (1) and (4) of section 12, it means the Central Government, or Government of Delhi , as the case may be, or their agencies;
- (p) “person interested” in relation to any land or building, includes any person claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition of that land or building under this Act;
- (q) “premises” means any land or building or part of a building and includes – (a) the garden, ground and out-houses, if any, appertaining to a building or part of a building , and (b) any fittings affixed to a building or part of a building for the more beneficial enjoyment thereof;
- (r) “public premises” shall have the same meaning as defined in clause (e) of section 2 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (40 of 1971);
- (s) “redevelopment” means the activity of redevelopment of an area where jhuggi jhopri basti is situated in accordance with the provisions of section 12 of this Act;
- (t) “regulation” means a regulation made by the Board with the approval of the Government, under this Act, by notification in the official Gazette;
- (u) “rule” means a rule made by the Government under this Act, by notification in the official Gazette.
- (v) “slum” and “slum area” shall have the same meanings as assigned to them under the Slum Areas (Improvement and Clearance) Act, 1956 (96 of 1956);
- (w) “unauthorized regularized colonies” mean the unauthorized colonies regularized from time to time.

CHAPTER II

DELHI URBAN SHELTER IMPROVEMENT BOARD AND ITS CONSTITUTION

- Establishment of the Board.
3. (1) As soon as may be after the commencement of this Act, the Government shall, by notification in the official Gazette, constitute an authority to be called "the Delhi Urban Shelter Improvement Board". (herein after referred to as "the Board").
- (2) The Board constituted under sub-section (1) shall be the competent authority to implement the provisions of the Slum Areas (Improvement and Clearance) Act, 1956 (96 of 1956).
- (3) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal and to contract and shall by the said name sue and be sued.
- (4) The Board shall consist of the following, namely:-
- (i) (a) a Chairperson, who shall be the Chief Minister;
 - (b) a Vice-Chairperson who shall be the Minister in-charge of the concerned department of the Government dealing with the Board;
 - (ii) the chief executive officer, to be nominated by the Government who shall be an officer carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India;
 - (iii) three members of the Legislative Assembly of Delhi, to be nominated by the Chairperson in consultation with the Speaker;
 - (iv) two members of the Municipal Corporation of Delhi, to be nominated by the Mayor;
 - (v) the Vice Chairman, Delhi Development Authority, ex-officio;

- (vi) the Commissioner of the Municipal Corporation of Delhi, ex-officio;
- (vii) the Chief Executive Officer, Delhi Jal Board, ex-officio;
- (viii) the Chairperson of the New Delhi Municipal Council, ex-officio;
- (ix) a Member (Engineering), to be nominated by the Government, who shall be an engineer, carrying a scale of pay, which is not less than that of a Joint Secretary to the Government of India, having specialized knowledge and experience in the matters relating to engineering;
- (x) a Member (Finance), to be nominated by the Government carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India, having specialized knowledge and practical experience of accounting and financial matters;
- (xi) a Member (Administration), to be nominated by the Government carrying a scale of pay, which is not less than that of a Joint Secretary to the Government of India, having specialized knowledge and practical experience of personnel and administrative matters;
- (xii) a Member (Power), to be nominated by the Government carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India, having specialized knowledge and practical experience of power and administrative matters;
- (xiii) the Secretary in charge of the concerned Department of the Government dealing with the Board, ex-officio;
- (xiv) a representative of the Ministry of Urban Development, Government of India, who shall be an officer of the rank of Joint Secretary to the Government of India, to be nominated by the Central Government;

- (xv) two experts on the subjects dealing with the urban planning and slum matters non officials, to be nominated by the Chairperson.

Term of office and conditions of service of members.

4. The term of office and other conditions of service of the members shall be as follows: -

(1) Members nominated under clauses (ii), (ix), (x), (xi), (xii) and (xv) of sub section 4 of section 3 of this Act shall receive from the funds of the Board such salaries and allowances, and shall be governed by such conditions of service, as may be prescribed.

(2) Except in the case of ex-officio members and members nominated under clauses (iii) and (iv) of sub-section (4) of section 3 of this Act, the members of the Board shall hold office at the pleasure of the Government.

(3) The members of the Board nominated under clauses (iii) and (iv) of sub-section (4) of section 3 of this Act shall hold office for a period of two years and such term shall come to an end as soon as the member concerned ceases to be a member of the body from which he/she was nominated.

Acts and proceedings not to be invalidated by vacancies, etc.

5. No act done or proceeding taken by the Board or under the authority of the Board shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of the Board.

Appointment of officers and employees and their salaries and allowances.

6. (1) The Board may appoint a Secretary and such other officers and employees as it may consider necessary for the efficient performance of its functions under this Act.

(2) The pay and other conditions of service of the officers and employees of the Board shall be such as may be prescribed by regulations.

(3) Unless expressly provided to the contrary under this

Act or the regulations made thereunder, the terms and conditions of service of officers and employees of the Board shall be governed mutatis mutandis by the terms and conditions of service under the rules and regulations applicable to the employees of the Government and by the orders and decisions issued by the Government from time to time.

Power to levy fees and charges.

7. The Board shall, for the purposes of this Act, levy fees and charges for any services, which it may be required to provide, as may be prescribed by the rules in this behalf.

Urban shelter consultative committee.

8. (1) The Government may constitute an urban shelter consultative committee to perform functions described in sub-section (3) of this section.
- (2) The composition of the consultative committee shall be as may be prescribed by rules.
- (3) The functions of the urban shelter consultative committee shall be-
- (i) to provide feedback to the Board regarding the status of redevelopment and various initiatives of the Board;
 - (ii) to articulate the felt needs and problems of the slum and jhuggi dwellers;
 - (iii) to suggest to the Board strategies for more effective provision of basic infrastructure of services;
 - (iv) to advise the Board on any other matter regarding which the Board may seek its advice.
- (4) the members of the consultative committee shall be paid remuneration as prescribed by rules.

CHAPTER III

FUNCTIONS OF THE BOARD

Survey of jhuggi
jhopri bastis.

9. (1) The Board shall have the power to make a survey of any jhuggi jhopri basti, with a view to ascertaining the number of residents thereof, the existing standard of health, sanitation and civic amenities, the availability of medical and educational facilities for the residents thereof, and any other matter which may appear necessary to it to enable it to perform its functions under this Act.

(2) It shall be the duty of every local authority and of every department of the Government to make available to the Board all information in its possession relevant to the conduct of such survey.

Removal and
resettlement of
jhuggi jhopri
bastis.

10. (1) The Board shall have the power to prepare a scheme for the removal of any jhuggi jhopri basti and for resettlement of the residents thereof, and the consent of the residents of the jhuggi jhopri basti shall not be required for the preparation or implementation of such a scheme.

Explanation.- Nothing in sub-section (1) shall derogate the power of the Central Government to remove jhuggis, if required.

(2) Every such scheme shall specify the amount to be paid by the land owner and by the persons to be resettled towards the cost of new houses to be allotted to them and also the criteria for eligibility for resettlement.

Explanation: For the removal of doubts it is hereby clarified that owner of the land from where the basti is removed and the subsequent beneficiary-residents to be resettled shall contribute towards the cost of new houses to be allotted to them and the said amount of the contribution shall be specified in the scheme.

(3) The Board may, after prior consultation with the Government, cause any jhuggi jhopri basti to be removed and may resettle such residents thereof as may be eligible in accordance with the scheme prepared under sub-section (1), and it shall be the duty of the local authority having jurisdiction and of the police and of any other agency or department whose assistance the Board may require to co-operate with and render all reasonable assistance to the Board:

Provided that where jhuggi jhopri basti is on the land belonging to the Central Government or any of its organizations, the process of removal and resettlement shall be undertaken with the prior consent of the Central Government or its organization concerned:

Provided further that such resettlement shall not be done in contravention of the provisions of the Delhi Development Act, 1957 (61 of 1957) and those of the Master Plan for Delhi or the zonal development plans prepared thereunder.

Scheme of improvement of jhuggi bastis.

11. (1) The Board may prepare a scheme for the improvement of any jhuggi jhopri basti which may include provision of toilets and bathing facilities, improvement of drainage, provision of water supply, street paving, and provision of dustbins or sites for garbage collection, street lighting, or any of them, or provision of any like facilities:

Provided that no such scheme shall be prepared if the owner of the land on which the jhuggi jhopri basti is situated has already consented to the preparation of a scheme for the removal of the jhuggi jhopri basti under section 10 and has paid his share of the cost thereof.

(2) The Board may take all measures which may be necessary for the implementation of any scheme for improvement of a jhuggi jhopri basti prepared under sub-section (1) and it shall be the duty of the local authority, power generation and distribution companies or any licensee under the Electricity Act, 2003 (36 of 2003) having operations in the area, and any department or undertaking of the Government

to render all reasonable assistance for the implementation thereof.

- (3) A scheme prepared under sub-section (1) may include provision for payment or for contribution of labour by the residents of the jhuggi jhopri basti individually or collectively, and may also include provision for recovery of charges for the use of toilets and bathing facilities:

Provided that no such payment or contribution of labour, other than charges for use of toilet and bathing facilities, shall be levied unless the scheme has been published and the residents given an opportunity to make representations and suggestions regarding it in such manner as may be prescribed by regulations, and such representations or suggestions, if any, have been duly considered by the Board.

Scheme of
redevelopment
of jhuggi jhopri
basti.

12. (1) The Board may, with the consent of the owner of the land on which the jhuggi jhopri basti is situated, work out schemes for collective community rehabilitation, relocation or in-situ upgradation and involve private sector/slum cooperatives for redevelopment of the basti with a view to bringing about environmental improvement and improvement in the living conditions of the residents. Rehabilitation of the residents of the jhuggi jhopri bastis who would be affected by redevelopment shall form an integral part of the rehabilitation scheme.
- (2) The consent of the residents of the jhuggi jhopri basti shall not be required for the preparation and implementation of any scheme for redevelopment of the basti under this section.
- (3) The redevelopment scheme referred to in sub-section (1) may provide for construction and disposal by sale or lease of land for commercial, residential, institutional and light industrial use or any one or more of them as per the provisions of the Delhi Development Act, 1957 (61 of 1957) and those of the Master Plan for Delhi and Zonal

Development Plans, etc. prepared thereunder

- (4) The Board may permit the owners on whose land a basti for which the scheme of re-development has been prepared under sub-section (1), to implement that scheme. Such scheme may not be executed by the Board itself.

Provided that the prior approval of the Central Government shall be taken if the land in question belongs to the Central Government

Basti
Samiti.

Vikas

13. (1) The Board may constitute a Basti Vikas Samiti for any jhuggi jhopri basti to assist and advise the Board on all matters relating to the activities of the Board in respect of such basti or bastis.

(2) The procedure to be followed by the Board in this behalf shall be as may be specified in the regulations made in this behalf.

Power to make
temporary use of
vacant site.

14. The Board may, subject to the provisions of this Act, make temporary use of any vacant site which, in its opinion, is urgently required for provision of public conveniences or drainage, the absence of which, in the opinion of the Board, is likely to cause a danger to public health and sanitation in the locality:

Provided that the Board shall not make use of the land under or appurtenant to any lawfully existing and duly authorized building.

Preference
to
other sites.

15. The Board shall, as far as may be, make use of the land under this Chapter belonging to the Government, the Central Government, a local authority, government undertaking or autonomous body in preference to other sites:

Provided that the prior approval of the Central Government shall be taken if the land in question belongs to the Central Government

Procedure of making temporary use of site.

16. (1) Before making use of any site under this Chapter, the Board shall call upon the owner thereof or any person in possession of the site or managing it, to show cause within seven days of the service of notice as to why such temporary use of land should not be made:

Provided that before utilizing the site under this sub-section, the Board shall consider the representation, if any, made by such person in this behalf.

- (2) If the Board is satisfied, after having considered any representation made under sub-section (1), that it is necessary to make use of the site, the Board may proceed to make use of such site and may use such force for the purpose as may be necessary.

Provided that where the site belonged to the Central Government or any of its agencies or organizations, prior approval shall be taken of the Central government or its agency, or organization concerned.

Lease or agreement no ground for refusal.

17. Notwithstanding the provisions of any other law for the time being in force, no lease or other agreement entered into in respect of such site shall be a ground for refusal to allow temporary use by the Board of such site;

Provided that where the site belonged to the Central Government or any of its agency or organization, prior approval shall be taken of the Central government or its agency or organization concerned.

Issuance of fresh notice.

18. If the Board does not make use of such site for the purpose envisaged in section 14 within a period of six months from the date of the issue of the notice, the Board shall issue fresh notice for the same before making use of it. The period of six months shall count from the date of the issue of the notice under section 16.

Use of temporary site.

19. Notwithstanding the provisions of any other law for the time being in force, the Board may construct such structures or do such works on the site, the use of which is made under section 14 as may appear necessary to it in order to make use of it for provisions of public conveniences and drainage, but as far as may be shall refrain from making permanent alterations and modifications, and shall remove all structures constructed by it upon cessation of such use.

Provided that where the site belonged to the Central Government or any of its agencies or organizations, prior approval shall be taken of the Central Government or its agency or organization concerned.

Duration of temporary use of site.

20. The Board shall discontinue the temporary use of any site taken under this Chapter within two years from the date of commencement of such use:

Provided that if the Board is satisfied that continuation of such temporary use is necessary in the interest of public health, the Board may, after giving opportunity to show cause, by order extend such temporary use for such further period, not exceeding one year, as the Board may deem necessary.

Housing scheme.

21. (1) The Board may prepare a housing scheme for the resettlement of persons who are to be resettled or provided alternative accommodation under any scheme for the removal of any jhuggi jhopri basti under the provisions of section 10 or section 12 of this Act.

- (2) The Board may prepare schemes for housing of those belonging to economically weaker sections including low income group and poor categories.

Provided that except where land or rehabilitation site belongs to the Government, a housing scheme under sub-section (1) and (2) shall be drawn up in consultation

with the land owning agency on mutually accepted conditions.

(3) Every scheme prepared under sub-section (1) shall provide for the cost of land, the development of such land and all related matters, the mode of allotment of plots or of houses, including the selection of allottees of such plots or houses and the terms and conditions of allotment, and for any other matter that may be considered necessary.

Publication of scheme for inviting objections.

22. Before finalizing and implementing any scheme under this Chapter, the Board shall publish the scheme in such manner as may be prescribed by regulations and shall invite and consider objections, if any, received from the public.

CHAPTER – IV FINANCE, ACCOUNTS AND AUDIT

Funds of the Board.

23. (1) The Board shall have and maintain its own funds to which shall be credited -
- (a) all moneys received by the Board from the Government by way of grants, loans, advances or otherwise;
 - (b) all moneys borrowed by the Board from sources other than the Government by way of loans, or debentures;
 - (c) all fees and charges collected or received by the Board under this Act or any rules or regulation made thereunder;
 - (d) all moneys received by the Board from the disposal of lands, buildings and other properties, movable and immovable; and
 - (e) all moneys received by the Board by way of rents and profits or in any other manner or from any other sources.
- (2) The funds shall be applied towards meeting the expenses incurred by the Board in the administration of this Act and for no other purpose.
- (3) The Board may keep in current account of the State Bank of India or any other nationalized banks such sum or sums of

money out of its funds as may be prescribed by rules and any money in excess of the said sum or sums shall be invested in such manner as may be approved by the Government.

- (4) The Government may make such grants, advances and loans to the Board as the Government may deem necessary for the performance of the functions of the Board under this Act and all grants, loans and advances made shall be on such terms and condition as the Government may determine.
- (5) The Board may borrow moneys by way of loans or debentures from financial institutions and such sources (other than the Government) and on such terms and conditions as may be approved by the Government.
- (6) The Board shall maintain a Debt Fund for the repayment of moneys borrowed under sub-section (5) and shall pay every year into the Debt Fund such sum as may be sufficient for repayment of principal and interest due thereon, within the period fixed, of all moneys so borrowed.
- (7) The Debt Fund or any part thereof shall be applied in, or towards, the discharge of the loan for which such Fund was created, and until such loan is wholly discharged, it shall not be applied for any other purpose.

Budget
and
audit
of the
Board

24. (1) The Board shall prepare in such form and at such time every year as may be prescribed by rules, a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure of the Board and shall forward to the Government such number of copies thereof as may be prescribed by rules.
- (2) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance-sheet in such form as the Government may by rules prescribe in consultation with the Comptroller and Auditor-General of India.
- (3) The accounts of the Board shall be subject to audit annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.
- (4) The Comptroller and Auditor-General of India and any person

appointed by him in connection with the audit of accounts of the Board shall have the same right, privilege and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Board.

- (5) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Government and the Government shall cause a copy of the same to be laid before the Legislative Assembly of Delhi.

Annual report of the Board.

25. The Board shall prepare for every year a report of its activities during that year and submit the report to the Government in such form and on or before such date as may be prescribed by rules, and the Government shall cause a copy of the report to be laid before the Legislative Assembly of Delhi.

CHAPTER - V

MISCELLANEOUS

- Production of record. 26. The Government may at any time require the Board -
- (a) to produce any record, correspondence or other document in possession of the Board, and
 - (b) to furnish any report, written plan, estimate, statement of accounts or statistics relating to the functions of the Board.

- Inspection and examination of works, records, etc. of the Board by the Government 27. The Government may depute any officer to inspect or examine any office of the Board or any service or work undertaken by the Board or property belonging to the Board and to report thereon and the Board and all its officers shall be bound to provide access to such person, at all reasonable times, to the premises and properties of the Board as well as of all records, accounts and other documents the inspection of which such officer may consider necessary to enable him to discharge his duties.

Board to
comply with
directions of
the
Government

28. The Government may, at any time, issue directions to the Board in relation to the management of the Board and the Board shall comply with such directions.

Provided that the Government shall obtain and consider the opinion of the Board before issuing any such direction.

Provided further that the Government shall make due provision for any financial liability to the Board arising directly in consequence of any such directions.

Provided also that all directions issued to the Board by the Government shall be reported to the Legislative Assembly of Delhi at the end of each year.

Transitional
provisions.

29. Notwithstanding anything contained in this Act, the Government may, if necessary, appoint a special officer to exercise the powers and discharge the functions of the Board until the day on which the first meeting of the Board is held after the commencement of this Act.

Taking over
the Services
of officers
and
employees.

30. In administering the provisions of this Act, the Board may, with the prior approval of the Government, take over the services of the officers and other employees of any existing organization of the Government or any other local authority with such designations as the Board may determine and they shall hold office for the same tenure, and at the same remuneration and on same terms and conditions of service, as they would have held if the Board had not been established and shall continue to do so until such tenure, remuneration and terms and conditions are duly altered by the Board:

Provided that the tenure, remuneration and terms and conditions of service of any such officer or employee shall not be altered to his disadvantage without the previous approval of the Government:

Provided further that any services rendered by any such officer or employee before the establishment of the Board shall

be deemed to be services rendered under the Board:

Provided also that the Board may employ any such officer or other employee in the discharge of such functions under this Act as the Board may think proper and every such officer or other employee shall discharge those functions accordingly.

Taking over the assets and liabilities.

31. On and from the commencement of this Act, the Board may take over such assets and liabilities, both movable and immovable, of any existing organization of the Government or any local authority as may be specified by the Government or by the Central Government, as the case may be, by an order issued in this behalf, on such terms as may be specified in such order.

All appointments, notifications, orders, etc. made or issued prior to formation of the Board to continue in force.

32.(1) Anything done or any action taken, including any appointment, notification, order, delegation, scheme, rule, form, notice made, granted or issued by any existing organization of the Government or of any other local authority, shall, in so far as it is not inconsistent with the provisions of this Act, continue in force and be deemed to have been made, issued or granted under the provisions of this Act.

(2) All debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing organization of the Government or any local authority shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board.

(3) All rents, fees and other sums of money due to the existing organization of the Government or any local authority shall be deemed to be due to the Board.

(4) All suits, prosecutions and other legal proceedings instituted or which might have been instituted by, for or against the existing organization of the Government or any local authority may be continued or instituted by, for or against the Board.

Acquisition of immovable property.

33. (1) The Board shall for the purposes of this Act, by agreement on such terms and at such price as may be approved by the Board, have power to acquire and hold or dispose of movable and

immovable property or any interest thereon.

- (2) The Government may at the request of the Board acquire, prescribe any immovable property in accordance with the law for the time being in force.

Power to contract. 34. The Board shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act.

Officers and employees of the Board to be public servants. 35. All officers and employees of the Board shall, when acting or purporting to act in pursuance to the provisions of this Act or of any rules or regulations made thereunder be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

Service of notices, etc. 36. (1) Every notice issued by or on behalf of the Board or any of its officers or employee shall be deemed to be duly served -

(a) by giving or tendering the notice, order or direction, or by sending it by post / carrier to the person for whom it is intended; or

(b) if such person cannot be found, by affixing the notice, order or direction on some conspicuous part of his last known place of residence or business, or by giving or tendering the notice, order or direction to some adult member or servant of his family or by causing it to be affixed on some conspicuous part of the building or land, if any, to which it relates.

(2) Where the person on whom a notice, order or direction is to be served is a minor, such service upon his guardian, or upon any adult member of his family, shall be deemed to be the service upon such minor.

Power of entry and inspection. 37. It shall be lawful for any officer or employee authorized by the Board in this behalf, to enter into or upon any land or building built by the Board, with or without assistants and workmen, for the purpose of making an enquiry, inspection, measurement, valuation or survey or to execute any work which is authorized by or under

this Act or which it is necessary to execute for any of the purposes or in furtherance of any of the provisions of this Act or of any rule or regulation made thereunder.

Breaking into building. 38. It shall be lawful for any person authorized by the Board in this behalf to make an entry into any place whereupon the premises and structures have been built by the Board and to open or cause to be opened any door, gate or other barrier thereof or thereon -
(a) if he considers the opening thereof necessary for the purpose of such entry; and
(b) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

Time of making entry. 39. No entry authorized by or under this Act shall be made except between the hours of sunrise and sunset.

Consent ordinarily to be obtained. 40. Save as provided in this Act, no land or building shall be entered without the consent of the occupier or, if there be no occupier, of the owner thereof, and no such entry shall be made without giving the said occupier or owner, as the case may be, not less than twenty-four hours written notice of the intention to make such entry.

Issue of notice to show cause against order of eviction. 41. (1) If the Board is of the opinion that any persons are in occupation of any public premises and that they should be evicted, the Board shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.

(2) The notice shall -

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are, or may be in occupation of, or claim interest in, the public premises, -

(i) to show cause, if any, against the proposed order on or before such date as specified in the notice, being a date not earlier than seven days from the date of issue thereof, and

(ii) to appear before the Board on the date specified in the notice along with the evidence which they intend to produce in support of the cause shown, and also for personal hearing, if such hearing is desired.

(3) The Board shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public 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.

Eviction of
unauthorized
occupants.

42. (1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 41 and any evidence produced by him in support of the same and after personal hearing, if any, given under clause (b) of sub-section (2) of section 41, the Board is satisfied that the public premises are in unauthorized occupation, the Board may make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated, on such date as may be specified in the order, by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises.

(2) If any person refuses or fails to comply with the order of eviction on or before the date specified in the said order or within fifteen days of the date of its publication under sub-section (1), whichever is later, the Board may, after the date so specified or after the expiry of the period aforesaid, whichever is later, evict that person from, and take possession of, the public premises and may, for that purpose, use such force as may be necessary.

Mode of
recovery of
certain dues.

43. All dues to the Board on account of any charges, costs, expenses, fees, rates, licence fee, damages or rent or on any other account under this Act or any rule or regulation made thereunder shall be recoverable from the person from whom such sum is due as arrears of land revenue.

Provided that no proceeding for the recovery of any sum under this section shall be commenced after the expiry of three years from the date on which such sum becomes due.

- Revision.. 44. The Lieutenant Governor may, either suo moto or on an application, call for and examine the record of any proceedings or decision or order passed by the Board for the purpose of satisfying himself as to the legality or propriety of any decision or order passed, and, if in his opinion any such decision or order should be modified, annulled or revised, may, after giving the persons affected thereby an opportunity of being heard, pass such order thereon as he may deem fit:

Provided that every application to the Lieutenant Governor for the exercise of the powers under this section shall be preferred within ninety days from the date on which the proceeding, decision or order to which the application relates was communicated to the applicant.

- Appeals. 45. (1) Any person aggrieved by any notice, order or direction issued or given by the Board under this Act, may, within thirty days from the date of receipt of the notice, order or decision, appeal to the Lieutenant Governor:

Provided that the Lieutenant Governor may entertain an appeal after the expiry of the said period of thirty days if he is satisfied that there was sufficient cause for not filing it within that period.

(2) An appeal to the Lieutenant Governor shall be made in such form and shall be accompanied by a copy of the notice, order or direction appealed against and by such fees as may be prescribed by rules.

(3) The order of the Lieutenant Governor on an appeal under subsection (1) shall be final.

4) No appeal shall be decided under this section unless the appellant has been heard or has had a reasonable opportunity of being heard.

Prohibition of 46. No person shall-
certain case. (a) willfully obstruct any member of the Board or any person acting under the authority of the Board in the performance of his duties; and
(b) carry out any development in a notified slum and jhuggie jhopri basti without obtaining permission of the Board.

Penalties. 47. whosoever:-
(a) obstructs entry of a person authorized by the Board in this behalf in or upon any land and building for purposes of any enquiry, inspection, measurement, valuation or survey or to execute any work authorized by and considered necessary under this Act, shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both;
(b) contravenes or fails to comply with any other provision of this Act or of any notice, order or direction issued in pursuance of the provisions of this Act or the rules and regulations made shall, on conviction be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

Prosecution and trial of 48. (1) No prosecution for any offence punishable under this Act offences. shall be instituted except with the previous sanction of the Board.

(2) No Court inferior to that of a Metropolitan Magistrate shall try any offence punishable under this Act.

Protection of 49. No suit or other legal proceeding shall lie instituted in any court action taken against the Board or against any person or authority acting under in good faith. the direction of any officer or other employee of the Board for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or the rules or regulations made thereunder.

Delegation of powers by the Board. 50. The Board may, by order, direct that any power conferred or any duty imposed on it by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised and performed also by any officer or employee specified in the order.

Dissolution of the Board. 51. (1) Where the Government is satisfied that the purposes for which the Board was established under this Act have been substantially achieved so as to render the continued existence of the Board in the opinion of the Government unnecessary, the Government may, by notification in the official Gazette, declare that the Board shall be dissolved with effect from such date as may be specified in the notification and the Board shall be deemed to be dissolved accordingly.

- (2) Upon the publication of the notification under sub-section (1) dissolving the Board -
- (a) all properties, funds and dues, which are vested in or realizable by, the Board, shall vest in, or be realizable by, the Government;
 - (b) all lands placed at the disposal of the Board shall revert to the Government ; and
 - (c) services of all the officials and officers working under the Board shall be deemed to be transferred to the Government.

Power to make rules. 52. (1) The Government may, by notification in the official Gazette, make rules for carrying out all or any of the purposes of this Act.

- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -
- (a) the salaries, allowances and conditions of service of the members of the Board;
 - (b) levying of fees and charges by the Board in respect of any services which it may be required to provide;
 - (c) composition of Urban Shelter Consultative Committee;
 - (d) remuneration of the members of the Consultative Committee;

- (e) the sum or sum of money out of its funds that the Board may keep in current account of the State Bank of India or any other nationalized bank; any money in excess of the said sum or sums that may be invested by the Board in the manner to be approved by the Government;
- (f) the form in which and the time of the year at which the budget of the Board shall be prepared, the number of copies of the budget to be forwarded to the Government, the form of the annual statement of accounts, including the balance-sheet and the form for the maintenance of accounts and other relevant records;
- (g) the form of annual report of the Board and the date on or before which it shall be submitted to the Government;
- (h) the manner of service of notice to show cause against the order of eviction;
- (i) the form in which an appeal is to be filed to the Lieutenant Governor and prescribing the fee required to be accompanied with the appeal, against the decision of the Board;
- (j) any other matter which is to be, or may be, prescribed by rules.

Power to make regulations.

53. (1) The Board may with the previous approval of the Government and by notification in the official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

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

- (a) the pay and other conditions of service of officers and employees of the Board;
- (b) the manner of dealing with the representations and suggestions of residents of the jhuggi-jhompri basti with regard to payment or contribution of labour, other than charges for use of toilet and bathing facilities;
- (c) the procedure to be followed by the Board in connection with the constitution of Basti Vikas Samiti for any jhuggi-jhompri basti to assist and advise the

Board on matters relating to the activities of the Board in respect of such basti or bastis;

(d) any other matter which is to be, or may be, prescribed by regulations;

Laying of rules and regulations before the Legislative Assembly of Delhi.

54. Every rule and every regulation made under this Act shall be laid, as soon as may be after such rule or regulation is made, before the House of the Legislative Assembly of Delhi, while it is in session for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule or regulation, as the case may be, or the House agrees that the rule or regulation, as the case may be, should not be made, the rule or regulation, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule or regulation.

Power to remove difficulties

55. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

(2) Every order made under sub-section (1) of this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Delhi.

STATEMENT OF OBJECTS AND REASONS

The Central Act 96 of 1956 titled the 'Slum Areas (Improvement and Clearance) Act, 1956' is in force in the National Capital Territory of Delhi at present. It was enforced in Delhi in 1957 by a notification No. S.R.O.421 dated the 4th Feb., 1957 published in the Gazette of India Pt-II Section 3, page 256 to provide for the improvement and clearance of slum areas in Delhi and for the protection of tenants in such areas from eviction.

The conceptual framework of the said Act involving notification of certain areas as slum areas, as defined in the said Act, and their improvement and redevelopment has not proved adequate to deal with the requirements of the local situation prevailing in Delhi. The activities of the Slum and JJ Department of the Municipal Corporation of Delhi (MCD) under this Act have, therefore, been supplemented by a number of administrative schemes designed to address the specific problems of katra re-development (distinguishable from slum area redevelopment), the removal and resettlement of jhuggi jhopri bastis, the provision of minimal environmental improvements and services in jhuggi jhopri bastis which are not slated for shifting and other matters like managing considerable urban property, including a large number of kattras, which were evacuee properties, and various remunerative projects entrusted to it for resource generation. Thus, the conceptual framework of said Act, designed, essentially for "inner city" urban renewal, is not fully appropriate to, nor actually covers, many of the most important activities of the Slum and JJ Department.

During the last few decades, Delhi has witnessed a very fast pace of immigration and urbanization, which has added great urgency and importance to the above referred activities of schemes being implemented through Slum and JJ Deptt. of the MCD. Given the range and magnitude of the task, which the existing Slum and JJ Wing is required to perform, there is a clear need for a supportive and conferring statutory powers, particularly to enable it to fulfill its role in kattras and jhuggi jhopris. A major need of any legislation in regard to it will be to ensure institutional continuity by establishment of a separate statutory body to succeed the present Slum and JJ Deptt. of MCD.

To tackle these complex issues on an emergent basis, it is proposed to enact the Delhi Urban Shelter Improvement Board Act, 2010. It, inter alia, provides for creation of a Delhi Urban Shelter Improvement Board as a body corporate under the statutory control of the Govt. of the National Capital Territory of Delhi, the membership of which will include representation of all the agencies concerned. An

appropriate measure of Govt. control has been also built into the draft provisions, which also seek to provide for all necessary matters regarding the constitution of the Board, its finances and its powers.

The Bill introduces definitions of the term 'jhuggi' and 'jhuggi jhopri basti' with a view to ensuring consistency of application of the provisions. The proposed provisions in regard to removal of jhuggi jhopri bastis and activities are on the lines of the existing plan scheme for environmental improvement in urban slums which is being implemented in jhuggi jhopri bastis. In addition to this, clause 12 provides for the alternative of redevelopment of jhuggi jhopri bastis, viz., permitting innovation and flexibility in regard to the third strategy of in situ upgradation of jhuggi jhopri bastis. A feature of the proposed provisions is the possibility of a scheme for providing resettlement on a self-financing basis while accommodating the occupants of the erstwhile basti on the same site. Sufficient safeguards in the form of Govt. control, etc. have been provided.

The provision of clause 13 provide for Basti Vikas Samiti for any jhuggi jhopri basti to assist and advise the Board in matters concerning such Bastis. Clause 14 provides a framework for temporary emergent use of vacant sites, preferably public, for provision of public convenience when required.

The Bill also provides for housing activities within the framework of statutory regulations as provided for under clause 21 to be undertaken by the Board for the economically weaker sections and in low income group and poor categories, that will arise out of the above described activities of the Board.

The Bill is intended to achieve the aforesaid objects.

(DR. A.K.WALIA)
MINISTER OF URBAN DEVELOPMENT

FINANCIAL MEMORANDUM

With a view to improving the quality of life of the urban poor residing in slum bastis and JJ clusters, an autonomous administrative set up is proposed to be established through this Bill within a given legal framework, which in no way tends to affect the operation of the provisions of any existing Central legislation.

2. The Bill contemplates a partial self-generating scheme for financing the various activities of the Board through levy of fees and charges, which shall be implemented through the existing administrative machinery. However, additional financial burden is envisaged on the Government which is not quantifiable at this stage, in achieving the aims and objects of the Bill. The Central point of the Bill, however, is that there is sufficient measure of control by the Government on the Board in the implementation of various provisions thereof.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 52 of the Bill empowers the Government to make rules for carrying out the purposes of the Bill. The matters in respect of which rules may be made are as described below:-

- (a) the salaries, allowances and conditions of service of the members of the Board;
- (b) levying of fees and charges by the Board in respect of any services which it may be required to provide;
- (c) prescription of the composition of Urban Shelter Consultative Committee;
- (d) remuneration of the members of the Consultative Committee;
- (e) the sum or sums of money out of its funds that the Board may keep in current account of the State Bank of India or any other nationalized bank; any money in excess of the said sum or sums that may be invested by the Board in the manner to be approved by the Government;
- (f) the form in which and the time of the year at which the budget of the Board shall be prepared, the number of copies of the budget to be forwarded to the Government, the form of the annual statement of accounts, including the balance-sheet and the form for the maintenance of accounts and other relevant records;
- (g) the form of annual report of the Board and the date on or before which it shall be submitted to the Government;
- (h) the manner of service of notice to show cause against the order of eviction;
- (i) prescribing the form in which an appeal is to be filed to the Lieutenant Governor and prescribing the fee required to be accompanied with the appeal, against the decision of the Board.

Clause 53 of the Bill confers on the Board the power to make regulations for the purposes of the Bill. The matters in respect of which such regulations may be made by the Board with the previous approval of the Government are specified below:-

- (a) prescribing the pay and other conditions of service of officers and employees of the Board;
- (b) the manner of dealing with the representations and suggestions of residents of the jhuggi-jhompri basti with regard to payment or

contribution of labour, other than charges for use of toilet and bathing facilities;

- (c) laying the procedure to be followed by the Board in connection with the constitution of Basti Vikas Samiti for any jhuggi-jhompri basti to assist and advise the Board on matters relating to the activities of the Board in respect of such basti or Bastis;

The matters in respect of which rules and regulations may be made are matters of administrative detail and procedure and, as such, the delegation of legislative powers is of a normal character.