

GOVERNMENT OF MAHARASHTRA

LAW AND JUDICIARY DEPARTMENT

MAHARASHTRA ACT No. XXVIII OF 1977.

THE MAHARASHTRA HOUSING AND AREA DEVELOPMENT ACT, 1976.

(As modified upto the 30th July 2018)



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THE MAHARASHTRA HOUSING AND AREA DEVELOPMENT ACT, 1976

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MAHARASHTRA ACT No. XXVIII OF 1977.[1]

[THE MAHARASHTRA HOUSING AND AREA DEVELOPMENT ACT, 1976]

(This Act received the assent of the President on the 25th day of April 1977; assent was first published in the *Maharashtra Government Gazette,* Part IV on the 9th day of May 1977.)

Amended by Mah. 54 of 1977
" " " 29 of 1978
" " " 21 of 1980 *(29-9-1980)†
" " " 13 of 1981 ‡‡(20-2-1981)†
" " " 38 of 1983 (9-8-1980)†
" " " 4 of 1985 @(13-2-1985)†
" " " 15 of 1986 @@(31-12-1985)†
" " " 21 of 1986 **(26-2-1986)†
" " " 45 of 1986 (19-12-1986)†
" " " 12 of 1989 £(2-2-1989)†
" " " 12 of 1992 (11-5-1992)†
" " " 22 of 1992 ££(22-7-1992)†
" " " 11 of 1993 ¶$(5-11-1992)†
" " " 30 of 1994 (1-4-1994)†
" " " 42 of 1994 ‡(20-9-1994)†
" " " 48 of 1994 (8-12-1994)†
" " " 25 of 1996 (4-9-1996)†
" " " 46 of 1997 (29-10-1997)†
" " " 16 of 1998 (15-5-1998)†
" " " 23 of 2000 @@@(1-2-2000)†
" " " 23 of 2002 (9-5-2002)†
" " " 6 of 2005 @@@@(29-3-2004)†
" " " 31 of 2008 §(29-8-2008)†

An Act to unify, consolidate and amend the laws relating to housing, repairing and reconstructing dangerous buildings and carrying out improvement works in slum areas.

---

[1] For Statement of Objects and Reasons, see *Maharashtra Government Gazette,* 1976, Part V, Extraordinary, dated 26th July 1976, at pages 581-587 ; for Joint Committee Report, see *Maharashtra Government Gazette,* Part V, Extraordinary, dated 6th December 1976, at pages 683-764.

* Maharashtra Ordinance No. IX of 1980 was repealed by Mah. 21 of 1980, s. 7.

† This indicates the date of commencement of the Act.

‡‡ Maharashtra Ordinance No. II of 1981 was repealed by Mah. 13 of 1981, s. 3.

@ Maharashtra Ordinance No. II of 1985 was repealed by Mah. 4 of 1985, s. 5.

@@ Maharashtra Ordinance No. XIV of 1985 was repealed by Mah. 15 of 1986, s. 3.

** Maharashtra Ordinance No. I of 1986 was repealed by Mah. 21 of 1986, s. 7.

£ Maharashtra Ordinance No. II of 1989 was repealed by Mah. 12 of 1989, s. 18.

££ Maharashtra Ordinance No. VIII of 1992 was repealed by Mah. 22 of 1992, s. 3.

¶ Maharashtra Ordinance No. I of 1993 was repealed by Mah. 11 of 1993, s.8.

$ Sec. 7 of Mah. 11 of 1993 reads as follows :—

"7. If, any difficulty arises in giving effect to the provisions of this Act, the State Government may as occasion arises, by order do anything not inconsistent with such provisions, which appears to it to be necessary or expedient for the purposes of removing the difficulty : Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years commencing from the 5th November 1992.".

‡ Maharashtra Ordinance No. XIII of 1994 was repealed by Mah 42 of 1994, s. 3.

@@@ Maharashtra Ordinance No. VI of 2000 was repealed by Mah. 23 of 2000, s. 3.

@@@@ Maharashtra Ordinance No. XXI of 2004 was repealed by Mah. 16 of 2005, s. 3.

§ Maharashtra Ordinance No. VI of 2008 was repealed by Mah. 31 of 2008, s. 3.

[1][WHEREAS on account of the rapid growth of industries in the urban areas and the fast growth of population and commercial activities in such areas, the need of housing accommodation could not be met by the limited house construction activities in the private sector;

AND WHEREAS in the urban areas and particularly in the [2][Brihan Mumbai] area the old buildings which have outlived their lives and rendered themselves in a bad state of repairs and presented a dangerous possibility of collapse, necessity was increasingly felt to take up the programme of repairs and reconstructions of such buildings;

AND WHEREAS due to acute shortage of accommodation in the urban areas slums have come up which necessitated taking up improvement works in slum areas;

AND WHEREAS the magnitude of the housing programme for constructions of new houses throughout the State and the task of repairs and reconstruction of old and dilapidated buildings and improvement of slums in the urban areas is so, great that it is necessary for the State Government to intervene and take effective steps including acquisition of lands and buildings for carrying out housing, repairs, construction and reconstruction programmes over or in such lands and buildings and transferring ownership and control thereof to needy persons so as to bring about an equitable distribution of ownership and control in houses in such lands and buildings to subserve the common good;]

[3][AND WHEREAS] there are at present various corporate and statutory bodies in the State which have been established, for dealing with the problem of housing accommodation, for repairing and reconstructing buildings in a bad state of disrepair and presenting a dangerous possibility of collapse, for carrying out improvemental works in slum areas, and for advancing loans for construction of houses;

AND WHEREAS the programmes undertaken by these bodies are more or less complementary and there is considerable overlapping in their working or functioning;

AND WHEREAS it is considered necessary and expedient to co-ordinate the housing programmes with an orderly development of urban areas in the State;

AND WHEREAS with a view to integrating the activities of these bodies so as to provide for a more comprehensive and co-ordinated approach to the entire problem of housing development, and planning and development of certain areas in a balanced manner, with sufficient attention to ecology, pollution, over-crowding and amenities required for leading a wholesome civic life, it is expedient to establish a single Corporate Authority for the whole State and establish new Boards for certain areas of the State to carry out the plans and programmes of such Authority for the purposes aforesaid, to replace the existing Boards by the new Boards aforesaid and to provide for matters connected with the purposes aforesaid; It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows :—

---

[1] These paragraphs were inserted by Mah. 21 of 1986, notwithstanding anything contained in any Judgement, decree or order of any Court, and shall be deemed always to have been, inserted, by s. 2(*a*) thereof.

[2] These words were substituted for the words " Greater Bombay " by Mah. 25 of 1996, s. 2, Sch.(*3*).

[3] These words were substituted for the word' WHEREAS ' by Mah. 21 of 1986.

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement of Act.

1. (*1*) This Act may be called the Maharashtra Housing and Area Development Act, 1976.

(*2*) [1][Chapter VII and Chapter VIII-A extend] only to [2][Brihan Mumbai], and the rest of the Act extends to the whole State of Maharashtra including [2][Brihan Mumbai].

(*3*) This Act shall come into force in such area, from such date[3], as the State Government may, by notification in the *Official Gazette,* appoint; and different dates may be appointed for different provisions of this Act for different areas.

(*4*) [4][* * * * * *]

Declaration.

[6][**1A.** It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principle specified in clause (*b*) of article 39 of the Constitution of India and the execution of the proposals, plans or projects therefor and the acquisition therefor of the lands and buildings and transferring the lands, buildings or tenements therein to the needy persons and the co-operative societies of occupiers of such lands or buildings.]

Definitions.

2. In this Act, unless the context requires otherwise,—

(*1*) " amenity " includes road, bridge, any other means of communication, transport, supply of water and elecricity, any other source of energy, street lighting, drainage, sewerage, educational and welfare projects, markets and conservancy, and any convenience which the State Government may, in consultation with the Authority, from time to time by notification in the *Official Gazette,* specify to be an amenity required for leading a wholesome civic life for the purposes of this Act;

(*2*) " appointed day " means the day on which the Authority is duly constituted under section 6;

(*3*) " Authority " means the Maharashtra Housing and Area Development Authority established under section 3;

(*4*) " Authority premises " means any premises belonging to, or vesting in, the Authority, or taken on lease by the Authority, or entrusted to, or placed at the disposal of, the Authority for management and use for the purposes of this Act.

Explanation.—In this clause " Authority premises " includes any premises taken by persons from the Authority under hire-purchase agreement, during the period any payments are to be made by such person to the Authority under such agreement or until such agreement is duly terminated;

(*5*) " betterment charges " means charges payable under section 53;

(*6*) " Board " means a Board established under section 18;

(*7*) " Building " for the purposes of Chapter VIII, means building in respect of which the cess is levied under that Chapter and includes a tenement let or intended to be let or occupied separately and a house, out-house, stable, shed, hut and every other such structure but does not include any such building or structure which as a whole is unauthorised or any building which is a temporary building as defined in clause (*sb*) of section 3 of [7][the Mumbai Municipal Corporation Act];

Bom. III of 1888.

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[1] These words and figures were substituted for the words and figures " Chapter VIII extends " by Mah. 21 of 1986, s. 3 (*a*).

[2] These words were substituted for the words " Greater Bombay " by Mah. 25 of 1996, Schedule.

[3] The whole of the State of Maharashtra with effect from the 5th December 1977, *vide* G.N.,P. W. and H.D., No. MHA. 1077/(*3*)/Desk-44, dated the 3rd December 1977.

[4] Sub-section (*4*) was deleted by Mah. 21 of 1986, s. 3(*b*).

[5] The words and figures " and duration of Chapter VIII" were deleted, by Mah. 21 of 1986, s. 3 (*c*).

[6] Section 1A was inserted, by Mah. 21 of 1986, s. 4.

[7] These words were substituted for the words " the Bombay Municipal Corporation Act" by Mah. 25 of 1996, s. 2, Sch. para (*3*).

(*8*) " bye-laws " means bye-laws made under section 186;

(*9*) " cess " means a tax on lands and buildings levied or leviable under Chapter VIII of this Act;

(*10*) " Chairman " and " Vice-Chairman " means the Chairman and the Vice-Chairman, respectively of a Board;

(*11*) " Competent Authority " means an officer appointed to be the Competent Authority under section 65;

(*12*) " co-operative society " means a co-operative housing society registered or deemed to be registered under the Maharashtra Co-operative Societies Act, 1960; Mah. XXIV of 1961.

(*13*) " development ", with its grammatical variations, means the carrying out of building, engineering, mining or other operations in, or over, or under, any land (including land under sea, creek, river, lake or any other water) or the making of any material change in any building or land, and includes re-development and layout and sub-division of any land, and also the provision of amenities and " to develop " shall be construed accordingly;

(*14*) "existing Board" means,—

(*i*) the Maharashtra Housing Board constituted under the Bombay Housing Board Act, 1948, Bom. LXIX of 1948.

(*ii*) the Vidarbha Housing Board constituted under the Madhya Pradesh Housing Board Act, 1950, M. P XLIII of 1950.

(*iii*) the Bombay Building Repairs and Rconstruction Board constituted under the Bombay Building Repairs and Reconstruction Board Act, 1969, Mah. XLVII of 1969.

(*iv*) the Maharashtra Slum Improvement Board constituted under the Maharashtra Slum Improvement Board Act, 1973, Mah. XXIII of 1973.

(*v*) [1] * * * * *

functioning in the State or any part thereof immediately before the appointed day;

(*15*) " fund of the Authority " means the fund of the Authority referred to in section 34;

(*16*) " land " includes open sites and land which is being built upon or is already built upon, benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth; and also include land under sea, creek, river, lake or any other water;

(*17*) " Land Acquisition Officer " means an officer appointed as such under section 49 of this Act;

(*18*) "member"—

(*i*) in relation to the Authority, means a member of the Authority including the President and the Vice-President thereof,

(*ii*) in relation to a Board, means a member of the Board including the Chairman and the Vice-Chairman thereof,

(*iii*) in relation to a *Panchayat,* means a member of a *Panchayat* including the *Sarpanch* and *Upa-Sarpanch* thereof;

---

[1] Paragraph (*v*) was deleted by Mah. 54 of 1977, s. 2.

(*19*) "Metropolitan Act" means [1][the Mumbai Metropolitan Region Development Authority Act, 1974];

Mah. IV of 1975.

(*20*) "Metropolitan Authority" means [2][the Mumbai Metropolitan Region Development Authority] established under the Metropolitan Act;

(*21*) "Metropolitan Region" has the meaning assigned to it in the Metropolitan Act;

(*22*) "Municipal Commissioner" means the Municipal Commissioner of a Municipal Corporation;

(*23*) "Municipal Corporation" means a Municipal Corporation established or constituted under any law for the time being in force in the State;

(*24*) "Municipal Council" means a Municipal Council established under [£]the Maharashtra Municipal Councils Act, 1965;

Mah .XL of 1965.

(*25*) "occupier" includes—

(*a*) 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;

(*b*) an owner in occupation of, or otherwise using, his land, or building;

(*c*) a rent-free tenant of any land or building;

(*d*) a licensee in occupation of any land or building; and

(*e*) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

(*26*) " owner ", when used with reference to any building or land or a part thereof, let or intended to be let or occupied separately, means the person who receives the rent of such building or land or a part thereof, or who will be entitled to receive the rent thereof if the building or land or a part thereof were let and includes—

(*a*) an agent or trustee who receives such rent on account of the owner,

(*b*) an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any building, land or part thereof devoted to religious or charitable purposes, or

(*c*) a receiver, sequestrator, or manager appointed by any court of competent jurisdiction to have the charge of or to exercise the rights of an owner of the said building, land or part thereof,

(*d*) a mortgagee in possession;

(*27*) " premises " means any land or building, or part of a building, whether authorised or otherwise, and includes—

(*a*) gardens, grounds and out-houses, if any, appertaining to such building or part of a building;

(*b*) any fitting affixed to such building or part of a building for the more beneficial enjoyment thereof; and

(*c*) building or a part of building let or intended to be let or occupied separately;

(*28*) " prescribed" means prescribed by rules;

(*29*) "President" and "Vice-President" means the President and Vice-President, respectively, of the Auhority;

(*30*) " rateable value", in relation to a building in any area, has the meaning assigned to it in the relevant municipal law in force in such area;

---

[1] These words and figures were substituted for the words and figures " the Bombay Metropolitan Region Development Authority Act, 1974" by Mah. 25 of 1996, s. 2, Sch. para (*3*).

[2] These words were substituted for the words "Bombay Metropolitan Region Development Authority" by Mah. 25 of 1996, s. 2, Sch. para (*3*).

[£] Short title of this Act has seen substituted as "the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, *vide* Mah. 41 of 1994, s. 107.

(*31*) "regulations", means regulations made under section 185;

(*32*) " relevant municipal law " means —

(*a*) [1][the Mumbai Municipal Corporation Act,] Bom. III of 1888.

(*b*) *the Bombay Provincial Municipal Corporations Act, 1949. Bom. LIX of 1949.

(*c*) the City of Nagpur Corporation Act, 1948; C. P. and Berar Act II of 1950.

(*d*) [£]the Maharashtra Municipal Councils Act, 1965; Mah. XL of 1965.

(*33*) "Rent Act" means the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947; Bom. LVII of 1947.

(*34*) "rules" means rules made by the State Government under section 184;

(*35*) " Slum improvement area " means any area declared as such by a Board under sub-section (*1*) of section 108;

(*36*) " structural repairs " for the purposes of Chapter VIII means repairs or replacement of decayed, cracked, or out of plumb structural components of common access, such as, staircases, passages, water closets or privies by new ones of the like material or materials, or of different material or materials including change in the mode of construction like converting load bearing wall type or timber framed structure to an R.C.C. one, or a combination of both, which repairs or replacement in the opinion of the Board, if not carried out expeditiously, may result in the collapse of the building or any such part thereof; and " structural repairs" includes repairs and replacement of all items which are required to be repaired or replaced as a consequence of the repairs or replacement aforesaid which are carried out or to be carried out, and also repairs and replacement of the roof (but not replacement of the tiles only) and of the drain pipes (including house gallies) fixed to the building, which, if not repaired or replaced simultaneously with structural repairs would cause further damage to the building. When such repairs to any building or any part thereof are carried out by the Board the building shall be deemed to be structurally repaired under this Act;

(*37*) "Town Planning Act" means the Maharashtra Regional and Town Planning Act, 1966; Mah. XXX-VII of 1966.

(*38*) " Tribunal" means the Tribunal constituted under section 73;

(*39*) " year " means a year commencing on the first day of April;

(*41*) " *Zilla Parishad*" means a *Zilla Parishad* established under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961. Mah. V of 1962.

CHAPTER II.

ESTABLISHMENT OF THE AUTHORITY AND BOARDS.

Establishment of Authority.

3. The State Government shall, by notification in the *Official Gazette,* establish for securing the objectives and purposes of this Act, an Authority to be called the Maharashtra Housing and Area Development Authority for the areas in which this Act may be brought into force, from time to time.

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[1] These words were substituted for the words "the Bombay Municipal Corporation Act", by Mah. 25 of 1996, s. 2, Sch. para (*3*).

[£] Short title of this Act has been substituted as "the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, *vide* Mah. 41 of 1994, s. 107.

* Short title of this Act has been substituted as "the Maharashtra Provincial Municipal Corporation Act" by Mah. 23 of 2012, s. 4.

Authority to be corporate body and local authority.

4. (*1*) The Authority shall be a body corporate having perpetual succession and a common seal and may sue or be sued in its corporate name and shall be competent to acquire and hold property, both moveable and immoveable, and to contract and do all things, necessary for the purposes of this Act.

(*2*) The Authority shall be deemed to be a local authority for the purposes of this Act.

Non-applicability of Rent Act or any corresponding law.

5. The Rent Act or any law corresponding thereto for the time being in force in any area to which this Act extends,—

(*a*) shall not apply to any land or building belonging to, or vesting in, the Authority under or for the purpose of this Act;

(*b*) shall not apply as against the Authority to any tenancy, licence or other like relationship created by any existing Board or the Authority in respect of any such land or building;

(*c*) but shall apply to any land or building let, or given on licence, to any existing Board or the Authority.

Constitution of Authority.

6. (*1*) The Authority shall consist of a President, a Vice-President and seven other members—all appointed by the State Government.

(*2*) The President may be either a full-time President or a part-time President. If the President is a part-time President then the State Government shall appoint a full-time Vice-President. The President and Vice-President shall be persons who, in the opinion of the State Government, have administrative and management experience necessary for conducting and managing the affairs of the Authority under this Act. The Authority shall consist of the following other members, namely :—

(*a*) two official members who, in the opinion of the State Government, have special knowledge of, or practical experience in, public administration, finance, structural engineering, architecture, town and country planning or public housing;

(*b*) five non-official members, of whom one shall be a representative of the employees of the Authority.

(*3*) The names of the President, Vice-President and other members appointed under this section shall be published in the *Official Gazette,* and upon such publication, the Authority shall be deemed to be duly constituted.

Term of office.

7. The President, Vice-President and every non-official member shall, subject to the provisions of this Act, hold office for a period of three years from the date of publication of his appointment in the *Offical Gazette* :

Provided that, the State Government may, by a notification in the *Official Gazette,* extend the said period by a further period not exceeding one year as may be specified in the notification :

Provided further that, after the expiry of the period or extended period of his appointment, a person shall, unless disqualified, be eligible for re-appointment as the President, the Vice-President or such member, so, however, that he does not hold office for a period of more than seven years in the aggregate.

Conditions of service of President, Vice-President and non-official members.

8. (*1*) Remuneration and other conditions of service of the President and Vice-President who is a non-official shall be such as the State Government may by order determine.

(2) Every non-official member shall receive such allowances for the purpose of meeting personal expenditure incurred in attending the meetings of the Authority or for attending to any other business of the Authority as such member, as the State Government may by order determine.

(3) The remuneration of the President, Vice-President and the allowances to the non-official members shall be paid from the fund of the Authority.

(4) Notwithstanding anything contained in this Act, if a member of the State Legislature is appointed as a member of the Authority (including the President or the Vice-President thereof), he shall not be entitled to receive any remuneration other than travelling allowance, daily allowance or such other allowance which is paid to a member of the Authority for the purpose of meeting the personal expenditure incurred in attending the meeting of the Authority or in performing any other functions as such member.

Resignation of non-official members.

9. The President, Vice-President or any non-official member may at any time resign his office by writing under his hand addressed to the State Government, and upon the acceptance thereof, the office of the member shall become vacant.

Temporary absence of members.

10. If any member is by infirmity or otherwise rendered temporarily incapable of carrying out his duties as a member or is absent on leave or otherwise, not involving the vacation of his appointment, the State Government may appoint another person to officiate for him and carry out his functions under this Act or any rules or regulations made thereunder.

Disqualifications of members.

11. (1) Subject to the provisions of this section, a person shall be disqualified for being appointed or continuing as the President, the Vice-President or the non-official member of the Authority, if he —

(*a*) holds any office of profit under the Authority,

(*b*) is of unsound mind, and stands so declared by a competent court,

(*c*) is an uncertificated bankrupt or an undischarged insolvent,

(*d*) has directly or indirectly by himself or by any partner, any share or interest in any contract or employment with, by or on behalf, of the Authority,

(*e*) is a Director or a Secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Authority, or

(*f*) has been or is convicted of any offence involving moral turpitude.

(2) A person shall not be disqualified under clause (*a*) of sub-section (1), by reason only of being a President or a Vice-President, and, in the case of a representative of the employees by reason only of being an employee of the Authority.

(3) A person shall not, however, be disqualified under clause (*d*) or (*e*) of sub-section (1), or be deemed to have any share or interest in any contract or employment within the meaning of these clauses, by reason only of his, or the incorporated company of which he is a Director, Secretary, Manager or other salaried officer having a share or interest in any newspaper in which any advertisement relating to the affairs of the Authority is inserted.

(4) A preson shall not also be disqualified under clause (*d*) or (*e*) of sub-section (1) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Authority, by reason only of his being a shareholder of such company:

Provided that, such person discloses to the State Government the nature and extent of the shares held by him.

Removal of members.

12. (*1*) The State Government may, by notification in the *Official Gazette*, remove from office the President, Vice-President or any non-official member who —

(*a*) is, or has become, subject to any of the disqualifications mentioned in section 11; or

(*b*) in the opinion of the State Government, has been guilty of any misconduct whether before or after the appointment or neglect, or has so abused his position as to render his continuance as member detrimental to the interests of the Authority or of the general public, or is otherwise unfit to continue as member; or

(*c*) is absent without permission of the Authority for two consecutive meetings of the Authority :

Provided that, no person shall be so removed from office unless he has been given an opportunity to show cause against his removal.

(*2*) Notwithstanding anything contained in section 7 or other provisions of this Act, the President, the Vice-President and other members shall hold office during the pleasure of the State Government; and the State Government, if it appears to it to be necessary or expedient so to do in the public interest, may by order remove all or any of them from office at any time.

Filling of vacancies.

13. (*1*) In the event of a vacancy in the office of any member, the vacancy may be filled by the State Government, and the person so appointed shall hold office so long only as the member in whose place he is appointed would have held office.

(*2*) A vacancy of a member shall be filled as early as practicable : Provided that, during any such vacancy, the continuing members may act as if no vacancy had occurred.

Proceedings presumed to be good and valid.

14. No disqualification of, or defect in, the appointment or continuation of any person acting as a member of the Authority shall be deemed to vitiate any act or proceeding of the Authority, if such act or proceeding is otherwise in accordance with the provisions of this Act.

Existing Boards to continue until Authority constituted.

15. Until the Authority is duly constituted under section 6, the existing Board shall continue to function in the area of its jurisdiction and fields of activity; and on the constitution of the Authority, the existing Board shall stand dissolved and the members including the office bearers thereof shall vacate their office.

Organisation of the Authority.

Authorities charged with execution of this Act.

16. (*1*) The authorities charged with carrying out the provisions of this Act are —

(*a*) the Authority,

(*b*) the President and the Vice-President of the Authority,

(*c*) the Boards,

(*d*) the Chairman and the Vice-Chairman of the Boards,

(*e*) the Chief Officers of the Boards, having part-time Chairman and also part-time Vice-Chairman.

(*2*) Every Board shall be subject to the superintendence, direction and control of the Authority for the purposes of this Act.

President or Vice-President to be Chief Executive Officers.

17. The President, if he is a full-time President, shall be the Chief Executive Officer of the Authority, and if the President is not a full-time President, the Vice-President shall be the Chief Executive Officer of the Authority under the general superintendence and control of the President.

Establishment of Boards.

18. [1][(*1*) (*a*) The five Boards which have been established before the commencement of the Maharashtra Housing and Area Development (Second Amendment) Act, 1992 and shown in column 1 of the following table, shall have the area of jurisdiction shown against each such Board in column 2 of that table. Mah. XXII of 1992.

TABLE

Name of the Board	Area of jurisdiction districts of—
1	2
(1) [2][The Mumbai Housing and Area Development Board.]	(*a*) [3][The City of Mumbai] (*b*) [4][The Mumbai Suburban].
(2) The Nagpur Housing and Area Development Board.	(*a*) Nagpur, (*b*) Chandrapur, (*c*) Gadchiroli, (*d*) Bhandara, (*e*) Wardha.
(3) The Aurangabad Housing and Area Development Board.	(*a*) Aurangabad, (*b*) Jalna, (*c*) Parbhani, (*d*) Beed, (*e*) Nanded, (*f*) Osmanabad, (*g*) Latur.
(4) The Pune Housing and Area Development Board.	(*a*) Pune, (*b*) Satara, (*c*) Sangli, (*d*) Solapur, (*e*) Kolhapur.
(5) Konkan Housing and Area Development Board.	(*a*) Thane, (*b*) Raigad, (*c*) Sindhudurg, (*d*) Ratnagiri.

(*b*) The State Government shall, by notification in the *Official Gazette,* establish the following two Boards having the area of jurisdiction in the districts as shown against each of them, on and with effect from such date as may be specified in that notification, namely:—

(1) The Amravati Housing and Area Development Board.	(*a*) Amravati, (*b*) Akola, (*c*) Yavatmal, (*d*) Buldhana.
(2) The Nashik Housing and Area Development Board.	(*a*) Nashik , (*b*) Ahmednagar, (*c*) Dhule, (*d*) Jalgaon.

[5][(*c*) The State Government shall, by notification in the *Official Gazette,* establish the following two Boards for carrying out the activities of repairs and reconstruction, and slum improvement having the area of jurisdiction in

[1] This section was substituted for sub-sections (*1*) and (*1A*) by Mah. 22 of 1992, s 2.

[2] These words were substituted for the words "The Bombay Housing and Area Development Board" by Mah. 25 of 1996, s. 2, Sch., para (*3*).

[3] These words were substituted for the words "The City of Bombay" by Mah. 25 of 1996, s. 2, para (3).

[4] These words were substituted for the words "Bombay Suburban" by Mah. 25 of 1996, s. 2, para (3).

[5] Clause (*c*) was added by Mah. 11 of 1993, s. 2 (*a*).

the districts as shown against each of them on and with effect from such date as may be specified in that notification, namely:—

(1)	[1][The Mumbai Repairs and Reconstruction Board]	[2][The City of Mumbai.]
(2)	[3][The Mumbai Slum Improvement Board].	(*a*) [2][The City of Mumbai.] (*b*) [4][The Mumbai Suburban].]

[5][(*2*) Every Board shall consist of a Chairman and not more than [6][17] other members including a Vice-Chairman, if any, of whom not less than 3 shall be official. All the members including the Chairman and the Vice-Chairman, if any, shall be appointed by the State Government.]

(*3*) Not less than two non-official members shall be persons who, in the opinion of the State Government, have special knowledge or practical experience in finance, structural engineering, architecture, town and country planning, and public housing.

(*4*) The names of the Chairman, Vice-Chairman, if any, and other members of a Board shall be published in the *Official Gazette,* and upon such publication, the Board shall be deemed to be duly constituted.

(*5*) The appointment of the Chairman and Vice-Chairman of a Board may be either whole-time or part-time as the State Government may think fit. When the Chairman is appointed as a whole-time Chairman, he shall be the Chief Officer of the Board.

(*6*) Where the Chairman is appointed as a part-time Chairman, the Vice-Chairman, if full-time, shall be the Chief Officer of the Board. If the Vice-Chairman is also part-time, the State Government shall appoint a Chief Officer of the Board, and he shall be an Officer of the Board.

(*7*) Every Board shall have a Chief Accounts Officer. He shall be appointed by the Authority with the previous approval of the State Government.

(*8*) The provisions of sections 7, 8, 9, 10, 11, 12, 13 and 14 shall apply *mutatis mutandis* to a Board or to the co-opted members of the Technical Committee appointed under sub-section (*10*) [7]* * * * * *as they apply in relation to the Authority.

(*9*) Each Board shall be provided with such employees as the Authority may, by order in writing, determine. The Board shall within its jurisdiction be responsible for administering and managing the affairs of the Authority for the purposes of this Act.

(*10*) [1][The Mumbai Repairs and Reconstruction Board] shall appoint a Technical Committee, consisting of not less than six of its members and may co-opt not more than three other persons on the Committee who are not members of the Board. Subject to the superintendence and control of the Board, the Technical Committee shall sanction and supervise the repairs and reconstruction works, including the construction of transit camps, on behalf of the Board under Chapter VIII. The Board may delegate such of its other functions under Chapter VIII to the Committee as it may decide.

(*11*) [8]* * * * * * *

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[1] These words were substituted for the words "the Bombay Repairs and Reconstruction Board" by Mah. 25 of 1996, s. 2 and Sch., para 3.

[2] These words were substituted for the words "City of Bombay", by Mah. 25 of 1996, s. 2, Sch., para (3).

[3] These words were substituted for the words " the Bombay Slum Improvement Board," by Mah. 25 of 1996, s. 2, Sch., para (3).

[4] These words were substituted for the words " Bombay Suburban", by Mah. 25 of 1996, s. 2, Sch., para (3).

[5] Sub-section (2) was substituted by Mah. 54 of 1977, s. 3 (*a*).

[6] This figure was substituted for the figure " 14 " by Mah. 42 of 1994, s. 2.

[7] The words, brackets and figures " or of the Improvement Committee appointed under sub-section (*11*) " were deleted by Mah. 54 of 1977, s. 3 (*b*).

[8] Sub-section (*11*) was deleted by Mah. 11 of 1993, s. 3(*e*).

Appointment of employees and conditions of service.

19. (*1*) The Authority shall, with the previous approval of the State Government appoint a Financial Controller and a Secretary.

(*2*) Subject to such directions regarding creation of any post and filling thereof as the State Government may from time to time by an order in writing determine, the Authority may appoint such other employees from time to time for the efficient performance of its functions as it thinks fit.

(*3*) The employees appointed under this Act shall be the employees of the Authority notwithstanding the fact that they are working under any Board.

(*4*) Subject to the provisions of this section, the remuneration and other conditions of service of employees appointed by the Authority shall be such as may be determined by regulations :

Provided that, subject to the provisions of sections 22, 23 and 189, the terms and conditions of service applicable immediately before the appointed day to any employee shall not be varied to his disadvantage except with the previous approval of the State Government.

(*5*) The State Government may make rules [1][with effect from such date as it may specify,] for regulating the mode of recruitment by holding examinations or otherwise, including provision for the absorption or promotion of persons already working under any existing Board or otherwise and providing for terminal benefits such as compensation, pension or gratuity or the like to person who elect to retire.

Provident fund.

20. (*1*) The State Government shall establish a provident fund for employees of the Authority, and such provident fund (hereinafter called as " the provident fund ") shall, notwithstanding anything contained in section 8 of the Provident Funds Act, 1925, be deemed to be a Government Provident Fund for the purposes of that Act; and such provident fund may be administered by such officers of the State Government or of the Authority, as the State Government may specify in that behalf. XIX of 1925.

(*2*) The Authority shall, in respect of each of its employees who is a subscriber to the provident fund, pay into that fund such portion of the contribution in such manner as the State Government may, from time to time, determine.

Expenses of authority on staff.

21. [2][(*1*)] All expenses incurred by the Authority, including expenses incurred on account of salaries, allowances, fees and other remuneration payable to the employees serving under the Authority, shall be met from the fund of the Authority.

[2][(*2*) The Authority may, at its discretion, make from out of its fund, contribution of such amount as it deems fit to the Employees' Welfare Fund, if any, constituted by the employees of the Authority and managed by the society, formed by such employees and registered under the Societies Registration Act, 1860 and *the Bombay Public Trusts Act, 1950.] 21 of 1860. Bom. XXIX of 1950.

Authority to absorb staff of existing Boards.

22. (*1*) Subject to the provisions of section 189 and other provisions of this Act every person, who was a whole-time employee of any existing Board immediately before the appointed day shall, on and from that day, become,

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[1] These words were inserted by Mah. 8 of 1994, s. 2.

[2] Section 21 was re-numbered as sub-section (*1*) thereof and after sub-section (*1*) so re-numbered, sub-section (*2*) was added by Mah. 12 of 1989, s. 2.

* Short title of this Act has been amended as "the Maharashtra Public Trusts" *vide* Mah. 24 of 2012, s.2, Sch., entry 43 w.e.f. 1-5-1960.

and be absorbed as, an employee of the Authority. He shall hold his office in the Authority by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, gratuity and provident fund and other matters as he would have the same on the appointed day of this Act had not been passed, and shall continue to do so, unless and until his employment in the Authority is terminated or until his remuneration terms and conditions are duly altered by the Authority :

Provided that, nothing contained in this section shall apply to any such employee who has, by notice in writing given to the State Government prior to the appointed day, intimated his intention of not becoming an employee of the Authority.

(*2*) If any question arise as to whether any person was whole-time employee of an existing Board immediately before the appointed day or not, the question shall be referred to the State Government, whose decision shall be final.

14 of 1947. (*3*) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or any other law for the time being in force, the absorption of any employee of an existing Board by the Authority shall not entitle any such employee to any compensation under that Act or other law, and no such claim shall be entertained by any Court, Tribunal or other Authority.

Power of State Government of reduction of remuneration or revision of conditions of service for securing uniformity.

23. (*1*) Where the State Government is satisfied that for the purpose of securing uniformity in the scales of remuneration and the other terms and conditions of service applicable to the employees who are absorbed by the Authority under section 22, it is necessary so to do, or that, in the interest of the Authority, a reduction in the remuneration payable, or a revision of the other terms and conditions of service applicable, to employees or any class of employees is called for, the State Government may, notwithstanding anything contained in section 22 or other provisions of this Act or in the 14 of 1947. Industrial Disputes Act, 1947, or in any other law for the time being in force, or in any award, settlement or agreement for the time being in force, alter (whether by way of reduction or otherwise) the remuneration and the other terms and conditions of service to such extent and in such manner as it think fit; and if the alteration is not acceptable to any employee, the Authority may terminate his employment by giving compensation equivalent to three months' remuneration unless the contract of service with such employee provides for a shorter notice of termination.

Explanation.—The compensation payable to an employee under this section shall be in addition to, and shall not affect, any pension, gratuity, provident fund money or any other benefit to which the employee may be entitled under his contract of service.

(*2*) Notwithstanding anything contained in sub-section (*1*), the remuneration payable to any employee absorbed by the Authority under section 22, shall not be altered under that sub-section to his disadvantage, so as to be less than the remuneration paid or payable to him on the 1st January 1975 plus the increments earned by him during the period from the said date to the appointed day.

General disqualification of all employees.

24. No person who has directly or indirectly by himself or his partner or agent any share or interest in any contract, by or on behalf of the Authority or in any employment under, by or on behalf of the Authority otherwise than as an employee thereof, shall become or remain an employee of the Authority.

Conduct of Business.

Meetings of Authority.

25. (*1*) The Authority shall meet at such times, at least once in two months and at such places as the President may determine.

(*2*) The President or in his absence the Vice-President, and in the absence of both the President and Vice-President, any other member chosen by the members present from amongst themselves, shall preside at a meeting of the Authority.

(*3*) All questions at a meeting of the Authority shall be decided by a majority of votes of the members present and voting; and in the case of an equality of votes, the person presiding shall have and exercise a second or casting vote.

(*4*) Three members shall form a quorum to constitute a meeting of the Authority.

(*5*) Minutes shall be kept of the names of the members present and of others who attend the meetings of the Authority under the provisions of this Act and of the proceedings of each meeting, in a minute book to be kept for the purpose. The minutes shall signed at the next ensuing meeting after confirmation at such meeting and shall be open to inspection by any member during office hours of the Authority.

(*6*) Subject to the foregoing provisions, the Authority may observe such rule of procedure in regard to the transaction of its business as it may deem proper and expedient.

Temporary association of persons with Authority for particular purpose.

26. (*1*) The Authority may associate with itself, any person whose assistance or advice it may desire for carrying in to effect any of the provisions of this Act :

Provided that, the number of persons so associated shall not be more than three.

(*2*) A person associated with the Authority under sub-section (*1*) for any purpose shall have the right to take part in the deliberations of the Authority relevant to that purpose, but shall not have the right to vote.

(*3*) The State Government may, by order, depute its representatives to attend any meeting of the Authority and to take part in the deliberations of the Authority, on such items or subjects as the State Government may specify, but such representatives shall not have the right to vote.

Sections 25 and 26 to apply to Meetings of Boards.

27. The provisions of section 25 in relation to meetings of a Board and of section 26 in relation to temporary associations of persons with a Board shall apply as they apply in relation to meetings of the Authority or in relation to temporary association of persons with the Authority, with the modifications that—

(*1*) in sub-section (*1*) of section 25, for the word " Authority " the word " Board " and for the words " in two months " the words " a month " [1][and for the word " President " the word " Chairman " shall, respectively,] be substituted;

(*2*) in sub-section (*2*) of section 25, for the word " President " the word " Chairman " and for the word " Vice-President " the word " Vice-Chairman " shall be substituted;

(*3*) in each of sub-sections (*2*), (*3*), (*4*), (*5*) and (*6*) of section 25, for the word " Authority " the word " Board " shall be substituted;

(*4*) in sub-section (*4*) of section 25, for the words " Three members " the words " One-third of the members " shall be substituted;

(*5*) in section 26, for the word " Authority " wherever it occurs, the word " Board " shall be substituted.

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[1] These words were substituted for the words " shall, respectively," by Mah. 12 of 1989, s. 3.

CHAPTER III.

FUNCTIONS, DUTIES AND POWERS OF THE AUTHORITY AND BOARDS.

Functions, duties and powers of Authority.

28. (*1*) Subject to the provisions of the Town Planning Act, and the provisions of clauses (*b*) and (*h*) of sub-section (*1*) of section 12 and section 13 of the Metropolitan Act, it shall be the duty and function of the Authority,—

(*a*) to prepare or direct the Boards to prepare and execute proposals, plans or projects for—

(*i*) housing accommodation in the State or any part thereof, sale, including transactions in the nature of hire-purchase of tenements in any building vested in, or belonging to, the Authority, letting, or exchange of property of the Authority;

(*ii*) development including provision for amenities in areas within the jurisdiction of the Authority;

(*iii*) clearance and re-development of slums in urban areas;

(*iv*) development of peripheral areas of existing urban areas to ensure an orderly urban overspill;

(*v*) development of commercial centres;

(*vi*) development of new towns in accordance with the provisions of the Town planning Act;

(*vii*) development of lands vested in the Authority;

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

(*ix*) the demolition of obstructive or dangerous and dilapidated buildings or portions of such buildings;

(*x*) repairs to, or construction and reconstruction of buildings;

(*xi*) the slum improvement works and improvement of sanitary arrangements required in any slum improvement area, including the conservation and prevention of any injury or contamination to rivers or other sources and means of water-supply;

(*xii*) undertaking and promoting prefabrication and mass production of buildings components;

(*b*) to manage all lands, houses and buildings or other property vested in, or belonging to the Authority;

(*c*) to approve proposals, plans or projects prepared by Boards;

(*d*) to raise resources for the purpose of carrying out the objects of this Act and subject to the directions, if any, made by the State Government, to make suitable allocations of resources to the Boards;

(*e*) to approve the budgets of the Boards;

(*f*) to lay down policy regarding disposal of developed sites and housing tenements of the Authority;

(*g*) to give directions to Boards for developing areas which in the opinion of the Authority should be developed;

[1][(*h*) to advance loans or to assist persons in obtaining loans from banking or finance institutions in accordance with the provisions of Chapter X;]

(*i*) to do all such matters and things as are necessary for the exercise or performance of all or any of the functions and duties of the Authority including incurring of expenditure in that behalf.

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[1] Clause (*h*) was substituted for the original by Mah. 12 of 1989, s. 4(*a*).

(*2*) In addition to the duties and functions referred to in sub-section (*1*), the Authority may undertake such other duties and functions, including those of a Planning Authority or Special Planning Authority under the Town Planning Act, as the State Government may assign to the Authority in any specified area, and in doing so, the Authority shall be deemed to be fulfilling the purposes of this Act and the provision of Act shall apply to the Authority in respect of those duties and functions also.

(*3*) The Authority may exercise all or any of the following powers for the purpose of discharging its functions and performing its duties under this Act, namely :—

(*i*) to borrow;

(*ii*) to enter into agreements and contracts;

(*iii*) to sell, purchase, lease, mortgage, exchange, partition or otherwise transfer any land or building or to hold land entrusted to it by Government or by any authority;

(*iv*) to make regulations regarding—

(*a*) procedures to be followed regarding contracts,

(*b*) [1] * * * * *

(*c*) operation of accounts of the Authority;

(*d*) all matters pertaining to staff of the Authority;

(*v*) to promote or to participate in the formation of limited companies under the *Companies Act, 1956, in furtherance of the objectives of the Authority with the prior permission of the State Government; 1 of 1956.

(*vi*) management of each estate including co-operative societies;

(*vii*) to enter and search any Authority premises after due notice, when necessary to the inmates thereof;

(*viii*) to execute or carry out any repairs to the lands or buildings vesting in or belonging to, the Authority;

(*ix*) all other powers necessary for carrying out the purpose of this Act including the power to levy or charge fees.

Powers, duties and functions of Boards.

29. (*1*) The powers, duties and functions of the Boards shall, subject to the provisions of sub-section (*2*), be—

(*a*) to prepare proposals, plans or projects for any of the matters referred to in clause (*a*) of sub-section (*1*) of section 28 and execute them;

(*b*) to enter into contracts in the name of the Authority;

(*c*) to function on behalf of the Authority as Special Planning Authority under the Town Planning Act;

(*d*) to carry out such powers, duties and functions as the Authority may delegate to the Boards.

(*2*) [2][[3][4][The Mumbai Housing and Area Development Board] or [4][the Mumbai Repairs and Reconstruction Board] or [4][the Mumbai Slum Improvement Board] or the Konkan Housing and Area Development Board as the case may be,] shall execute any such plan or project within its area of jurisdiction] in the Metropolitan Region so as not to be inconsistent with the projects or schemes formulated for the development of the Metropolitan Region or any part thereof under the Metropolitan Act.

[5]* * * * * *

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[1] Sub-clause (*b*) was deleted by Mah. 12 of 1989, s. 4(*b*).

[2] The words " The Bombay Housing and Area Development Board or, as the case may be, the Konkan Housing and Area Development Board, shall execute any such plan or project within its area of Jurisdiction " were substituted for the words " The Bombay Housing and Area Development Board shall execute any such plan or project " by Mah. 13 of 1981, s. 3.

[3] These words were substituted for the words "The Bombay Housing and Area Development Board, or as the case may be, the Konkan Housing and Area Development Board " by Mah. 11 of 1993, s. 3.

[4] These words were substituted for the words " the Bombay Housing and Area Development Board", "the Bombay Repairs and Reconstruction Board " and " the Bombay Slum Improvement Board" respectively, by Mah. 25 of 1996, s. 2, Sch., para (*3*).

[5] Sub-section (*3*) was deleted by Mah. 54 of 1977, s .4.

* New *see* Companies Act, 2013 (18 of 2013).

CHAPTER IV.

BUDGET, FINANCE, ACCOUNTS AND AUDIT.

Submission of budget to Authority.

30. [1][(*1*) The Chief Executive Officer or in his absence the Financial Controller or such officer, as may be specially or generally authorised in this behalf, by the Authority shall, at a special meeting to be held not later than 31st March in each year, lay before the Authority, the budget estimates of the Authority for the next year.]

(*2*) Every such budget estimates shall be prepared in such form as the State Government may, from time to time by order, determine, and shall provide for,—

(*i*) the proposals, plans and projects which the Authority proposes to execute whether in part or in whole during the next year;

(*ii*) the due fulfilment of all the liabilities of the Authority; and

(*iii*) the implementation of the provisions of this Act;

and such estimates shall contain a statement showing the estimated income and expenditure on capital and revenue accounts, for the next year and such other particulars indicating the financial performance of the Authority as the State Government may direct. The budget shall clearly reveal the financial outlay and performance.

(*3*) The Chief Officer of every Board shall prepare annually on or before such date and in such form as the State Government may from time to time by order determine a budget estimate of the income and expenditure of the Board for the next year relating to the proposals, plans or projects to be undertaken or continued or executed from the funds of the Authority.

(*4*) Every Board shall, as soon as may be, after the said date consider the budget estimates so prepared and approve the same with or without modifications and forward it to the Authority for the inclusion thereof in the budget estimates of the Authority before such date as the State Government may, from time to time by order, determine.

Sanction of budget estimates.

31. The Authority shall consider the budget estimates submitted to it under section 30 and approve the same with or without modifications on or before such date as the State Government may, from time to time, determine. The budget estimates forwarded by every Board shall form part of the budget estimates of the Authority.

Submission of approved budget estimates to State Government.

32. (*1*) Every budget estimates approved by the Authority under the last preceding section shall be submitted to the State Government for information.

(*2*) After the receipt of the approved budget estimates, the State Government may as far as practicable before the beginning of the next year, suggest to the Authority, such modifications therein as the State Government may deem fit, and the Authority shall carry out such modifications in the budget estimates in such manner as the Authority may think fit.

Supplementary budget.

33. The Chief Executive Officer may, at any time during the year for which a budget has been approved by the Authority, lay before the Authority a supplementary budget estimates and the provisions of sections 30, 31 and 32 shall, so far as may be, apply to such supplementary budget estimates.

Authority's Fund.

34. (*1*) The Authority shall have its own fund.

(*2*) (*a*) All moneys received by the Authority by way of grants, subventions, donations and gifts for all or any of the purposes of this Act;

(*b*) All proceeds of land or any other kind of property sold or disposed of by the Authority, all rents, deposits, betterment charges and all interest, profits and other moneys accruing to the Authority;

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[1] Sub-section (*1*) was substituted by Mah. 23 of 2000, s. 2.

(*c*) all loans received by the Authority;

shall constitute the fund of the Authority.

(*3*) [1]* * * * *

Deposit of money in fund and operation thereof.

35. (*1*) Except as otherwise directed by the State Government, all moneys forming part of the funds of the Authority shall be deposited in the Reserve Bank of India or in such Scheduled Bank or invested in such securities as may be approved by the State Government.

Explanation.—For the purposes of this section, the Reserve Bank of India means the Reserve Bank of India at [2][Mumbai] constituted under the Reserve Bank of India Act, 1934, and a Scheduled Bank means a Bank included in the Second Schedule to the said Act. II of 1934.

(*2*) The fund of the Authority shall be operated upon by such officers as may be authorised by the Authority.

Power of Authority to borrow.

36. (*1*) The Authority may, from time to time with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf, borrow any sum required for the purposes of this Act.

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

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

(*4*) Every debenture shall be signed by the President and one other member of the Authority as the Authority may by order specify in this behalf.

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

Application of property, fund, etc.

37. All property and fund of the Authority and all other assets belonging to, or vesting in, the Authority shall be held and applied by it, subject to the provisions, and for the purposes, of this Act.

Subvention and loans to Authority.

38. (*1*) Any Government or local authority (and every local authority is hereby authorised to do so) may, from time to time, make subventions to the Authority for the purposes of this Act on such terms and conditions as the State Government may determine.

(*2*) Any Government may from time to time advance loans to the Authority on such terms and conditions not inconsistent with the provisions of this Act, as that Government may determine.

Accounts and audit.

39. (*1*) The Authority shall cause to be maintained proper books of accounts and such other books as the rules may require, and shall prepare in accordance with the rules an annual statement of accounts.

(*2*) The Authority shall cause its accounts to be audited annually by such person and by such date in the next succeeding year as the State Government may direct. The person so directed shall have the right to demand the production of books, accounts and connected vouchers, documents and papers, and to inspect any of the offices of the Authority including those of the Boards.

(*3*) As soon as the accounts of the Authority have been audited, the Authority shall send a copy thereof with a copy of the report of the auditor thereon to the State Government; and the Authority shall comply with such directions as the State Government may, after perusal of the report of the auditor, think fit to issue.

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[1] Sub-section (*3*) was deleted by Mah. 54 of 1977, s. 5.

[2] This word was substituted for the word "Bombay" by Mah. 25 of 1996, s. 2 and Sch., para (*2*).

(*4*) The accounts together with the report of the auditor thereon shall be laid by the State Government before each House of the State Legislature as far as possible before the expiry of the year next succeeding the year to which they relate.

Concurrent and special audit of accounts.

40. (*1*) Notwithstanding anything contained in section 39, there shall be a concurrent audit of the accounts of the Authority by such person as it thinks fit. The State Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Authority relating to any particular transaction or a class or series of transactions or to a particular period.

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

CHAPTER V.

Acquisition Of Land And Disposal Of Property Of The Authority.

Power of State Government to acquire land.

41. (*1*) Where, on any representation from the Authority or any Board it appears to the State Government that, in order to enable the Authority to discharge any of its functions or to exercise any of its powers or to carry out any of its proposals, plans, or projects, it is necessary that any land should be acquired, the State Government may acquire the land by publishing in the *Official Gazette* a notification to the effect that the State Government has decided to acquire the land in pursuance of this section :

Provided that, before publishing such notification, the State Government shall by notice published in the *Official Gazette,* and served in the prescribed manner, call upon the owner of, or any other person who, in the opinion of that Government, may be interested in, such land to show cause, why it should not be acquired and after considering the cause, if any, shown by the owner or any other person interested in the land, the State Government may pass such order as it thinks fit:

[1][Provided further that, if the land proposed to be acquired falls within the Scheduled Areas then the State Government shall before such acquisition and before re-setting or rehabilitating of persons affected consult,—

(*i*) the *Gram Sabha* and the *Panchayat* concerned, if the land falls within the area of one *Panchayat*;

(*ii*) concerned *Gram Sabhas* and the *Panchayat Samiti,* if the land falls within the area of more than one village in the Block concerned;

(*iii*) the concerned *Gram Sabhas* and the *Zilla Parishad* concerned, if the land falls within the jurisdiction of more than one Blocks in the district concerned;

such consultation shall be done in the manner as may be laid down by the State Government by issuing general or special order issued in this behalf:

Provided that, the decision taken by the majority of the *Gram Sabhas* concerned by passing a resolution in the above matter shall be binding on the concerned *Panchayat Samiti* or the *Zilla Parishad,* as the case may be.

Explanation.—for the purpose of these provisos,—

(*i*) the expressions " *Gram Sabha* ", "*Panchayat*" and " Scheduled Areas " shall have the meaning respectively assigned to them in the [*]Bombay Village Panchayats Act, 1958;

Bom. III of 1959.

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[1] These provisos were added by Mah. 46 of 1997, s. 12.

[*] The short title of this Act has been amended as "the Maharashtra Village Panchyats Act." *vide* Mah. 24 of 2012, Sch., Entry 74 w.e.f. 1-5-1960.

(*ii*) the expressions " *Panchayat Samiti* " and " *Zilla Parishad* " shall have the meanings respectively assigned to them in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.] Mah. V of 1962.

(*2*) The acquisition of land for any purpose mentioned in sub-section (*1*) shall be deemed to be a public purpose.

(*3*) Where notification aforesaid is published in the *Official Gazette,* the land shall, on and from the date on which the notification is so published, vest absolutely in the State Government free from all encumbrances.

Power of State Government to require person in possession of land to surrender or deliver possession thereof to State Government.

42. (*1*) Subject to the provisions of section 51, where any land is vested in the State Government under sub-section (*3*) of section 41, the State Government may, by notice in writing, order any person who may be in possession of the land to surrender or deliver possession thereof to the State Government or any person duly authorised by it in this behalf within thirty days of the date of service of the notice.

(*2*) If any person fails or refuses to comply with an order under sub-section (*1*) the State Government may take possession of the land, and may, for that purpose use or cause to be used such force as may be reasonably necessary.

(*3*) Where any land is taken possession of as aforesaid, the State Government shall make that land available to the Authority for the purpose for which the land has been acquired and for discharging its functions, performing its duties and exercising its powers.

Right to receive amount for acquisition.

43. Every person having any interest in any land acquired under this Chapter shall be entitled to receive from the State Government an amount as provided hereafter in this Chapter.

Lands in Municipal Areas.

Basis for determination of amount for acquisition of lands in municipal areas.

44. (*1*) Where any land including any building thereon is acquired and vested in the State Government under this Chapter and such land is situated in any area within the jurisdiction of any Municipal Corporation or Municipal Council, the State Government shall pay for such acquisition an amount which shall be determined in accordance with the provisions of this section.

(*2*) Where the amount has been determined with the concurrence of the Authority, by agreement between the State Government and the person to whom it is payable, it shall be determined and paid in accordance with such agreement.

(*3*) Where no such agreement can be reached, the amount payable in respect of any land acquired shall be an amount equal to one hundred times the net average monthly income actually derived from such land, during the period of five consecutive years immediately preceding the date of publication of the notification referred to in section 41 as may be determined by the Land Acquisition Officer.

(*4*) The net average monthly income referred to in sub-section (*3*) shall be calculated in the manner and in accordance with the principles set out in the First Schedule.

(*5*) The Land Acquisition Officer shall, after holding an inquiry in the prescribed manner, determine in accordance with the provisions of sub-section (*4*) the net average monthly income actually derived from the land. The Land Acquisition Officer shall then publish a notice in a conspicuous place on the land and serve it in the prescribed manner calling upon the owner of the land and every person interested therein to intimate to him,

before a date specified in the notice, whether such owner or person agrees to the net average monthly income actually derived from the land as determined by the Land Acquisition Officer. If such owner or person does not agree, he may intimate to the Land Acquisition Officer before the specified date what amount he claims to be such net average monthly income.

(*6*) Any person, who does not agree to the net average monthly income as determined by the Land Acquisition Officer under sub-section (*5*) and the amount for acquisition to be paid on that basis and claims a sum in excess of that amount may prefer an appeal to the Tribunal, within thirty days from the date specified in the notice referred to in sub-section (*5*).

(*7*) On appeal, the Tribunal shall, after hearing the appellant, determine the net average monthly income and the amount to be paid on that basis and its determination shall be final and shall not be questioned in any court.

Apportionment of amount for acquisition.

45. (*1*) Where the owner of the land and the owner of the building thereon are different persons, or several persons claim to be interested in the amount for acquisition determined under the last preceding section, the Land Acquisition Officer shall determine the persons who in his opinion are entitled to receive the same and the sum payable to each of them.

(*2*) If any dispute arises as to the apportionment of the amount or any part thereof or as to the persons to whom the same or any part thereof is payable, the Land Acquisition Officer may refer the dispute to the decision of the Tribunal; and the Tribunal in deciding any such dispute shall follow the provisons of Part III of the** Land Acquisition Act, 1894.

1 of 1894.

Payment of amount for acquisition or deposit of same in court.

46. (*1*) After the amount for acquisition has been determined, the Land Acquisition Officer shall, on behalf of the State Government, tender payment of and pay the amount to the persons entitled thereto.

(*2*) If the persons entitled to the amount do not consent to receive it, or if there be any dispute as to the title to receive the same or as to the apportionment of it, the Land Acquisition Officer shall deposit the amount in *Greater Bombay, in the Bombay City Civil Court, and in any other municipal area in the Court of the District Judge, and that Court shall deal with the amount so deposited in the manner laid down in sections 32 and 33 of the** Land Acquisition Act, 1894.

1 of 1894.

Powers of Land Acquisition Officer in relation to determination of amount for acquisition, etc.

47. (*1*) The Land Acquisition Officer may, for the purpose of determining the amount for acquisition or apportionment thereof, by order require any person to furnish such relevant information in his possession as may be specified in the order.

(*2*) The Land Acquisition Officer shall, while holding an inquiry under sub-section (*5*) of section 44 of this Act have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely :—

V of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of any document;

(*c*) receiving evidence on affidavit;

(*d*) requisitioning any public record from any court or office;

(*e*) issuing commissions for examination of witnesses.

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* The name of this city is restored as "Brihan Mumbai" *see* Mah. 25 of 1996, s. 2 and 3.

** Now *see* Right to Fair Compensation and Transparency in Land Acquisition, Rehablilitation and Resettlement Act, 2013 (30 of 2013).

Payment of interest.

48. When the amount for acquisition is not paid or deposited on or before taking possession of the land, the Land Acqusition Officer on behalf of the State Government shall pay the amount determined with interest thereon, from the date of taking possession until the amount is paid or deposited, at the rate of 4 per cent. per annum for the first six months, and thereafter at the rate of 9 per cent. per annum.

Appointment of Land Acquisition Officer.

49. The State Government may, by notification in the *Official Gazette,* appoint an officer who is holding or has held an office, which in its opinion is not lower in rank than that of Deputy Collector or Assistant Director of Town Planning to be a Land Acquisition Officer for the purposes of this Act, and one or more such officers may be appointed as may be necessary.

Lands in Rural Areas.

Basis for determination of amount for acquisition of lands in rural areas and other procedure.

50. (*1*) Where any land (including any building thereon) is acquired and vested in the State Government under this Chapter and such land is situated in any area outside the jurisdiction of any Municipal Corporation or Municipal Council (in this Chapter referred to as " a rural area "), the State Government shall pay for such acquisition an amount, which shall be determined in accordance with the provisions of this section.

(*2*) Where the amount has been determined, with the concurrence of the Authority, by agreement between the State Government and the person to whom it is payable, it shall be determined and paid in accordance with such agreement.

(*3*) Where no such agreement can be reached, the State Government shall refer the case to the Collector, who shall determine the amount for acquisition in accordance with the principles for determining compensation laid down in the** Land Acquisition Act, 1894, and the provisions of that Act (including provisions for reference to Court and appeal) shall apply thereto *mutatis mutandis* as if the land has been acquired and compensation had to be determined, apportioned and paid under the provisions of that Act, subject to the modifications that reference in sections 23 and 24 of that Act, to the date of publication of the notification under section 4, sub-section (*1*), were references to the date on which the notice under the proviso to sub-section (*1*) of section 41 of this Act is published, and the references to the time or date of the publication of the declaration under section 6 of that Act were references to the date of publication of the notification referred to in sub-section (*3*) of section 41 of this Act in the *Official Gazette.* I of 1884.

Explanation.—In this section," Collector " means the Collector of a District and includes any officer specially appointed by the State Government or by the Commissioner to perform the functions of a Collector under the** Land Acquisition Act, 1894. I of 1884.

Alternative Accommodation.

Alternative accommodation to occupiers of residential premises where any acquired building is to be demolished.

51. Where any building acquired under this Chapter which is vested in the Authority is proposed to be demolished, it shall be the duty of the Authority, before evicting the occupiers, to allot such alternative accommodation, at such place and of such nature and size, as the Authority may determine, only to those persons who are occupiers of residential premises in the building, either as owner or tenant, and who are actually residing in the building at the time of their eviction. If any occupier fails to accept and occupy the alternative accommodation allotted to him within 45

** Now *see* Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013).

days from the date of allotment, the responsibility of the Authority to provide him with such accommodation shall cease. The decision of the Authority as regards any matter contained in this section shall be final and shall not be questioned in any court.

Explanation.—In this section " building " means a house or a tenement or tenements let or intended to be let or occupied separately, but does not include any building which is unauthorised or which is a temporary building as defined in clause (*sb*) of section 3 of [1][the Mumbai Municipal Corporation Act], with this modification that the expression " Commissioner " in that clause shall include an officer or authority which is competent to allow a temporary building to be built within his or its jurisdiction.

Bom. III of 1888.

52. The Authority may also enter into an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land which is needed for the purpose of any proposal, plan or project of the Authority or any interest in such land or for compensating the owners of any such right in property in respect of any deprivation thereof or interference therewith. Power to purchase or lease by ageement.

Betterment Charges.

53. (*1*) Where for the purpose of any proposal, plan or project, any land in the area comprised therein which is not required for the execution thereof will in the opinion of the Authority, be increased in value, the Authority may for the purposes of any such proposal, plan or project in lieu of providing for acquisition of such land, declare that the betterment charges shall be payable by the owner of the land or any person having an interest therein in respect of the increase in value of the land resulting from the execution of such proposal, plan or project. Betterment charges.

(*2*) Such increase in value shall be the amount by which the value of the land on the completion of the execution of the proposal, plan or project estimated as if the land were clear of the buildings exceeds the value of the land prior to the execution of the proposal, plan or project estimated in like manner and the betterment charges shall be one-half of such increase in value.

(*3*) No betterment charges shall be payable by the Government in respect of any land which is the property of the Government or is managed by any Government or by any Corporation (including a company or subsidiary company thereof) owned or controlled by the State or by any local authority or any public institution in respect of any land belonging to such authority or institution if and so as long as, such land is used for public, charitable or religious purpose.

54. (*1*) The Authority shall give notice to any person who is the owner of, or has interest in the land in respect of which the betterment charges are to be levied, and shall give such persons an opportunity to be heard. Notice to person liable for betterment charges.

(*2*) After hearing such person, or if such person fails to appear after the expiry of the period within which such person is required to appear before the Authority, the Authority shall proceed to assess the amount of betterment charges.

(*3*) Where the assessment of betterment charges proposed by the Authority is accepted by the person concerned within the period prescribed, the assessment shall be final.

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[1] These words were substituted for the words " the Bombay Municipal Corporation Act", by Mah. 25 of 1996, s. 2, Sch. para (*3*).

(*4*) If the person concerned does not accept the assessment proposed by the Authority, the matter shall be referred to the Tribunal.

(*5*) The Tribunal shall, after holding an inquiry and after hearing the person concerned, assess the amount of the betterment charges payable by the person.

Agreement for payment of betterment charges.

55. (*1*) Any person liable to pay betterment charges in respect of any land may at his option, instead of paying the same to the Authority, execute an agreement with the Authority to leave the payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at such rate as may be prescribed.

(*2*) Every payment due from any person in respect of betterment charges and every charge referred to in sub-section (*1*) shall, notwithstanding anything contained in any other enactment and notwithstanding the execution of any mortgage or charge, created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

Recovery of betterment charges.

56. All sums payable in respect of any land by any person in respect of betterment charges under section 53 or by any person under an agreement under section 55 shall be recoverable on behalf of the Authority as an arrear of land revenue on a certificate of an officer appointed by the State Government in this behalf.

Certain Provisions for Purposes of this Act.

Transfer to Authority for purposes of this Act land vested in Municipal Corporation, Municipal Council or *Zilla Parishad*.

57. (*1*) Whenever any street, square or other land, or any part thereof, situated in any area within the limits of a Municipal Corporation, Municipal Council or *Zilla Parishad* and vested in such Corporation, Council or Parishad is required for any of the purposes of this Act, the Authority shall give notice accordingly to the Corporation, Council or *Zilla Parishad*, as the case may be.

(*2*) Where the Municipal Corporation, Municipal Council or *Zilla Parishad* concurs, such street, square or other land, or part thereof shall vest in the Authority.

(*3*) Where there is any dispute, the matter shall be referred to the State Government. The State Government, shall, after considering any representation, or after hearing any officer of the Municipal Corporation, Municipal Council or *Zilla Parishad* concerned, decide the matter. The decision of the State Government shall be final. If the State Government decides that such street, square or land or part thereof, shall, vest in the Authority, it shall vest accordingly.

(*4*) Nothing in this section shall affect the rights or powers of the Municipal Corporation, Municipal Council or *Zilla Parishad* in or over any drain or water work in such street, square or land or the rights or powers of any authority in respect of any of its works or installations duly laid in such street, square or land under any law for the time being in force in the State.

Payment in respect of land vested in Authority.

58. (*1*) Where any land vests in the Auhtority under section 57 and the Authority makes a declaration that such land shall be retained by the Authority only until it revests in the Municipal Corporation, the Municipal Council or the *Zilla Parishad* as part of a street or an open space under section 61, no amount shall be payable by the Authority to the Municipal Corporation, the Municipal Council or the *Zilla Parishad*, as the case may be, in respect of that land.

(*2*) Where any land vests in the Authority under section 57 and no declaration is made under sub-section (*1*) in respect of the land, the Authority shall pay to the Municipal Corporation, the Municipal Council or the *Zilla Parishad*, as the case may be, an amount equal to the value of such land.

(*3*) If, in any case where the Authority has made a declaration in respect of any land under sub-section (*1*), the Authority retains or disposes of the land contrary to the terms of the declaration so that the land does not revest in the Municipal Corporation, the Municipal Council or *Zilla Parishad*, as the case may be, the Authority shall pay to the Municipal Corporation, the Municipal Council or the *Zilla Parishad* an amount in respect of such land in accordance with the provisions of sub-section (*2*).

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

59. (*1*) The Authority may turn, divert, discontinue the public use of, or permanently close, any public street vested in it or any part thereof.

(*2*) Whenever the Authority discontinue the public use of or permanently closes any public street vested in it or any part thereof, it shall, as far as practicable, provide some other reasonable means of access to be substituted in lieu of the use, by those entitled, of the street or part thereof, and pay a reasonable amount to every person who is entitled, otherwise than as a mere member of the public to use such street or part as a means of access and has suffered damage from such discontinuance or closing.

(*3*) In determining the amount payable to any person under sub-section (*2*), the Authority shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street at or about the same time that the public street or part thereof, on account of which the amount is paid, is discontinued or closed.

(*4*) When any public street vested in the Authority is permanently closed under sub-section (*1*), the Authority may sell or lease so much of the same as is no longer required.

Reference to Tribunal in case of dispute under section 58 or 59.

60. If there is any dispute as to whether any amount is payable under section 58 or as to the quantum of amount payable under section 58 or section 59, as the case may be, the matter shall be referred to the Tribunal.

Vesting in Municipal Corporation, Municipal Council or *Zilla Parishad* of streets laid out or altered an open space provided by Authority under any proposal, plan or project under this Act.

61. (*1*) Whenever the State Government is satisfied—

(*a*) that any street laid out or altered by the Authority has been duly levelled, paved, metalled, flagged, channeled, sewered, and drained as required for any proposals, plans or projects included in the budget, and

(*b*) that such lamps, lamp-posts and other apparatus as the Municipal Corporation, the Municipal Council or *Zilla Parishad*, as the case may be, considers necessary for the lighting of such street and as ought to be provided by the Authority have been so provided, and

(*c*) that water and other sanitary conveniences have been duly provided in such street,

the State Government may declare the street to be a public street, and the street shall thereupon vest in the Municipal Corporation, Municipal Council or *Zilla Parishad*, as the case may be, and shall hence-forth be maintained, kept in repair, lighted and cleaned by the Municipal Corporation, Municipal Council or *Zilla Parishad*.

(2) Where any open space for purposes of ventilation or recreation has been provided by the Authority in executing any proposal, plan or project under this Act, the Authority may at its option by resolution transfer such open space to the local authority concerned on completion of the proposal, plan or project, and thereupon, such open space shall vest in, and be maintained at the expense of the local authority :

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

(3) If any difference of opinion arises between the Authority and the Municipal Corporation, Municipal Council or *Zilla Parishad* in respect of any matters referred to in the foregoing provisions of this section, the matter shall be referred to the State Government, whose decision shall be final.

Disputes regarding reconstitution of plots.

62. (1) Where under any proposal, plan or project under this Act, any plots comprised in the area included therein are reconstituted or any person is dispossessed, any person affected by such reconstitution or dispossession may apply to the Authority for damages. The Authority may, after making such inquiry as it thinks fit, decide whether the applicant is entitled to any damages, and if so to what extent. If the person is dissatisfied with the decision of the Authority in the matter, he may refer the matter to the Tribunal.

(2) The Tribunal shall, after making an inquiry, determine the amount of damages and direct the Authority to pay the same to the person entitled thereto.

Authority to assume management of requisitioned lands.

63. The Authority shall, subject to the general control of the State Government, assume management of all such lands, requisitioned or deemed to be requisitioned or continued to be subject to requisition, by or under the Authority of the State Government under the *Bombay Land Requisition Act, 1948 or by or under any corresponding law for the time being in force, as the State Government may direct. Bom. XXXIII of 1948.

Power to dispose of property.

64. Subject to any rules made by the State Government under this Act, the Authority may retain, lease, sell, exchange or otherwise dispose of, any land, any building or other property vesting in it and situate in the area comprised in any proposal, plan or project permitted under this Act, in such manner as it thinks fit.

CHAPTER VI

Power to Evict Persons from Authority Premises and to Recover Dues.

Appointment of Competent Authority.

65. The State Government may, by notification in the *Official Gazette,* appoint an officer, who is holding or has held an office which in its opinion is not lower in rank than that of Deputy Collector or Civil Judge, to be the Competent Authority for performing the functions of such authority under this Chapter in such areas, or in respect of such premises or class of premises in any area, as may be specified in the notification; and more than one officer may be appointed as Competent Authority in the same area in respect of different premises or different classes of premises.

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* Short title of this Act has been amended as "the Maharashtra Land Requisition Act", *vide* Mah. 24 of 2012, s. 2, Sch., Entry 32 w.e.f. 1-5-1960.

Power to evict certain persons from Authority premises.

66. (*1*) If the Competent Authority is satisfied—

(*a*) that the person authorised to occupy any Authority premises has—

(*i*) not paid rent or compensation or amount lawfully due from him in respect of such premises for a period of more than two months, or

(*ii*) sub-let, without the previous permission of the Authority, the whole or any part of such premises, or

(*iii*) committed, or is committing any act which is destructive or permanently injurious to such premises, or

(*iv*) made, or is making, material addition to, or alteration in, such premises without the previous permission of the Authority, or

(*v*) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such premises, or

(*vi*) failed to vacate the premises required by the Authority for the purpose of implementing any plan or project for the sale of tenements and to accept the alternative accommodation offered by the Authority.

(*b*) that any person is in unauthorised occupation of any Authority premises, the Competent Authority may, for reasons to be recorded in writing, by notice served (*i*) by post, or (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that person, as well as any other person, who may be in occupation of the whole or any part of the premises, to vacate the premises in unauthorised occupation, within 24 hours of the date of service of notice, and in any other case within a period of seven days of the date of such service.

(*2*) Before an order under sub-section (*1*) is made against any person, the Competent Authority shall issue, in the manner hereinafter provided, a notice in writing calling upon all persons concerned to show cause within ten days why an order of eviction should not be made.

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 Authority premises, to show cause againts the proposed order, on or before such date as is specified in the notice.

If such person makes an application to the Competent Authority for the extension of the period specified in the notice, such Authority may grant the same on deposit of one hundred rupees and on such terms as to payment and recovery of the amount claimed in the notice, as such Authority thinks fit.

Any written-statement put in by any person and documents produced in pursuance of the notice, shall be filed with the record of the case, and such person shall be entitled to appear before the Competent Authority by advocate, attorney or other legal practitioner.

The notice to be served under this sub-section shall be served in the manner provided for the service of a notice under sub-section (*1*); and thereupon, the notice shall be deemed to have been duly given to all persons concerned.

(*3*) If any person refuses or fails to comply with an order made under sub-section (*1*), the Competent Authority may evict that person and any other person who obstructs him and takes possession of the premises, and may for that purpose use such force as may be necessary.

(*4*) The Competent Authority may, after giving ten clear days' notice to the person from whom possession of the Authority premises has been taken under sub-section (*3*), and after publishing such notice in the prescribed manner, remove or cause to be removed or disposed of by public auction, any property remaining on such premises. Such notice shall be served in the manner provided for the service of a notice under sub-section (*1*).

(*5*) Where the property is sold under sub-section (*4*), the sale proceeds shall, after deducting the expenses of sale, be paid to such person or persons as may appear to the Competent Authority to be entitled to the same :

Provided that, where the Competent Authority is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he shall refer such dispute to a Civil Court of competent jurisdiction and the decision of the Court thereon shall be final.

(*6*) If a person, who has been ordered to vacate any premises under sub-clause (*i*) or (*v*) of clause (*a*) of sub-section (*1*), within seven days of the date of service of the notice, pays to the Authority the rents or compensation or amount in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the Competent Authority, such Authority shall, on such terms, if any (including the payment of any sum by way of damages or compensation for the contravention aforesaid), in lieu of evicting such person under sub-section (*3*) cancel his order made under sub-section (*1*), 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 :

Provided that, if a person authorised to occupy the Authority premises fails to pay the arrears of rent, compensation or amount for three times within a period of two consecutive years, he shall be liable to be evicted under the provisions of this section.

Explanation I.—For the purpose of this Chapter, the expression 'unauthorised occupation' in relation to any person authorised to occupy any Authority premises includes the continuance of occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the premises has expired or has been duly determined.

Explanation II.—For the purpose of this Chapter, the term rent, compensation or amount includes any payment to be made by a person in respect of any premises taken by him from the Authority under hire-purchase agreement and also any penalty [1][imposed such rate as may be prescribed] for the default in the payment of rent, compensation or amount. The amount of such penalty shall not exceed 10 per cent. of such rent, compensation or amount.

(*7*) Notwithstanding anything contained in this Chapter including this section, if any person fails to vacate the premises required by the Board for the purpose of demolition of building containing such premises which are unfit for human habitation then, the Board may require the occupants thereof to vacate the premises within 24 hours of the date of service of the notice; and at the same time allot them alternative accommodation in any building of the Authority at such place as it thinks fit. The accommodation may not be in the same locality or of the same floor area as the premises vacated by the occupiers. If any occupier fails to accept and occupy the alternative accommodation allotted to him within the time specified by the Board the responsibility of the Board to provide him with any alternative accommodation shall cease. Such occupier shall, however, have a right to re-occupy his premises in the building if a building is re-erected on the land on which the demolished building stood.

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[1] These words were substituted for the words "which the Competent Authority may levy according to rules" by Mah. 12 of 1989, s. 5.

(*8*) Where an occupier does not vacate his premises, the Board may take or cause to be taken such steps and use or cause to be used such force as may be reasonably necessary for the purpose of getting the premises vacated.

(*9*) The decision of the Board under sub-sections (*7*) and (*8*) shall be final and conclusive and shall not be called in question in any Court nor any injunction against the order of demolition or vacation of the premises shall be made by any Court.

Power to recover rent, compensation, amount or damages as arrears of land revenue.

67. (*1*) Subject to any rules made by the State Government in this behalf, but without prejudice to the provisions of the last preceding section, where any person is in arrears of rent, compensation or amount payable in respect of any Authority premises, such officers as may be authorised by the Board ; may by notice served in the manner provided for service of notice under sub-section (*1*) of section 66 order that person to pay the same within such period, not less than ten days as may be specified in the notice. If such person refuses to pay the arrear of rent, compensation or amount within the time specified in the notice, such arrears may be recovered as arrears of land revenue.

(*2*) Where any person is in unauthorised occupation of any Authority premises, the Competent Authority may, in the manner and having regard to the principles of assessment of damages provided for by the rules, assess, such damages on account of the use and occupation of the premises as it may deem fit, and may by notice served in the manner referred to in sub-section (*1*) order that person to pay the damages, within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue.

(*3*) No order shall be made under sub-section (*2*) until after the issue of a notice in writing to the person calling upon him to show cause, within fifteen days, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the Competent Authority.

Rent, compensation or amount to be recovered from deduction from salary or wages in certain cases.

68. (*1*) Without prejudice to the provisions of section 66, any person who has been allotted any Authority premises may execute an agreement in favour of his employer providing that the employer shall be competent to deduct from the salary or wages payable to such person such amount as may be specified in the agreement and to pay the amount so deducted to the Authority in satisfaction of the rent, compensation or amount due by him in respect of the Authority premises allotted to him.

(*2*) On the execution of such agreement, the employer shall, if so required by the authority, by requisition in writing make the deduction of the amount specified in the requisition from the salary or wages of the employee specified in the requisition in accordance with the agreement, and pay the amount so deducted to the Authority as if it were a part of the salary or wages payable by the employer as required under the Payment of Wages Act, 1936 on the day on which the employer makes payment.

IV of 1936.

Competent Authority to have powers of civil courts.

69. The Competent 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, when trying a suit, in respect of the following matters, namely :—

V of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) any other matter which may be prescribed.

Appeals.

70. (*1*) An appeal shall lie from every order of the Competent Authority made in respect of any Authority premises under section 66 or section 67 to an appellate officer whom the State Government may, by a notification in the *Official Gazette,* appoint. The appellate officer shall be a person not below the rank of a Deputy Secretary to Government having judicial experience or experience in the Legal Department of the State or [1][a person who has for at least ten years held any judicial office,] who shall be specified for the purpose by the State Government in such notification.

(*2*) The State Government may appoint one or more appellate officers for the whole or that part of the State in which this Act is in force, or for such area therein as may be specified in the notification.

(*3*) The period within which an appeal under sub-section (*1*) may be preferred shall—

(*a*) in the case of an appeal from an order under section 66 be not later than 30 days from the date of the service of the notice relating to the order under sub-section (*1*) of that section, and

(*b*) in the case of an appeal from an order under section 67 be not later than 30 days from the date of the service of the notice relating to the order under sub-section (*1*) or (*2*) of that section,

as the case may be :

Provided that, the appellate officer may entertain the appeal after the expiry of the said period of 30 days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*4*) Where an appeal is preferred from an order of the Competent Authority, the appellate officer may stay the enforcement of that order on payment of deposit of two hundred rupees for such period and on such conditions as he deems fit.

(*5*) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.

(*6*) The appellate officer may make regulations for regulating the practice and procedure, including the award of costs, the levy of any process fee, filing fee, or copying or translation fees including provision for recovery thereof in the form of court-fee stamps, the right of appearance before him, the place or places of his sitting, the disposal of any proceedings before him notwithstanding that in the course thereof there has been a change in the appellate officer and generally for the effective exercise of his powers and discharge of his functions under this Act.

(*7*) The regulations made under this section shall be published in the *Official Gazette.*

Bar of jurisdiction of civil courts.

71. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person from any Authority premises under this Chapter, or the recovery of the arrears of rent, compensation, amount or damages for use and occupation of such premises, or in respect of any order made or to be made or any action taken or to be taken by the Competent Authority or the appellate officer in the exercise of any power conferred by or under this Chapter, or to grant any injunction in respect of such order or action.

Penalty for obstructing lawful exercise of powers under this Chapter.

72. Any person, who obstructs the lawful exercise of any powers conferred by or under this Chapter, shall; on conviction, be punished with fine which may extend to one thousand rupees.

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1 These words were substituted for the words "who has held judicial office not below the rank of District Judge" by Mah. 29 of 1978, s. 2.

CHAPTER VII.

TRIBUNAL.

Tribunal.

Mah. XXVIII of 1971.

73. The Tribunal constituted under clause (*i*) of section 2 of the Maharashtra Slum Areas (Improvement, Clearance and Re-development) Act, 1971, shall also be the Tribunal for the purposes of hearing appeals and discharging other functions of the Tribunal under this Act, and accordingly, the provisions of section 45 of that Act (including any regulations made thereunder) and other provisions relating to the Tribunal under that Act (with such modifications, if any, therein as circumstances may require) shall also apply to, and in relation to, such Tribunal for the purposes of this Act.

CHAPTER VIII.

REPAIRS AND RECONSTRUCTION OF DILAPIDATED BUILDINGS.

Board for purposes of this Chapter.

74. [1][The Mumbai Repairs and Re-construction Board] established under section 18 of this Act shall be the Board for the purposes of carrying out the purposes of this Chapter.

Board to exercise powers and perform duties subject to the superintendence, direction and control of Authority.

75. The Board shall exercise its powers and perform its duties and functions under this Chapter, subject to the superintendence, direction and control of the Authority.

Duties relating to repairs and reconstruction of dilapidated buildings.

76. Subject to the provisions of this Chapter, it shall be the duty of the Board—

(*a*) to undertake and carry out structural repairs to buildings, in such order of priority as the Board, having regard to the exigencies of the case and availability of resources, considers necessary, without recovering any expenses thereof from the owners or occupiers of such buildings;

(*b*) to provide temporary or alternative accommodation to the occupiers of any such building, when repairs thereto are undertaken, or a building collapses;

(*c*) to undertake, from time to time, the work of ordinary and tenantable repairs in respect of all premises placed at the disposal of the Board;

(*d*) to move the State Government to acquire old and dilapidated buildings and which are, in the opinion of the Board, beyond repairs; and to reconstruct or to get reconstructed new buidings thereon for the purpose of housing as many occupiers of those properties as possible, and for providing alternative accommodation to other affected occupiers;

(*e*) to move the State Government to acquire old and dilapidated buildings and which were once structurally repaird by the Board, but in respect of which further structural repairs are not, in the opinion of the Board possible or economical, and to reconstruct or to get reconstructed (on demolishing existing buildings) new buildings thereon for the purpose of housing as many occupiers of those properties as possible, and for providing alternative accommodation to other affected occupiers;

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[1] These words were substituted for the words " the Bombay Repairs and Reconstruction Board" by Mah. 25 of 1996, s. 2, and Sch., para (*3*).

(*f*) having regard to the exigencies of the case and availability of resources, to construct or to get constructed through an approved agency, transit camps with a view to providing temporary accommodation to persons affected by house collapse, fire, torrential rain or tempest in its area of operation;

(*g*) to take action for demolition of dangerous and dilapidated buildings or portions thereof, which are not capable of being repaired at reasonable expense, and thereby save human lives;

(*h*) with the prior approval of the Authority, to do-all other things to facilitate the carrying out its powers, duties and functions provided by or under this Act.

Special powers of Board.

77. The Board, in the exercise of its powers, performance of its duties and discharge of its functions under this Chapter may—

(*a*) authorise any person, by general or special order, to enter into or upon any building or land with or without assistance of workmen for making any inquiry, inspection, survey, measurement, valuation or taking levels of such building or land or for carrying out any structural repairs or to execute any work which is authorised by or under this Act, or which it is necessary to execute for any of the purposes or in pursuance of any of the provisions of this Act or of any rule or regulation made thereunder :

Provided that, before exercising such powers, so far as may be compatible with the exigencies of the purpose for which the entry is to be made, reasonable notice shall be given to the owner and occupiers, and the power shall be exercised as far as possible in their presence or in the presence of their representatives, and due regard shall be had to the social and religious usages of the owner or occupiers;

(*b*) cause any building proposed to be structurally repaired or reconstructed or demolished to be vacated if so considered necessary, within a specified period, and take or cause to be taken such steps and use or cause to be used such force as may be reasonably necessary therefor.

Where any such building or part thereof is caused to be vacated, the Board shall allot to the occupiers who are dishoused or required to vacate their premises temporary accommodation in any building maintained by the Authority at such place and to such extent as it deems fit; and the relevant provisions of this Chapter shall *mutatis mutandis* apply to such occupiers.

Penalty for contravening section 77.

78. Any person who obstructs the entry of a person authorised under section 77 to enter upon any building or land or in the performance or execution by such person of his duty, or of any work which he is authorised or required to do, or molests such person in any way after such entry, or fails to vacate any building or to remove therefrom any belongings within the period specified in that behalf shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Power of Board to undertake building repairs, building reconstruction and occupiers housing and rehabilitation schemes.

79. (*1*) The Authority may, on such terms and conditions as it may think fit to impose, entrust to the Board the framing and execution of schemes for building repairs or for reconstruction of buildings or for housing and rehabilitation of, dishoused occupiers, whether provided by this Act or not, and the Board shall thereupon undertake the framing and execution of such schemes as if it had been provided for by this Act.

(*2*) The Board may, on such terms and conditions as may be agreed upon, and with the previous approval of the Authority—

(*a*) hand over the execution under its own supervision of any, building repairs scheme, building reconstruction scheme, or dishoused occuppier's housing scheme to a Municipal Corporation or to a co-operative society or to any other agency recognised for the purpose by the Board, as it may deem necessary, and

(*b*) transfer by sale, exchange or otherwise in any manner whatsoever any new building constructed on any land acquired under this Chapter to any co-operative society, if it is formed by all the occupiers, or to apartment owners for the purposes of the Maharashtra Apartment Ownership Act, 1970 (the apartment owners being all such occupiers).

Mah. XV of 1971.

Where any building is repaired, old building material which is replaced to become property of Authority in exchange for new material provided, and provision for compensation in suitable cases.

80. (*1*) Notwithstanding anything contained in any law for the time being in force, but subject to the provisions of sub-section (*2*), where any structural repairs of a building or a part thereof are carried out by the Board under the provisions of this Act the building material, debris and other things of the old building (which are replaced by the Board by the like material or different material) shall, on such replacement, be deemed to have become the property of the Authority in exchange for the new material so provided by the Board; and it shall be lawful for the Board to remove or cause to be removed such old building material, debris and other things and to sell or otherwise dispose of that material, debris and things, in such manner as it deems fit.

(*2*) As soon as possible after such repairs are carried out, the Board shall give notice to the owner that the material, debris and things aforesaid have become the property of the Authority and that if the owner claims that the value of the said material, debris and things was more than the amount of the expenditure incurred by the Board on such repairs, he may submit his claim for compensation with the necessary particulars to the Board, within thirty days from the date of receipt of such notice. Where any such claim is made, the Board shall, after holding such enquiry as it deems fit and giving a reasonable opportunity to the owner of being heard decide the claim, and may either reject the claim or accept it. Where the Board accepts the claim, the Board shall make an order for payment to the owner as compensation an amount equal to the difference between the value of the building material, debris and other things of the old buildings as estimated by it and the amount of the expenditure incurred by the Board on the structural repairs referred to in sub-section (*1*).

Use of property assigned or entrusted by Government, Municipal Corporation.

81. The State Government or the [1][Municipal Corporation of Greater Mumbai] (hereinafter referred to as [1]["the Mumbai Corporation"] may assign or entrust to the Board on behalf of the Authority any property, whether moveable or immoveable, for use by the Board for the purposes of this Chapter, on such terms and conditions as may be agreed upon by the Authority. It shall be the duty of the Board to use such property for the purpose for which it is assigned or entrusted.

[2][*Mumbai Building Repairs and Reconstruction Cess*].

Levy and collection of [3][Mumbai Building Repairs and Reconstruction Cess].

82. (*1*) For the purpose of this Chapter but subject to the provisions of section 83, there shall be levied and paid to the State Government, from such date as may be appointed by the State Government by notification in the *Official Gazette,* a tax on lands and buildings called [2][the Mumbai Building Repairs and Reconstruction Cess] (in this Chapter referred to as "the cess",) at the rate of so many percentum of the rateable value of the concerned building or land or part thereof as is provided therefor under the Second Schedule to this Act.

[4]* * * * * *

(*2*) Subject to the provisions of this Chapter, the cess shall be collected by [1][the Mumbai Corporation] in the same manner in which the property tax is collected under [5][the Mumbai Municipal Corporation Act] (hereinafter in this Chapter referred to as " the Corporation Act ").

Bom. III of 1888.

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[1] These words were substituted for the original by Mah. 25 of 1996, s. 2 and Sch. para. (*3*).

[2] This heading was substituted by Mah. 25 of 1996, s. 2 and Sch., para. (*3*).

[3] These words were substituted by Mah. 25 of 1996, s. 2 and Sch., para. (*3*).

[4] The proviso was deleted with effect from1st October 1980 by Mah. 21 of 1980, s. 2.

[5] These words were substituted for the words "the Bombay Municipal Corporation Act" by Mah. 25 of 1996, s. 2, Sch.

(*3*) The Municipal Commissioner shall recover the amount of the cess levied under sub-section (*1*) by an addition to the general tax levied and collected under the Corporation Act. Every addition to the general tax made under this section shall be recovered by the Municipal Commissioner from each person liable therefor in the same manner as the general tax due from him. The Municipal Commissioner may, in respect of the cess due, prepare separate bill for such period or periods and in such form or forms and serve them in such manner as he may determine. Where the cess is primarily leviable from the owner, the instalment of the cess due for any half year shall be recoverable from him in arrears with the instalment of the general tax due for the next half year, and where such owner is not able to recover any amount of increase in the rent from any occupier as permitted under sub-section (*4*) of this section, he shall, subject to the provisions of sub-sections (*5*) and (*6*), be entitled to withhold payment of that amount till it is recovered from the occupier. The provisions of sections 147 and 148 of the Corporation Act, shall apply to the cess, as if it were part of the general tax levied under that Act. Bom. III of 1888.

(*4*) Where an owner is required to pay to [1][the Mumbai Corporation] in respect of any land or building the cess levied under this section, the share of the owner shall be 10 per cent. of the rateable value of the land or building, and he shall be entitled to recover the remaining amount of the cess levied by making a proportionate increase in the rent of the various premises in the building, in the same manner as if there was an increase in the general tax; and such increase in rent shall not be deemed to be an increase for the purposes of section 7 of the Rent Act, or for the purposes of the Corporation Act. Where the rent of any premises in a building is payable by the month, if such rent or increases are in arrears for a period of six months or more, the owner shall be entitled to the recovery of possession of the premises under section 12 of the Rent Act.

(*5*) If the owner—

(*a*) fails to pay to [1][the Mumbai Corporation] his share of the cess; or (*b*) fails to pay to [1][the Mumbai Corporation] any portion of the cess as is due from any occupier as provided in sub-section (*4*), after having recovered the same from the occupier; or

(*c*) does not within a reasonable time institute a suit, for recovery of possession of the premises; or report to the Municipal Commissioner the name of the occupier, the premises in his possession and the amount of the cess due from him, as and when any occupier is in arrears for payment of the portion of the cess due from him for a period of six months or more, the Municipal Commissioner shall be entitled to recover from the owner the owner's or occupier's share of the cess, or both, as the case may be, in the same manner in which the arrears of property tax are recovered under the provisions of the Corporation Act, [2][and shall also be entitled to impose a penalty as provided in section 207A of the Corporation Act, not exceeding fifteen percentum of the amount of cess due from the owner or occupier.]

Explanation.—For the purposes of this sub-section, "reasonable time" means a period of three months from the date when any occupier is in arrears for a period of six months in payment of the portion of the cess payable by him to the owner under sub-section (*4*).

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[1] These words were substituted by Mah. 25 of 1996, s. 2, Sch., para (*3*).

[2] This portion was inserted by Mah. 12 of 1989 s. 6.

(*6*) On receipt of a report from the owner under the last preceding sub-section or otherwise, when any occupier is in arrear in payment of the portion of the cess due from him, the Municipal Commissioner may recover from the occupier the due amount (whether it has remained due for less than one year or more) as if it were an arrear of tax due under the Corporation Act.

(*7*) Where the Municipal Commissioner has under section 175 of the Corporation Act refunded two-thirds of the amount of general tax paid in respect of any property or part thereof for any period, the Municipal Commissioner shall, under intimation to the Board, also refund two-thirds of the amount of cess if paid in respect of that property or part thereof for the same period and if the cess is not paid, reduce the demand for cess to one-third of the amount of cess payable for that period.

(*8*) Notwithstanding anything contained in any law and notwithstanding any rights arising out of any contract or otherwise howsoever, any sum due as cess in respect of any land or building shall, subject to prior payment of the land revenue and the education cess and penalty levied under the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 (if any) thereon, due to the State Government, be a first charge,—

Mah. XXVII of 1962.

(*a*) in the case of any land or building held immediately from the Government upon the interest in such land or building of the person liable to pay the cess, and upon the goods and other moveable property, if any, found within or upon such land or building and belonging to such person; and

(*b*) in the case of any other land or building, upon such land or building, and upon the goods and other moveable property, if any found within or upon such land or building and belonging to the person liable to pay the cess.

Exemption of certain buildings and lands from payment of cess.

83. (*1*) The following lands and buildings shall be exempt from payment of the cess, that is to say,—

(*a*) lands and buildings vesting in, or leased to, the Central Government;

(*b*) lands and buildings vesting in, or leased to, the State Government or requisitioned by the State Government, but not those lands and buildings where the land vesting in or leased to the State Government is given on lease and the building erected there on belongs to any other person, and also not those lands and buildings where the land and building thereon vesting in or leased to the State Government are given on lease to any other person;

(*c*) lands and buildings vesting in, or leased to, [1][the Mumbai Corporation], but not those properties where the land vesting in or leased to [1][the Mumbai Corporation] is given on lease and the building erected thereon belongs to any other person and also not those properties where the land and building thereon vesting in or leased to [1][the Mumbai Corporation] are given on lease to any other person;

(*d*) lands and buildings vesting in, or leased to, the Authority;

(*e*) lands and buildings vesting in, or leased to, the Trustees of the Port of *Bombay, and not used or intended to be used for the purpose of profit;

(*f*) lands and buildings vesting in, or leased to, a public trust registered under the £Bombay Public Trusts Act, 1950, and, exclusively occupied for public worship or for education purposes;

Bom. XXIX of 1950.

[1] These words were substituted by Mah. 25 of 1996, s. 2, Sch., para (*3*).

* The Name of City "Mumbai" has been restared for the name "Bombay" by Mah. 25 of 1996, s. 2, Sch. para (3).

£ Short title of this Act has been amended as "the Maharashtra Public Trusts Act " by Mah. 24 of 2012, s. 2, Sch, Entry 43 w.e.f. 1-5-1960.

(*g*) lands and buildings vesting in or leased to, a co-operative housing society :

Provided that, any of these buildings shall be entitled to this exemption only if more than one-half of the total number of tenements therein are occupied by members of that society;

(*h*) such lands and buildings of any Diplomatic or Consular Mission of a foreign State as are, by general or special orders, specified by Government under clause (*c*) of sub-section (*1*) of section 143 of the Corporation Act;

(*i*) buildings exclusively in the occupation of the owner;

(*j*) buildings exclusively used for non-residential purposes;

(*k*) residential buildings exclusively occupied on leave and licence basis;

(*l*) buildings occupied or used partly for one and partly for any other purpose or purposes specified in clause (*i*), (*j*) or (*k*) :

Provided that no part or parts thereof is or are occupied or used for any purpose not specified in any of the said clauses;

(*m*) all open lands which are not built upon;

(*n*) buildings erected or which may be erected in an area, after the date on which the Bombay Buildings Repairs and Reconstruction Board Act, 1969, came into force in such area; Mah. XLVII of 1969.

(*o*) any lands and buildings exempted from the payment of the cess before the appointed day under clause (*m*) of sub-section (*1*) of section 28 of the Act referred to in clause (*n*);

[1][(*p*) building which is subjected to repairs amounting to reconstruction as certified by Municipal Corporation.]

[2]* * * * * * *

Explanation.—In this section 'building' means building as a whole, and not any part thereof or premises therein taken separately.

Assessment book maintained under Corporation Act to contain entries showing categories to which buildings liable to cess belong and other particulars.

84. (*1*) For the purpose of assessing the amount of cess leviable under this Chapter, the Municipal Commissioner shall, in a Schedule appended to the assessment book maintained by him under section 156 of the Corporation Act (which shall be deemed to be a part of such assessment book) cause additional entries to be made showing the Category to which every property on which the cess is leviable belongs and such other particulars as he deems necessary.

Where a building is erected before the 1st day of September 1940, the building shall be classified as belonging to Category A.

Where a building is erected between the period from the 1st day of September 1940 to 31st day of December 1950 (both inclusive), the building shall be classified as belonging to Category B.

Where a building comprised in any property is erected between the period from the 1st day of January, 1951, to the day immediately preceding the date on which the provisions of the Bombay Building Repairs and Reconstruction Board Act, 1969 are brought into force in the area in which the building is situated, the building shall be classified as belonging to Category C. Mah. XLVII of 1969.

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[1] Clause (*p*) was added by Mah. 16 of 1998, s. 2 (*4*).
[2] Sub-section (*2*) was deleted by Mah. 16 of 1998, s. 2 (*b*).

Where a floor or any part of a building is constructed subsequently, the date of construction, area and other description of such floor or part shall be shown separately.

(*2*) Where additional entries regarding any land or building in existence in any area on the date on which this Chapter comes into force are made for the first time, the Municipal Commissioner shall give individual notice thereof to the person primarily liable for the payment of the property taxes in the manner laid down in sections 483 to 485-A (both inclusive) of the Corporation Act and also public notice thereof in the manner laid down in section 160 of that Act and of the place where the ward assessment book so amended, or a copy of it, may be inspected. When the first public notice is given, and whenever any such notice is given subsequently under the said section 160, the provisions of sections 161, 162, 163, 164 and 165 as modified for the purpose of this Chapter by sub-section (*3*) of this section, and of sections 166 and 167 of the Corporation Act shall, so far as may be, apply to such additional entries as they apply to the entry showing the amount of rateable value and other entries relating to any property entered in the assessment book, of which notice is given by the Municipal Commissioner.

(*3*) In applying the provisions of sub-section (*1*) of section 165 of the Corporation Act, for the purposes of sub-section (2) of this section, for the words 'the Commissioner' the words and figures " the Commissioner in consultation with an Engineer of the Corporation and an Engineer of the Authority established under the Maharashtra Housing and Area Development Act, 1976 ", shall be deemed to be substituted.

Mah. XXVIII of 1977.

[1][**85.** Within a period of fifteen days from the date of recovery of the cess, the amount so recovered shall, after deducting therefrom the amount equal to five per cent. of the amount of cess recovered by it, be paid by the Mumbai Corporation to the State Government.]

Mumbai Corporation to credit cess amount to Government.

86. (*1*) The proceeds of the cess collected and paid to the State Government by the [3][Mumbai Corporation] in pursuance of the provisions of the last preceding section shall first be credited to the Consolidated Fund of the State; and, after deducting the rebate payable to the [4][Mumbai Corporation] for the cost of collection, the remaining amount shall, under appropriation duly made by law in this behalf, be transferred to the fund of the Authority. There shall, however, be created a separate fund called [5][the Mumbai Building Repairs and Reconstruction Fund] (in this Chapter referred to as " the Repairs Fund ") and the amount so transferred to the fund of the Authority shall be withdrawn therefrom and transferred to such Repairs Fund.

[2][Mumbai Building Repairs and Re-construction Fund].

(*2*) The amount transferred to the Repairs Fund under sub-section (*1*) shall be charged on the Consolidated Fund of the State.

(*3*) The amount in the Repairs Fund shall be placed by the Authority at the disposal of the Board for being expended for the purposes of this Chapter. The State Government may make rules regulating all matters connected with the Repairs Fund, including the manner in which that Fund shall be maintained, operated and expended.

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[1] Section 85 was substituted by Mah. 16 of 1998, s. 3.

[2] These words were substituted for the original by Mah. 25 of 1996, s. 2, Sch.

[3] These words were substituted for the Original by Mah. 25 of 1996, s. 2, Sch.

[4] These words were substituted for the Original by Mah. 25 of 1996, s. 2, Sch.

[5] These words were substituted for the words "the Bombay Building Repairs and Reconstruction Fund" by Mah. 25 of 1996, s. 2, Sch.

Default of [1][Mumbai Corporation] in collecting or paying cess.

87. (*1*) If the [2][Mumbai Corporation] makes default in the collection or payment to the State Government of any sums due in respect of the cess, the State Government may, after holding such inquiry as it thinks fit, fix a period of the collection or payment of such sum.

(*2*) If the collection or payment of the sum is not made within the period so fixed, the State Government may, notwithstanding anything contained in any law relating to the funds vesting in the [1][Mumbai Corporation] or any other law for the time being in force, direct any bank in which any moneys of the [1][Mumbai Corporation] are deposited or the person in charge of the Government Treasury or of any other place of security in which the moneys of the [1][Mumbai Corporation] are deposited to pay such sum from such moneys as may be standing to the credit of the [1][Mumbai Corporation] in such bank or, as the case may be, in the hands of such person or as may from time to time be received from or on behalf of the [1][Mumbai Corporation] by way of deposit by such bank or person; and such bank or person shall be bound to obey such order.

(*3*) Every payment made pursuant to an order under sub-section (*2*) shall be a sufficient discharge to such bank or person from all liability to the [1][Mumbai Corporation] in respect of any sums so paid by it or him out of the moneys of the [1][Mumbai Corporation] so deposited with such bank or person.

Structural Repairs

Board to undertake structural repairs to buildings which are in ruinous condition and likely to deteriorate and fall.

88. (*1*) Subject to the other provisions of this Chapter, where the Board on consideration of the information given by the Municipal Commissioner, or a report or its officer authorised for the purpose, or other information in its possession, is statisfied that any building, which is occupied by persons, is in such a ruinous or dangerous condition, that it is imminently likely to fall unless structural repairs which will render it fit and safe for habitation, are urgently done, then in such cases, the Board shall, subject to the provisions of sub-section (*3*), undertake such repairs to that building.

(*2*) The Board may prepare a list of such buildings setting out the order of priority or urgency in respect of which structural repairs are necessary, and may undertake simultaneously or in such order of priority the structural repairs according to the exigencies of the case and its resources.

*(*3*) If the Board is of opinion that—

(*a*) the cost of structural repairs to [2][a building per square metre, will exceed such amount, as may be specified by the State Government, by notification in the *Official Gazette,* to be the structural repairs cost per square metre] or

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[1] These words were substituted for the original by Mah. 25 of 1996, s. 2, Sch., para (*3*).

[2] These words were substituted for the words and brackets "a building will exceed[one thousand and two hundred] rupees per square metre", by Mah. 31 of 2008, s.2 (*a*).

* Section 6 of Mah. 21 of 1980 reads as under :—

Adjustment of payments made by occupiers for excess cost before 1st October 1980.

6. (*1*) If on the date of commencement of this Act, the Board has already undertaken structural repairs to any building, or is likely to undertake such repairs to any building before the 1st October 1980, the occupiers may by application in writing intimate their option on or before the 31st March 1981 whether such repairs should be carrid out at the cost of the Board not exceeding two hundred rupees per square metre, instead of not exceeding one hundred and twenty rupees per square metre.

(*2*) On receipt of such intimation, the Board shall re-calculate the excess cost, if any, to be paid to the Board by the occupiers. If the amount already paid by the occupiers is more than the excess cost thus re-calculated, surplus amount with the Board shall be refunded to the occupiers but the occupiers shall be liable from the 1st October 1980 to revised rate of cess applicable when the Board contributes towards the cost of the repairs at the rate exceeding one hundred and twenty rupees but not exceeding two hundred rupees per square metre.".

(*b*) the cost of structural repairs to [1][a building, per square metre, will exceed the amount specified under clause (a)] but the size of the land on which such building is standing is such that for some reason or the other it would not be possible or economical to erect any new building thereon and there is an adjoining building but the cost of structural repairs to [2][such building, per square metre, does not exceed the amount specified under clause (*a*)]

then in cases falling under clause (*a*) or clause (*b*) the Board, notwithstanding anything contained in this Chapter, may not consider such building or buildings for repairs and may issue a certificate to the effect to the owner or owners thereof, as the case may be, affix a copy of the relevant certificate in some conspicuous part of the building or buildings for the information of the occupiers and proceed to take action as provided in this Chapter :

Provided that, in cases of special hardship, the Board may, on such terms and conditions as it may deem fit to impose, consider a building for structural repairs even if the cost of such repairs is likely to exceed the limit aforesaid :

Provided further that, where in any case the occupiers of a building undertake that they shall bear the cost of such repairs which are in excess of [3][the amount specified under clause (*a*)] and abide by such terms and conditions for payment of the excess cost to the Board as it may think fit to impose, the Board may carry out structural repairs to such building.

(*4*) The Municipal Commissioner shall, from time to time, send to the Board, full particulars of the buildings which are in a ruinous or dangerous condition and the condition of which is such that they are likely to fall if structural repairs are not urgently undertaken or in respect of which he has served notice under section 354 of the Corporation Act, but the same have not been complied with.

Procedure before undertaking structural repairs.

89. (*1*) Where the Board is satisfied under section 88 that structural repairs are necessary to a building, the Board shall give the owner thereof a notice of not less than fifteen days, informing that the Board intends to carry out such repairs on and from a date specified in the notice, being a date which shall be after the expiry of the period specified in the notice, and asking him to submit objections or suggestions, if any, thereto before the time specified in the notice.

(*2*) The notice shall also require the owner to furnish to the Board a statement in writing signed by the owner stating therein the names of all occupiers of the building known to him from his record, the approximate area and location of the premises in occupation of each occupier and the rent, compensation or amount (including permitted increases, if any), charged therefor.

(*3*) A copy of such notice shall also be affixed in conspicuous part of the building to which it relates and also published by proclamation or near such building accompanied by a beat of drum for the information of the occupier thereof and for giving them an opportunity to submit objections or suggestions, if any.

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[1] These words were substituted for the words and brackets "a building will exceed[one thousand and two hundred rupees] per square metre" by Mah. 31 of 2008, s.2 (*b*) (*i*).

[2] These words were substituted for the words and brackets "such building does not exceed[one thousand and two hundred rupees] per square metre" by Mah. 31 of 2008, s.2 (*b*) (*ii*).

[3] These words were substituted for the words "one thousand and two hundred rupees per square metre" by Mah. 31 of 2008, s.2(*c*).

(*4*) On such affixation and publication of the notice, the owner, occupiers and all other persons interested in such building shall be deemed to have been duly informed of the matters and contents stated in the notice.

(*5*) After considering the objections and suggestions received within the time aforesaid, the Board may decide to carry the repairs with or without modification or may postpone the repairs for a certain period, or may cancel the intention to repair.

(*6*) Where the Board has reason to believe that the building is immediately dangerous for habitation, the notice may be returnable within 24 hours from the service thereof.

(*7*) The Board may, before giving any such notice or before the period of any such notice has expired, take such temporary measures as it thinks fit to prevent danger to, or from, the said buildings.

(*8*) Any owner who refuses to furnish a statement as required by sub-section (*1*) or intentionally furnishes a statement which is false in any material particular shall, on conviction, be punished with fine which may extend to one thousand rupees.

Temporary accommodation pending structural repairs.

90. (*1*) Where the Board, before undertaking structural repairs to any building is of the opinion that all or any of the occupiers thereof should temporarily vacate their premises till the repairs are completed, the board shall give them notice to vacate by a date or dates specified in the notice, and allot temporary accommodation to such occupiers in any buildings maintained by the Authority for such purpose, at such places and to such extent as it deems fit.

(*2*) Such temporary accommodation may not be in the same locality or of the same floor area as the premises vacated by the occupiers.

(*3*) If any occupier fails to accept and occupy the accommodation allotted to him within one month from the date of allotment, the responsibility of the Board to provide him with any accommodation shall cease.

(*4*) Subject to the next succeeding sub-section, such occupier shall, however, have a right to reoccupy his premises in the building after it is repaired.

(*5*) The use and occupation of the temporary accommodation allotted to an occupier shall be free of charge, but shall be subject to [1][the payment of such service charges] and such other terms and conditions as the Board may from time to time determine.

(*6*) The occupire shall, on accepting the accommodation allotted to him, continue to pay the owner the rent (including permitted increase, if any) in respect of the premises vacated by the occupier.

(*7*) Where an occupier does not accept the accommodation allotted by the Board, such occupier shall, nevertheless be liable to continue to pay the owner the rent (including permitted increase, if any), of the premises vacated by him, unless by giving proper notice to the owner, he surrenders his tenancy or other right.

(*8*) The occupier, whether he accepts the accommodation or makes his own arrangement, shall also be liable, until his tenancy continues, to pay to the owner his proportionate contribution for the cess as if he had not temporarily vacated the premises and shall be liable for all the consequences if he fails so to pay.

(*9*) Where an occupier does not vacate his premises, the Board may take or cause to be taken such steps and use or cause to be used such force as may be reasonably necessary for the purpose of getting the premises vacated.

(*10*) The Board may, after giving fifteen clear days' notice to the occupiers who were required to vacate the premises under sub-section (*9*) and affixing a copy thereof on or near the premises, in some conspicuous place, remove or cause to be removed or dispose of by public auction any property remaining in such premises.

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[1] These words shall and shall be deemed to have been inserted with effect from the 1st day of April 1985 by Mah. 12 of 1989, s. 8.

(*11*) Where the property is sold under sub-section (*10*), the sale proceeds shall, after deducting the expenses of sale, be paid to such person or persons as may be entitled to the same :

Provided that, where the Board is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, it shall refer such dispute to a civil court of competent jurisdiction, and the decision of the court shall be final.

(*12*) Where the work of carrying out structural repairs to any building is nearing completion or is completed, the Board shall give notice to the occupiers concerned by affixing it in some conspicuous part of the building and by sending it by post to the address which may have been registered with the Board by any occupier and in such other manner as may be laid down in the regulations, that the building is likely to be or ready for re-occupation from a date specified in the notice and that the occupiers should re-occupy their respective premises in such building within a period of one month from such date.

(*13*) If an occupier fails to re-occupy his premises within such period of one month, his tenancy or other right in respect of such premises shall, notwithstanding anything contained in any contract or in the Rent Act or any other law for the time being in force, be deemed to be terminated, and the owner shall be entitled to possession thereof.

(*14*) If such occupier has accepted any temporary accommodation allotted to him under this section he shall vacate the same forthwith, and if he does not vacate fortwith or within such time as the Board may permit in writing, he shall be liable to be evicted therefrom under the provisions of Chapter VI of this Act as if such person was in an unauthorised occupation of the Authority premises.

Repairs or reconstruction of buildings which suddenly collapse or become uninhabitable.

91. (*1*) Where a building suddenly collapses or becomes uninhabitable due to fire, torrential rain or tempest or otherwise and all or any of the occupiers thereof are dishoused, the Board shall allot temporary accommodation to such occupiers in any building maintained by the Authority for such purpose at such places and to such extent as it deems fit, and the provisions of the last preceding section shall *mutatis mutandis* apply as they apply in relation to occupiers of buildings which are undertaken to be structurally repaired.

(*2*) In the case of any such building, if the Board is of the opinion that the building is capable of being repaired and rendered fit for habitation at reasonable expense, the Board shall immediately undertake the necessary repairs and the last preceding section and other provisions of this Chapter shall apply *mutatis mutandis* to such repairs as they apply to structural repairs.

(*3*) Where the whole building collapses or is rendered uninhabitable, or the Board is of the opinion that the building is not capable of being repaired and rendered fit for habitation at reasonable expense, the Board may move the State Government to acquire the property under the provisions of this Chapter and take necessary further action to construct a new building on the site to accommodate the dishoused occupiers and to provide accommodation for other purposes specified in sub-section (*2*) of section 92.

(*4*) The provisions of succeeding section shall apply *mutatis mutandis* to the acquisition, reconstruction and rehabilitation of occupiers of such buildings.

(*5*) Where the whole building collapses or is rendered uninhabitable, and is, therefore, not capable of being repaired and rendered fit for habitation, and the property is not acquired under sub-section (*3*), then, no plan for creating any new building on land on which such building was standing shall

be sanctioned by [1][the Mumbai Corporation] unless a no objection certificate from the Board has been produced along with such plan for erecting such building.

Submission of proposal for acquisition.

92. (*1*) If in respect of any building the Board has issued a certificate under sub-section (*3*) of section 88, or the Municipal Commissioner has under section 354 of the Corporation Act, issued a written notice requiring the owner or occupier thereof to pull down the building, with a view to preventing all cause of danger therefrom, and the Board is of the opinion that such building is not capable of being repaired or rendered fit for habitation at reasonable expense and is dangerous or injurious to the health or safety of the inhabitants thereof or, where [2][the Mumbai Corporation] has under section 354R of the Corporation Act passed a resolution declaring the area in which any such building is situated as the clearance area, the Board may submit to the State Government a proposal to acquire the land, including a proposal for issue of a clearance and compulsory acquisition order to clear and acquire the land with the existing building in whatever condition thereon and for constructing a new building on the same site, and simultaneously prepare plans and estimates for these purposes.

(*2*) In preparing the plans and estimates of the building to be reconstructed, it shall be the duty of the Board to see that all the occupiers in the building proposed to be demolished shall, as far as practicable, be provided in the reconstructed building accommodation with a floor area equivalent to their floor area in the old building : [3][* * *]

[4][Provided that, in the case of an occupier of a residential tenement the floor area of the accommodation in the reconstructed building, shall not be less than the 20.90 square metres and more than the 70 square metres.]

(*3*) Those dishoused occupiers who cannot be so accommodated in the reconstructed building shall be provided with alternative accommodation in any building maintained by the Authority for such purpose or in any new building constructed by the Authority wherein surplus accommodation is available.

(*4*) After making provision for the matters aforesaid, if there is any surplus area in the new building, it may be utilised by the Board for such other purposes as it deems fit, with a view to reducing the incidence of [5][instalments towards the price of the tenements] on the occupiers of residential tenements by maximum exploitation of such surplus area for other purposes.

(*5*) If in respect of any building,—

(*a*) the Municipal Commissioner has under section 354 of the Corporation Act already issued a written notice before the date on which the provisions of this Chapter are brought into force in the area in which such building is situate requiring the owner or occupier thereof to pull down the building with a view to preventing all cause of danger therefrom, and such notice has not been complied with (except for purposes beyond his control) before the date aforesaid, or

(*b*) the Municipal Commisioner issues under the said section 354 of the Corporation Act a written notice within nine months from the date on which the provisions of this Chapter are brought into force in the area in which such building is situated requiring the owner or occupier thereof to pull down the building, with a view to preventing all cause of danger

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[1] These words were substituted for the original by Mah. 25 of 1996, s. 2, Sch., para (*3*).
[2] These words were substituted for the original by Mah. 25 of 1996, s. 2, Sch., para (*3*).
[3] The portion beginning with the words "but in no case" and ending with the words "as the Board may determine" was deleted by Mah. 16 of 1998, s. 5(*a*).
[4] The proviso was inserted, by Mah. 16 of 1998, s. 5(*b*).
[5] These words were substituted for the word "rent", by Mah. 12 of 1989, s. 9(*b*).

therefrom, and such notice is not complied with (except for reasons beyond his control) before the date specified in such notice,

the Board may, notwithstanding anything contained in sub-section (*1*), move the State Government to acquire the property under this Chapter immediately and take necessary further steps for demolishing the building, clearing the site and constructing a new building on the same site. The provisions of this Chapter shall apply *mutatis mutandis* to the acquisition, reconstruction and rehabilitation of occupiers of such building as they apply to any other building except that the occupiers of such building shall as far as practicable, be accommodated in the reconstructed building or any other building maintained by the Authority, subject to such terms and conditions as the Board may, with the previous sanction of the Authority, specify.

Clearance and compulsory acquisition.

93. (*1*) Notwithstanding anything contained in the Corporation Act, if on receipt of an acquisition proposal under section 92, the State Government is satisfied about the reasonableness of the proposal and of the resources available with the Board for constructing a new building, it may approve the proposal and communicate its approval to the Board.

(*2*) On receipt of the Government approval, the Board shall forward the acquisition proposal to the Land Acquisition Officer for initiating land acquisition proceedings.

(*3*) On receipt of the acquisition proposal from the Board, the Land Acquisition Officer shall publish simultaneously in the *Official Gazette,* and in at least four newspapers circulating within [1][Brihan Mumbai] a notice stating the fact of such proposal having been made by the Board and approved by the Government and alternative accommodation proposed to be provided to the occupiers affected by the proposal and the time before which the building must be vacated.

(*4*) The Land Acquisition Officer shall serve the notice referred to in sub-section (*3*) on the occupiers and owner of the building and, so far as it is reasonably practicable to ascertain such persons, on every mortgagee of the building, and call upon them to submit objections and suggestions, if any, why the land should not be acquired, so as to reach him on or before a date specified in the notice.

(*5*) On considering the objections and suggestions and on giving a reasonable opportunity of being heard to the persons affected by the proposal, the Land Acquisition Officer may sanction the proposals with or without any modification (the modifications being approved by the Board) and shall publish a notification in the *Official Gezette* fixing a date on which the proposal as approved shall become operative and the land specified therein, shall, on and from the date of such publication, vest absolutely in the Board on behalf of the Authority free from all encumbrances.

(*6*) The notification published under sub-section (*5*) shall be sufficient authority for the Collector to give notice to the person in possession of the land to surrender or deliver possession thereof within a specified period and on his refusal or failure to do so to take possession of the land and for that purpose to use such force as may be necessary, and to hand over possession thereof to the Board, and for the Board to take further action to get the building vacated in accordance with the next succeeding sub-sections. No person interested in the land shall have any right to object to taking such possession or to vacating of the building merely on the ground that the amount of acquisition has not been fixed or paid.

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[1] These words were substituted for the original by Mah. 25 of 1996 s. 2, and Sch., para (*3*).

(*7*) After the proposal becomes operative, the occupiers of the building shall vacate their premises within the time allowed for that purpose under the proposal.

(*8*) After expiry of the time referred to in sub-section (*7*), the Board shall, for the purpose of vacating the building or such part thereof, as has remained occupied take or cause to be taken such steps and use or cause to be used such force as may in the opinion of the Board be reasonably necessary therefor.

(*9*) The Board may, after giving seven clear days' notice to the persons evicted under sub-section (*8*), remove or cause to be removed or dispose of by public auction any property remaining in such building.

(*10*) Where the property is sold under sub-section (*9*), the sale proceeds shall, after deducting the expenses of sale, be paid to such person or persons as may appear to the Board to be entitled to the same :

Provided that, where the Board is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, it shall refer such dispute to a civil court of competent jurisdiction, and the decision of the court shall be final.

(*11*) After the building is completely vacated, the Board shall proceed to construct a new building on the site according to the proposal.

Temporary and alternative accommodation to affected occupiers where property is acquired.

94. (*1*) Where the Board requires the occupiers of any building to vacate their premises to enable it to construct a new building on the land acquired under this Chapter, the Board shall allot temporary accommodation to such occupiers in any building maintained by it for such purpose, at such places and to such extent as it deems fit. The accommodation may not be in the same locality or of the same floor area as the premises vacated by the occupiers.

(*2*) If any occupier fails to accept and occupy the accommodation alloted to him within one month from the date of allotment, the responsibility of the Board to provide him with any temporary accommodation shall cease.

(*3*) Every occupier shall, with effect from the date on which the land vests in the Authority, until he vacates the premises pay the rent of such premises to the Board at the same rate at which he was paying it (including the permitted increases, if any) to the owner.

(*4*) Where the temporary accommodation allotted to any occupier is accepted by him, he shall pay to the Board on behalf of the Authority rent for such accommodation at such rate as the Board may fix in this behalf.

[1][(*5*) Subject to the provisions of this section, every occupier whether or not he accepts temporary accommodation, shall have a right to get such accommodation in the new building free of cost. Occupiers of the new building shall be required to form a co-operative housing society under the Maharashtra Co-operative Societies Act, 1960. The ownership of the new building shall then be transferred by the Board in the name of such co-operative housing society of the occupiers. Mah. XXIV of 1961.

(*6*) If any occupier of a new building, after accepting and occupying the accommodation allotted to him, fails to become a member of the co-operative housing society formed by the occupiers of such building within a period of three months from the date of allotment or the date specified by the Board, the right of such occupier to get such accommodation shall stand forfeited and the occupier, who is occupying the new accommodation, shall be liable for eviction and the responsibility of the Board to provide him any accommodation shall cease.]

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[1] Sub-sections (*5*) and (*6*) were substituted by Mah. 16 of 1998, s. 6.

Temporary and alternative accommodation to certain affected occupiers where property is not to be acquired.

95. If, for any reason in respect of any building the Board decide not to move the State Government to acquire the property under sub-section (*3*) of section 91 or under section 92 or the State Government decides not to approve; the proposal under sub-section (*1*) of section 93 and all or any of the occupiers in any such buildings are dishoused or required to vacate their premises, the Board may, where possible, allot temporary and alternative accommodation to such occupiers in any building maintained by Authority at such place and to such extent as it deems fit, in accordance with the provisions of the last preceding section, so far as they may be applicable :

Provided that, in the case of temporary accommodation, such occupiers shall be required to pay to the Board on behalf of the Authority rent [1][including service charges, if any,] for such accommodation from the date the Board decides not to move the State Government to acquire the property or the State Government decides not to approve the proposal or from the date of occupation of the allotted accommodation, whichever is later.

Summary eviction of occupiers in certain cases.

[2][**95-A.** (*1*) Where the owner of a building or the members of the proposed co-operative housing society of the occupiers of the said building, submits a proposal to the Board for reconstruction of the building, after obtaining the written consent of not less than 70 per cent. of the total occupiers of that building and a No Objection Certificate for such reconstruction of the building is issued by the Board, to the owner or to the proposed co-operative housing society of the occupiers, as the case may be, then it shall be binding on all the occupiers to vacate the premises :

Provided that, it shall be incumbent upon the holder of such No Objection Certificate to make available to all the occupants of such building alternate temporary accommodation.

(*2*) On refusal by any of the occupant to vacate the premises as provided in sub-section (*1*), on being approached by the holder of such No Objection Certificate for eviction of such occupiers, it would be competent for the Board, notwithstanding anything contained in Chapters VI and VII of this Act, to effect summary eviction of such occupiers.

(*3*) Any person occupying any premises, land, building or structure of the Board unauthorisedly or without specific written permission of the Board in this behalf shall, notwithstanding anything contained in Chapters VI and VII of this Act, be liable for summary eviction.

(*4*) Any person who refuses to vacate such premises or obstructs such eviction shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees, or with both.]

Amount of acquisition.

96. On publication of the notification under sub-section (*5*) of section 93, the Land Acquisition Officer shall determine the amount of acquisition in accordance with the provisions of Chapter V.

Contribution by State Government, Mumbai Corporation and Authority.

[3][**97.** (*1*) The State Government shall, under appropriation duly made by law in this behalf, pay an annual contribution to the Authority equal to the amount of cess recovered during that year, and the Mumbai Corporation shall pay the annual contribution of rupees ten crores to the Authority.

(*2*) The Authority from its own funds shall pay an annual contribution of rupees ten crores to the Board for the purpose of reconstruction of the buildings.]

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[1] These words were inserted by Mah. 12 of 1989, s. 11.
[2] Section 95-A was inserted by Mah. 16 of 1998, s. 7.
[3] Section 97 was substituted by Mah. 16 of 1998, s. 8.

Disposal of moneys received by the Board.

98. The moneys placed at the disposal of the Board by the Authority under this Chapter shall be applied for the purposes of this Chapter.

Assistance from [1][Mumbai Corporation].

99. (*1*) The [1][Mumbai Corporation] shall render such help and assistance, and furnish such information to the Board as the Board may, from time to time, require for carrying out its duties and functions, and shall make available to the Board for inspection and examinations such records, maps, plans, and other documents as may be necessary for the performance and discharge of its duties and functions.

(*2*) The [1][Mumbai Corporation] shall, on demand, make available copies of assessment rolls and other relevant documents in connection with assessment of its taxes. Such copies shall be duly certified by an officer of the [1][Mumbai Corporation] as may be authorised in this behalf.

Relaxation or modification of certain provisions of Corporation Act or Regional and Town Planning Act in case of Board's reconstruction proposal.

100. Notwithstanding anything contained in the provisions of the Corporation Act or the Town Planning Act, or any rules, bye-laws, regulations, plans, scheme, notifications, directions or orders made or issued or deemed to be made or issued under any of those Acts, the State Government may, having regard to the necessity of providing alternative accommodation to occupiers, who have been, or are likely to be, dishoused on account of any reconstruction proposal or proposals undertaken by the Board under this Chapter, after consultation with [1][the Mumbai Corporation] by general or special order, relax all or any of the provisions aforesaid in the case of any such proposal or class of proposals, or may by like order direct that any such provisions shall apply to any such proposal or class of proposals, subject to such modifications or conditions as it may specify in the order.

Procedure for giving notice and obtaining permission for building to be repaired or reconstructed by Board.

101. (*1*) If in respect of any building to be repaired or reconstructed by the Board, any notice is required to be given or any application is to be made and the approval, sanction, consent or permission otherwise of that Municipal Commissioner or any other authority is required to be obtained under any of the provisions mentioned in the last preceding section, the necessary permission shall be deemed to have been obtained by the Board if the Board gives a reasonable notice of the proposed work to the Municipal Commissioner or other authority concerned before the work is commenced.

(*2*) Such notice shall be accompanied by plans and other relevant documents and information.

(*3*) After receipt of such notice and after making such inquiry as may be deemed necessary, the Municipal Commissioner or other authority may, within a period of thirty days, submit to the State Government a statement in writing of any objections or suggestions which he or it may deem fit to make with reference to the proposed work.

(*4*) Every objection or suggestion so submitted shall be considered by the State Government, which shall, after such investigation (if any) as it shall think advisable, pass orders thereon, and the work shall be carried out in accordance with such orders.

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[1] These words were substituted for the original by Mah. 25 of 1996, s. 2 and Sch., para (3).

Saving of powers of other authorities and persons to carry out repairs and reimbursement of cost for structural repairs in certain cases.

102. (*1*) Nothing in this Chapter shall affect the powers of the Municipal Commissioner or any other authority or the rights or liabilities of any person (including the owner or any occupier) to carry out any repairs to any building, or to execute any works thereon or to take any other action in respect of such building authorised under sections 257, 354, 377A, 381, 489 or 499 or any other provisions of the Corporation Act, or under section 10D or 10E or any other provisions of the Rent Act, or under the provisions of any other law for the time being in force, in so far as the said repairs, works or action does not require any structural repairs; and in so far as they do require structural repairs, until such repairs are undertaken by the Board :

Provided that, if any occupier of a building seeks the approval of the Municipal Commissioner under section 499 of the Corporation Act, for carrying out structural repairs in respect of any such building, such approval may be given by the Municipal Commissioner only after consultation with the Board, but the occupier shall not be entitled to recover from the owner under the said section 499 the expenses incurred by him on any such structural repairs :

Provided further that, during the period this Chapter is in force, the provisions of section 10D and 10E of the Rent Act, shall not apply to any building, in so far as they relate to buildings undertaken or proposal to be undertaken by the Board for structural repairs.

(*2*) If, while carrying out any repairs, or executing any works or taking any action referred to in sub-section (*1*), it becomes necessary for the Municipal Commissioner or any other authority or any person to carry out structural repairs also, and the Municipal Commissioner or such authority or person desires that the cost of the structural repairs should be paid by the Board, the Municipal Commissioner or such authority or person, as the case may be, shall obtain the previous sanction of the Board for such repairs. The Board may give such sanction on such terms and conditions as it may deem fit to impose, having regard to the priority, if any, assigned to the building under sub-section (2) of section 88 and availability of resources; or may not agree to give such sanction.

(*3*) Where sanction is given under sub-section (2), it shall be lawful for the Board to pay the cost of the structural repairs actually carried out in lumpsum or by instalments or according to the progress of the work from time to time as it may deem fit.

(*4*) When the Board pays the cost of the structural repairs in full, or when a period of three months elapses after the Board has paid not less than seventy-five per cent. of such cost, whichever is earlier, the building shall be deemed to be structurally repaired by the Board under this Chapter.

Revival of owner's duty to carry out tenantable repairs.

103. On and after the appointed day, the provisions of section 23 of the Rent Act shall cease to be suspended, shall stand revived and shall be enforced and have full effect again. Accordingly, notwithstanding anything contained in this Chapter, the owner of every building shall be bound to keep the premises let to any occupier in good and tenantable repair as required by section 23 of the Rent Act.

[1][CHAPTER VIII-A

ACQUISITION OF CESSED PROPERTIES FOR CO-OPERATIVE SOCIETIES OF OCCUPIERS

Application of Chapter VIII-A to certain buildings.

103A. This Chapter shall come into force on and from the commencement of the Maharashtra Housing and Area Development (Second Amendment) Act, 1986, and shall apply to all the cessed buildings which are erected before; the 1st day of September 1940 and are classified as belonging to Category A under sub-section (*1*) of section 84 : Mah. XXI of 1986.

[2][Provided that, nothing in this Chapter shall apply to any cessed building belonging to Category A if, on the date of commencement of the Maharashtra Housing and Area Development (Second Amendment) Act, 1986, out of the total number of occupiers of such building, fifty per cent. or more occupiers are using the tenements or premises in their possession for commercial or non residential purpose.] Mah. XXI of 1986.

Explanation.—For the purposes of this section, any such building where a floor or any part of a building is constructed subsequently and such floor or part is not separable, shall be deemed to be a building belonging to Category A.

Acquisition of cessed property for co-operative societies of occupiers.

103B. (*1*) Notwithstanding anything contained in any of the provisions of Chapter VIII or any other law for the time being in force or in any agreement, contracts, judgment, decree or order of any Court or Tribunal to the contrary, a co-operative society formed or proposed to be formed under the provisions of the Maharashtra Co-operative Societies Act, 1960, by not less than seventy per cent. of the occupiers in a cessed building may by written application request the Board to move the State Government to acquire the land together with the existing building thereon [3][or where the owner of the building does not own the land underneath or appurtenant to such building but holds it as a lessee or licensee, or where any person holds the building or the land underneath or appurtenant to such building or both under a lease or licence, then to acquire the right or interest of such owner or person in or over, such building or land or both as lessee or licensee together with the existing building thereon] (hereinafter in this Chapter referred to as "the land"), in the interest of its better preservation or for reconstruction of a new building in lieu of the old one and intimate their willingness to pay the amount of such acquisition as may be determined under the provisions of this Chapter and to carry out the necessary structural and other repairs or, wherever necessary, to reconstruct a new building, as the case may be, at their own cost. Mah. XXIV of 1961.

[4][*Explanation I.*—In this section the expression, seventy per cent. of the occupiers means the seventy per cent. of the occupiers on the date of commencement of the Maharashtra Housing and Area Development (Second Amendment) Act, 1986, and include their successors in interest or new tenants inducted in place of such occupiers, but does not include the owner or the occupiers inducted by virtue of creation of any additional tenancies or licences by the owner after the date of commencement of the aforesaid Act. Mah. XXI of 1986.

Explanation II.—For the purposes of this sub-section, any suit or proceeding for recovery or possession of tenement or premises or part thereof, initiated against the occupier in any court or before any authority whether, before or after making an application under this sub-section, shall not affect the right of such occupier to join or to continue as a member of the co-operative society of the occupiers of the building, but his membership of such co-operative society shall be subject to the final decision in such suit or proceeding:

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[1] Chapter VIII-A was inserted by Mah. 21 of 1986, s. 5.
[2] This proviso shall be deemed always to have been inserted by Mah. 12 of 1989, s. 12.
[3] This portion shall be deemed always to have been inserted by Mah. 12 of 1989, s. 13(*a*).
[4] These *Explanations* shall be deemed always to have been inserted by Mah. 12 of 1989, s. 13(*b*).

Provided that, if in the meantime before the final decision in such suit or proceeding, the acquisition proceedings under this Chapter are completed and the land is conveyed to the co-operative society of the occupiers under sub-section (*7*), the claim for possession made in such suit or proceeding, at any stage where it is pending on the date of execution of such conveyance, shall abate.]

(2) On receipt of the application made under sub-section (*1*), the Board shall after due verification and scrutiny, approve the proposal if it considers that it is in the interest of better preservation of the building or to be necessary for reconstruction of a new building and shall direct the co-operative society, whether registered or proposed, to deposit with the Board within the period specified by it in that behalf thirty per cent. of the approximate amount that would be required to be paid to the owner if the land is acquired and give intimation in that behalf to the owner.

[1][(*2A*) Where after the date of application made under sub-section (*1*),—

(*a*) any owner has undertaken the work of any repairs to the building; or

(*b*) the percentage of the occupiers who had initially agreed to become members of the co-operative society formed under sub-section (*1*) is reduced to less than seventy per cent. of the occupiers as a result of some members opting out, or due to the number of additional tenancies or licences created in the building thereafter or due to any other reason whatsoever,

then the power of Board to approve the proposal shall not be affected, and notwithstanding anything contained in sub-section (*1*), the Board shall approve the proposal and direct the co-operative society to deposit the approximate amount as required under sub-section (*2*).]

(*3*) On receipt of the amount of deposit as provided in sub-section (*2*), the Board shall submit to the State Government a proposal to acquire the land for the aforesaid purpose.

(*4*) If on receipt of an acquisition proposal under sub-section (*3*), the State Government is satisfied about the reasonableness of the proposal, it may approve the proposal and communicate its approval to the Board.

(*5*) On receipt of the Government approval, the Board shall forward acquisition proposal to Land Acquisition Officer for intiating an acquisition proceedings in accordance with the provisions of sub-sections (*3*), (*4*) and (*5*) of section 93 and section 96 of this Act:

Provided that, where any proceedings for acquisition of land are so initiated the notice to be published under sub-section (*3*) of section 93 in respect thereof need not contain any statement regarding provision of any alternative accommodation to occupiers in such land :

[2][Provided further that, where the proposal involves acquisition of the right or interest of the lessee or licencee in or over the building or land as referred to in sub-section (*1*), then such building or land on its transfer by the Authority to the co-operative society under sub-section (*7*), shall be held by the co-operative society on lease or licence, as the case may be, subject, however, to the following conditions, namely :—

(*i*) where there is a subsisting lease or licence, on the same terms and conditions on which the lessee or licensee held it, and

(*ii*) where the lease or licence has been determined or where the lessee or licensee has committed breach of the terms and conditions of the lease or licence, as the case may be, on the fresh terms and conditions, particularly

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[1] Sub-section (*2A*) shall be deemed always to have been inserted by Mah. 12 of 1989, s. 13(*c*).

[2] This proviso shall be deemed always to have been inserted by Mah. 12 of 1989, s. 13 (*d*).

in regard to the period of lease or licence and rent as may be stipulated by the owner of the land.]

[1][(*5A*) Where acquisition proceedings have been initiated as provided in sub-section (*5*) and a notification under sub-section (*5*) of section 93 is published, the Collector shall take and hand over possession of the land to the Board in accordance with the provisions of sub-section (*6*) of section 93.]

(*6*) After the land is vested absolutely in the Board on behalf of the Authority free from all encumbrances and the amount to be paid to the owner is determined, the Board shall require the society to get itself registered if it is not registered till then and to deposit the remainder of the amount to be paid to the owner with the Land Acquisition Officer. The Board shall simultaneously pass on the amount deposited by the co-operative society with it to the Land Acquisition Officer. The Land Acquisition Officer shall thereupon make the payment of the amount for acquisition or deposit the same in the court as provided in section 46.

(*7*) Subject to the provisions of sub-section (*6*), the Authority shall convey the land acquired under this section to the co-operative society of the occupiers thereof with its right, title and interest therein and execute without undue delay the necessary documents in that behalf.

Prohibition on transfer of land or building by society.

103C. (*1*) After the land is transferred to the co-operative society under sub-section (*7*) of section 103B, the society shall use the same for the purpose for which it was used before its acquisition by carrying out structural repairs to building thereon or reconstruction of new building in lieu of existing building, as the case may be, as provided in this Chapter and for no other purpose.

(*2*) Save as otherwise expressly provided in this Chapter and notwithstanding anything contained in any law for the time being in force, no co-operative society shall transfer such land or building or interest therein, or no member or tenant of the co-operative society shall transfer his interest in any tenement by sale, gift, exchange, leave and licence, assignment or lease; and any such transfer by way of sale, gift, exchange, leave and licence, assignment or lease by the co-operative society of any land vesting in it by under the provisions of this Chapter or tranfer by the member or tenant of his interest as aforesaid shall be void.

(*3*) If the co-operative society contravenes the provision of sub-section (*1*) or enters into any transaction which is void under sub-section (*2*), or if the society is not functioning, it shall be lawfull for the Authority to resume such land and building from such society after making full payment to the society, of the amount of the acquisition which the society has paid for such land and building and upon such resumption to transfer the same to any other co-operative society of the occupants of the tenements in the transit camp provided by the Authority, on payment of the acquisition price which was paid by the co-operative society for whom the land was acquired.

(*4*) (*a*) Any person who enters into any transaction which is void under sub-section (*2*) shall—

(*i*) if he is a member of the co-operative society, cease to be such member and be evicted;

(*ii*) if he is a tenant, then notwithstanding anything contained in the Rent Act, be evicted.

(*b*) Any person claiming through such member or tenant shall also be liable to be evicted.

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[1] Sub-section (*5A*) was inserted by Mah. 12 of 1989, s. 13 (*e*).

(5) The Competent Authority appointed under section 65 shall be the Competent Authority for the purposes of eviction of persons referred to in sub-section (*4*) and shall follow the same procedure as prescribed in section 66 for such eviction as if the premises were Authority premises and thereupon the provisions of Chapter VI shall *mutatis mutandis* apply in respect of orders passed by the Competent Authority as they apply to the orders passed under Chapter VI.

Relaxation in requirement of minimum number of membership of co-operative societies under this Chapter.

103 D. Notwithstanding anything contained in the Maharashtra Co-operative Societies Act, 1960, the requirement of minimum number of members specified therein for formation of a co-operative society shall not apply to a co-operative society of occupiers formed under this Chapter.

Mah. XXIV of 1961.

Non-member occupiers entitled to continue in tenements of co-operative society.

103 E. (*1*) The occupiers of tenements in the building acquired for the co-operative society who do not become the members of the co-operative society shall, subject to the provisions of the first proviso, be entitled to continue in their tenements as tenants of the co-operative society after the building has been conveyed to the co-operative society on the same terms and conditions on which they were occupying them from the owner of the building :

Provided that, notwithstanding anything contained in the Rent Act, or any other law for the time being in force or any agreement, contract, judgement, decree or order of any Court or Tribunal to the contrary the co-operative societies shall be entitled to recover, in addition to rent, from such occupiers and such occupiers shall be liable to share and pay proportionately towards any expenditure that may be incurred by the society on structural repairs of the buildings or towards the service charges and additional amenities or facilities provided in the building:

Provided further that, if the owner himself is one of the occupiers in the building and he does not become the member of the co-operative society, he may, subject to the provisions of the first proviso and sub-section (*2*) to (*7*), continue to occupy the premises occupied by him on payment of standard rent, if any fixed, or where no standard rent is fixed on such other rent and on such other terms and conditions as may be mutually agreed between the owner and the co-operative society.

(*2*) Where in a co-operative society the owner referred to in the second proviso to sub-section (*1*) becomes a tenant and he considers that the rent demanded by the co-operative society is excessive, such owner may apply to the Court of Small Causes, Bombay for fixing the standard rent of his tenement, but such owner shall, notwithstanding anything contained in the Rent Act, or any other law for the time being in force, continue to pay to the society, the rent demanded by it and failure of such owner to pay to the society such rent, the Court shall not proceed to fix the standard rent under this sub-section until such owner pays to the society such rent.

Explanation.—For the purposes of this sub-section, the expression "standard rent" includes the increase in rent permitted under the provisions of the Rent Act.

(3) Where the Court has fixed the standard rent under sub-section *(2)* and it finds that the rent demanded by the co-operative society from such owner is unresonably excessive the Court may order payment of simple interest at the rate of six per cent. per annum on the amount of difference between the standard rent and the rent demanded and received by the co-operative society from such owner.

Explanation.—For the purposes of this sub-section where a difference between the standard rent and the rent demanded by the co-operative society is more than twenty-five per cent. the rent demanded by the co-operative society shall be deemed to be unreasonably excessive.

(*4*) Any amount in excess of the standard rent fixed by the Court under sub-section (*2*) or standard rent referred to in sub-section (*6*), received by the co-operative society shall, at the option of such owner, be adjusted towards the payment of future rent by such owner or refunded to him.

(*5*) An application under sub-section (*2*) may be made jointly by all or any of the owners interested in respect of the tenements situated in the same building.

(*6*) No Court shall upon an application or in any suit or proceeding fix the standard rent of any tenement under sub-section (*2*) or entertain any plea that the rent is excessive, if the standard rent in respect of the same tenement has been duly fixed by a competent court on the merits of the case, without any fraud or collusion of an error of the fact, and there has been no structural alteration or change in the amenities or in respect of any other factors which are relevant to the fixation of the standard rent.

(*7*) The decision of the Court under sub-section (*2*) or (*3*) shall be final and conclusive and shall not be called in question in any Court.

Application of Rent Act to building of co-operative society.

103F. Save as otherwise expressly provided in this Chapter and notwithstanding anything contained in section 5 of this Act, the provisions of the Rent Act shall apply to the premises in the land and buildings owned by the co-operative societies formed and registered in pursuance of the provisions of this Chapter.

Certain occupiers to be accommodated in transit camps.

103G. The occupiers of any building who have not joined the co-operative society may, if they so desire but subject to the availability of tenements with the Board, be accommodated by the Board in tenements in transit camps, constructed by the Board on economic rent and on such other terms and conditions as may be determined by the Board.

Application of provisions of section 100.

103H. The provisions of section 100 regarding relaxation or modifications of the provisions of the laws referred to therein shall apply *mutatis mutandis* to the reconstruction proposal or proposals undertaken by co-operative societies under this Chapter and the State Government may, by general or special order, relax or modify the provisions of such laws in respect of such co-operative societies or society:

Provided that, in no case where such relaxation or modification is made, the floor space index shall exceed two or the consumed floor space index, whichever is higher.

Reconstruction of new building by co-operative society.

103I. (*1*) In preparing the plans and estimates of the building to be reconstructed it shall be the duty of the co-operative society to see that all the occupiers in the building proposed to be demolished who have joined the co-operative society shall, as far as practicable, be provided in the reconstructed building accommodation with a floor area equivalent to their floor areas in the old building, but in no case exceeding seventy square metres of plinth area to any occupier.

(*2*) Where the co-operative society proposes to carry out structural repairs to the building and the building or any part thereof is required to be vacated, or to reconstruct a building and the building is required to be demolished, the occupiers thereof, on being called upon by a notice in writing by the co-operative society, shall vacate the tenements in their occupation within the period specified in such notice, and upon failure of the occupiers to so vacate the tenement, the co-operative society may request the Board to take or cause to be taken necessary steps to evict such occupiers from the buildings and on receipt of such request the Board may take or cause to be taken necessary steps to get the building or part thereof, as the case may be, vacated and the Board shall exercise in this behalf the powers under clause *(a)* of section 77 and where an occupier to whom the Board has served a notice to vacate the premises in his occupation fails to vacate the same within the period specified in such notice, the Board may use or caused to be used such force as may reasonably, be necessary therefor.

(*3*) The co-operative society shall, notwithstanding anything contained in any other law, reserve and allot, in the new building such percentage as is specified in the Third Schedule to this Act of the surplus area in the new building determined on the basis of the difference between the floor space index availed of by it while reconstructing the building and the floor space index that had been utilised in the construction of the old building, for housing such dishoused occupier from other cessed demolished buildings as may be nominated by the Board and upon such nominations, the nominated occupiers shall be accepted by the co-operative society as its members in accordance with its bye-laws, and shall not dispose of tenements covered by such reserved surplus area to others. If any tenements are rendered surplus because of any of the occupiers in the old building not joining the co-operative society the percentage as is specified in the Third Schedule to this Act of the surplus area to be made available to the Board in the new building for allotment to other dishoused occupier shall be determined on the basis of the difference between the total floor area constructed in the new building and the area to be occupied therein by the participating occupiers in the old building. Such surplus tenement to be allotted to dishoused occupiers from the other cessed buildings which are demolished and who are nominated by the Board shall be allotted to them by the co-operative society after receiving from them such amount as may be determined by the State Government.

(*4*) The co-operative society may allocate the area for officers, shops, commercial tenements, or any other non-residential use in the new building only to the extent of the area occupied in the old building for the said purposes.

(*5*) The list of occupiers in the old building as also the area of the tenement therein shall be certified by the Board after such consultation with the co-operative society and the occupiers of the tenements concerned, as may be necessary. The area of the tenement shall be determined having regard to the provisions of the Development Control Rules applicable in the area and after taking into account any specific area or part thereof as might be permited by Government for the purpose. The Board shall inform the occupiers about the area so determined.

(*6*) If there is a dispute as to who is the lawful occupier of the tenements in the old building, the parties shall be directed to get the disputes determined by the competent court of law. Allotment of a transit accommodation to a person actually in occupation of such tenement or in a tenement in a building shall not be deemed to have decided the issue and such allotment shall be without prejudice to the respective rights of the dispute parties.

(7) Any occupier aggrieved by the determination of the area of a tenement may, within thiry days from the date of receipt of the communication in that behalf, prefer an appeal to an officer specified by the Authority for the purpose. The decision of such appellate officer shall be final and conclusive and shall not be called in question in any Court.

Protections to occupiers or allottees.

103J. If the co-operative society unauthorisedly allots to any person any tenement which is to be allotted under the foregoing provisions to a dishoused person from the building reconstructed or to a dishoused person from the other cessed demolished buildings by nomination by the Board, such unauthorised allotment shall, notwithstanding anything contained in any law for the time being in force, be treated as invalid for all purposes and the Authority shall be competent to evict such unauthorised allottee by taking action under section 66 of this Act as if the premises so allotted were Authority premises and allot such premises to the person to whom they should have been allotted.

Board for purposes of this Chapter.

103K. *(1)* [1][The Mumbai Repairs and Reconstruction Board] established under section 18 of this Act shall be the Board for the purposes of carrying out the purposes of this Chapter.

(2) Subject to the superintendence, direction and control of the Authority, the Board shall exercise such of the powers and perform such of the duties and functions conferred on it under Chapter VIII as may be necessary for the performance of its duties and functions under this Chapter.

Overriding effect of Chapter VIII-A.

103L. The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other provisions of this Act, or any other law for the time being in force or in any agreement, contract, judgement, decree or order of any Court or Tribunal.

Power to remove difficulties.

103M. If any difficulty arises in giving effect to the provitions of this Chapter, during the period of two years from the date of commencement of the Maharashtra Housing and Area Development (Second Amendment) Act, 1986, the State Government may, as occasion arises, by order do anything not inconsistent with such provisions, which appears to it to be necessary or expedient for the purposes of removing the difficulty.] Mah. XXI of 1986.

CHAPTER IX.

Environmental Improvement of Slums.

[6][Board for purposes of this Chapter and its duties.]

104. [2][*(1)* Each of the Boards excluding [3][the Mumbai Housing and Area Development Board,] mentioned in clauses *(a)* and *(b)*, and [4][the Mumbai Slum Improvement Board] mentioned in clause *(c)* of sub-section *(1)* of section 18, shall be the Board for the purposes of this Chapter within the area of its jurisdiction.]

[5][(2)] Subject to the superintendence, direction and control of the Authority, it shall be the duty of a Board,—

(a) to undertake and carry out such improvement works as it considers necessary in any slum improvement area;

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[1] These words were substituted for the words "The Bombay Repairs and Reconstruction Board" by Mah. 25 of 1996, s. 2 and Sch. para (3).

[2] Section 104 was renumbered as sub-section (2) thereof and sub-section (*1*) was inserted to it by Mah. 11 of 1993, s. 6 (*1*).

[3] These words were substituted for the words "The Bombay Housing and Area Development Board" by Mah. 25 of 1996, s. 2 and Sch. para (3).

[4] These words were substituted, Mah. 25 of 1996, s. 2 and Sch. para (3).

[5] Section 104 was renumbered as sub-section (2) there of and sub-section (*1*) was inserted to it by Mah. 11 of 1993, s. 6 (1).

[6] This marginal note was substituted for the original, by Mah. 11 of 1993, s. 6 (2).

(*b*) to undertake, from time to time, the works of maintenance and repairs in respect of any improvement works in any such area;

(*c*) to collect, from time to time, service charges recoverable by and due to it in any slum improvement area;

(*d*) to collect compensation in respect of Government lands included in any slum improvement area;

(*e*) to do all other things, with the prior approval of the Authority, to facilitate exercising of its powers and performance of its duties under this Chapter.

Power of Board to entrust improvement works.

105. In any slum improvement area, the Board may, on such terms and conditions as may be mutually agreed upon, entrust to the Municipal Corporation, the Municipal Council or to any other agency recognised by it for the purpose,—

(*a*) the execution, under its own supervision, of any improvement works;

(*b*) the maintenance or repairs of any improvement works under its control;

(*c*) the work of collection of service charges recoverable by and due to it.

Use of property assigned or entrusted or by Government, [1][Mumbai Corporation], etc.

106. The State Government, the Municipal Corporation, or the Municipal Council may assign or entrust to the Board, any property, whether moveable or immoveable for use by the Board, for such purposes of this Chapter on such terms and conditions as may be agreed upon by the Board. It shall be the duty of the Board to use such property for the purpose for which it is assigned or entrusted.

Transfer of improvement works to Board.

107. (*1*) Any Municipal Corporation or Municipal Council may transfer to the Board on behalf of the Authority any improvement works completed by it in any slum improvement area for the purpose of maintenance, or for any other purpose of this Chapter on such terms and conditions, as may be mutually agreed upon, and it shall be the duty of the Board to carry out the purpose for which such works are transferred.

(2) On such transfer of the improvement works, all records relating to such works shall be transferred to the Boards.

Declaration of slum improvement area and execution of slum improvement work.

108. (*1*) Where a Board upon report of any of its officers or other information in its possession is satisfied that any area is or may be a source of danger to the health, safety or convenience of the public of the area or of its neighbourhood, by reason of such area having inadequate or no basic amenities, or being insanitary, squalid, overcrowded or otherwise, and where the Board decides to carry out any improvement works in such area, it shall cause such area to be defined in a map, and then it shall by an order published in the *Official Gazette,* declare such area to be a slum improvement area and its intention to carry out such improvement works as in its opinion are necessary and are specified in such order. A copy of such declaration shall be displayed in conspicuous places in such area, and shall also be served upon the owner, occupier and mortgagee, if any, of the property or any part thereof.

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[1] These words were substituted by Mah. 25 of 1996, s. 2, Sch., para (3).

(*2*) Any person aggrieved by a declaration made under sub-section (*1*) may, within thirty days of the date such declaration in the *Official Gazette,* appeal to the Tribunal.

(*3*) On an appeal, the Tribunal may make an order either confirming, modifying, or rescinding the declaration; and the decision of the Tribunal shall be final.

Improvement works.

109. For the purpose of this Chapter, the improvement works may consist of all or any of the following, namely :—

(*a*) laying of water-mains, sewers and storm-water drain;

(*b*) provision of urinals, latrines, community baths, and water-taps;

(*c*) widening, re-aligning or paving of existing roads, lanes and pathways and contructing new roads, lanes and pathways;

(*d*) providing street lighting;

(*e*) cutting, filling, levelling and landscapping the area;

(*f*) partial development of the area with a view to providing land for unremunerative purposes, such as parks, playgrounds, welfare and community centres, schools, dispensaries, hospitals, police stations, fire stations and other amenities provided or conducted on a non-profit basis;

(*g*) demolition of obstructive or dilapidated buildings or portion of buildings;

(*h*) any other matter for which in the opinion of the Board, it is expedient to make provision for preventing the area from being or becoming a source of danger to safety or health or a nuisance.

Association of members of local bodies with improvement works.

110. A Board may associate with it, members of the local bodies, if any, for the purpose of preparation of plans and supervision and execution of any improvement works in their respective areas.

Power of Board to require the occupiers to vacate premises.

111. (*1*) Where a Board undertakes the improvement works in slum improvement area and is of the opinion that any of the occupiers thereof should vacate their premises, it shall give them notice to vacate by a date, or dates specified in the notice. It may as far as practicable offer such occupiers alternative sites in any other suitable area to locate these premises. If any occupier fails to vacate and to shift his premises to the alternative site offered to him within the specified period, the responsibility of the Board to provide him alternative site shall cease.

(*2*) Where any occupier does not vacate his permises, the Board may take or cause to be taken such steps and used or cause to be used such force as may be reasonably necessary for the purpose of getting the premises vacated.

(*3*) The Board may, after giving fifteen clear days' notice to the persons removed under sub-section (2) and affixing a copy thereof in some conspicuous place in the area, remove or cause to be removed or dispose of by public auction any property remaining on the premises vacated under that sub-section.

(*4*) Where the property is sold under sub-section (*3*), the sale proceeds shall after deducting the expenses of sale be paid to such person or persons as may be entitled to the same :

Provided that, where the Board is unable to decide as to the person or persons to whom the balance of the amount is payable or as to apportionment of the same, it shall refer such dispute to a civil court of competent jurisdiction, and the decision of the court shall be final.

Restriction on buildings in slum improvement area.

112. (*1*) A Board may by a notice affixed or exhibited in a conspicuous place in a slum improvement area direct that no person shall erect any building in a slum improvement area or carry out any additions or alterations thereto except with its previous permission in writing.

(*2*) Every person desiring to obtain permission referred to in sub-section (*1*) shall make an application in writing to the Board furnishing such informations as may be required by it.

(*3*) On receipt of such application and after making such inquiry as it considers necessary, the Board may by order in writing—

(*a*) either grant the permission subject to such terms and conditions, if any, as may be specified in the order, or

(*b*) refuse to grant such permission:

Provided that, before granting the permission subject to terms and conditions or before making an order refusing such permission, the applicant shall be given a reasonable opportunity to show cause why such terms and conditions should not be imposed, or the permission should not be refused.

Orders of demolition of buildings in certain cases.

113. (*1*) Where the erection or alteration of any building or any addition thereto has commenced, or is being carried out, or has been completed, in contravention of the provisions of section 112, a Board may, notwithstanding the provision contained in any other law, direct by an order that such erection, alteration or addition shall be demolished by the owner or the person who has erected the building or carried out the addition or alteration, within such time as may be specified in that order. On the failure of the owner or such person to comply with the order, the builiding so erected or the addition or alteration so carried out shall be liable to summary demolition by an order of the Board, and the expenses of such demolition shall be recoverable from the owner or such person as arrears of land revenue:

Provided that, no such order shall be made, unless the owner or person concerned has been given a reasonable opportunity of being heard.

(*2*) Any property ordered to be demolished under sub-section (*1*) shall be disposed of as the Board may direct, and the cost of removal of the property under this section shall also be recoverable as arrears of land revenue.

(*3*) For the purpose of causing any building to be demolished under sub-section (*1*), the Board may use or cause to be used such force as may be reasonably necessary.

Recovery of Dues of the Authority.

Recovery of service charges.

114.(*1*) Where improvement works have been executed in any slum improvement area, any expenses incurred by a Board on behalf of the Authority or, by any other authority at the instance of the Board, in connection with the maintenance of such improvement works or the enjoyment of amenities and conveniences rendered possible by such works, shall be recoverable by the Board as service charges from the occupiers of the slum improvement area.

(*2*) The amount of expenses incurred on the maintenance of works or amenities shall be determined by the Board in respect of each slum improvement area separately and shall be recovered as service charges from the occupier of each building in the area.

Recovery of dues.

115. (*1*) Where any person is in arrears of service charges, as determined by a Board in pursuance of section 114, the Board may, by notice served, (*i*) by post, or (*ii*) by affixing a copy of it on the outer-door or some other conspicuous part of the premises, or (*iii*) in any other manner that the Board may deem proper, order that person to pay the same within such time not less than fifteen days as may be specified in the notice.

(*2*) Where any person causes any damage to the property of the Authority or the improvement works provided by the Authority, the Board shall assess the amount of such damages and shall, after serving notice on the person in the manner provided in sub-section (*1*), order that person to pay the amount of such damages within such time as may be specified in the notice.

(*3*) If any person fails to comply with an order made under sub-section (*1*) or (*2*), the amount due from him to the Authority shall be recoverable as arrears of land revenue.

Appeal.

116. Any person aggrieved by an order of a Board under sub-section (*1*) or (*2*) of section 115 may, within thirty days of the date of the order, prefer an appeal to the Tribunal, and the decision of the Tribunal on appeal shall be final.

Slum Improvement Fund.

Separate Slum Improvement Fund.

117. (*1*) Where improvement works have been executed in any slum improvement area, the service charges recovered from the occupiers under section 114 shall be credited to the fund of the Authority. There shall, however, be created a separate fund called the Maharashtra Slum Improvement Fund (in this Chapter referred to as the 'Fund') and the amount so credited to the Fund of the Authority shall be transferred to the Fund so created.

(*2*) The amount in the Fund shall be expended for the purposes of this Chapter. The State Government may make rules regulating all matters connected with the Fund, including the manner in which the Fund shall be maintained, operated and expended.

Contribution by State Government and local authority to Fund.

118. (*1*) The State Government may pay an annual contribution to the Authority of such amount as may be determined by the State Government.

(*2*) The State Government may, after consultation with the local authority concerned, direct such local authority to make an annual contribution to the Authority for the purposes of this Chapter.

(*3*) The moneys placed at the disposal of the Authority under the provisions of this Chapter shall form part of the Fund and shall be applied for the purposes of this Chapter.

Action taken under Mah. XXIII of 1973 deemed to be taken under this Act.

119. Any action taken by the Maharashtra Slum Improvement Board under the Maharashtra Slum Improvement Board Act, 1973, shall be deemed to be action taken by the Board constituted under this Act.

Mah. XXIII of 1973.

Establishment of Panchayats in Slum Improvement Areas.

Establishment of *Panchayat.*

120. The Board may, with the approval of the Authority establish, by notification in the *Official Gazette, a Panchayat* for any slum improvement area.

Incorporation of *Panchayat.*

121. Every such *Panchayat* shall be a body corporate by the name of " The (Slum Improvement Area) *Panchayat,*" as may be given by the Board, having perpetual succession and common seal, with power to acquire, hold and dispose of property, both moveable and immoveable, and to contract, and may by the said name sue or be sued.

Constitution of *Panchayat.*

122. (*1*) Every *Panchayat* shall have a *Sarpanch*, a *Upa-Sarpanch* and other members, not being less than 3 and more than 13, as the Board may with the approval of the Authority determine.

(*2*) The members of a *Panchayat* including the *Sarpanch* and *Upa-Sarpanch* shall be nominated by the Board from amongst the residents of the slum improvement area. The names of the members so nominated shall be published by the Board in the *Official Gazette;* and on the publication of the names of members in the *Official Gazette,* the *Panchayat* shall be deemed to be duly constituted.

Disqualifications.

123. A person shall be disqualified for being nominated or for continuing as a member of the *Panchayat,* if he has become subject to any of the disqualifications specified in section 11.

Term of office of members and their conditions of service.

124. (*1*) The members of a *Panchayat* shall, save as otherwise provided in this Chapter, hold office for a term of three years.

(*2*) The Board may by order in writing and for reasons recorded therein extend the said term for a period not exceeding five years in the aggregate.

(*3*) The remuneration and other conditions of service of the members of the *Panchayat* including *Sarpanch* and *Upa-Sarpanch* shall be such as the State Government may, by order, determine.

(*4*) The remuneration and allowance to the members of the *Panchayat* shall be paid from the *Panchayat* Fund.

(*5*) Notwithstanding anything contained in this Chapter, if a member of the State Legislature is appointed as member of the *Panchayat* (including the *Sarpanch* and *Up-Sarpanch* thereof), he shall not be entitled to receive any remuneration other than travelling allowance, daily allowance or such other allowance which is paid to member of the *Panchayat* for the purpose of meeting the personal expenditure incurred in attending the meeting of the *Panchayat* or in performing any other functions as such member.

Commencement of term of office.

125. The term of office of the members of a *Panchayat* shall be deemed to commence from the date of the *Gazette* in which their names are published under section 122.

Resignation of office by members.

126. Any member of the *Panchayat* may resign his office by writing under his hand addressed to the *Sarpanch*. The *Upa-Sarpanch* may resign his office of *Upa-Sarpanch* or of member also by like writing addressed to the *Sarpanch*. The *Sarpanch* may resign his office of *Sarpanch* or of member also by like writing addressed to the Chairman. The notice of every such resignation shall be delivered in the prescribed manner, and the office concerned shall thereupon become vacant.

Motion of no-confidence.

127. (*1*) A motion of no-confidence may be moved by any member of a *Panchayat* against the *Sarpanch* or the *Upa-Sarpanch*, after giving such notice thereof as may be prescribed.

(*2*) If the motion is carried by a majority of not less than two-third of the total number of the then members of the *Panchayat*, the *Sarpanch* or the *Upa-Sarpanch*, as the case may be, shall cease to hold office, after a period of three days from the date on which the motion was carried, unless he has resigned earlier, and thereupon the office held, by such *Sarpanch* or *Upa- Sarpanch*, shall be deemed to be vacant.

(*3*) Notwithstanding anything contained in this Chapter or the rules and regulations made thereunder, a *Sarpanch* or an *Upa-Sarpanch* shall not preside over a meeting in which a motion of no-confidence is discussed against him; but he shall have right to speak or otherwise to take part in the proceedings of such a meeting (including the right to vote).

(*4*) In cases where the offices of both the *Sarpanch* and *Upa-Sarpanch* become vacant simultaneously, the Board may appoint an officer, pending the nomination of another *Sarpanch* and *Upa-Sarpanch* to exercise all the powers and perform all the functions and duties of the *Sarpanch*, but such officer shall not have the right to vote in any meetings of the *Panchayat*.

Meeting of *Panchayat* and procedure to be followed.

128. The *Panchayat* shall meet at such intervals and follow such procedure for its meetings as may be prescribed.

Powers of *Sarpanch* and *Upa-Sarpanch*.

129. The *Sarpanch* and the *Up-Sarpanch* shall exercise such powers and perform such functions as may be prescribed.

Removal from office.

130. (*1*) The Board may with the approval of the Authority remove from office any member including the *Sarpanch* or *Upa-Sarpanch*, who has been guilty of misconduct or neglect of, or incapacity to perform, his duty, or is persistently remiss in the discharge thereof :

Provided that, no such person shall be removed from office, unless the Chairman or any other officer of the Board authorised by him in this behalf holds an enquiry after giving due notice to the *Panchayat* and the person concerned; and the person concerned has been given a reasonable opportunity of being heard and thereafter, the Chairman or the said officer, as the case may be, submits his report to the Board.

(*2*) Where a person is removed from office of the *Sarpanch, Upa-Sarpanch* or member, he shall not be eligible for renomination as *Sarpanch, Upa-Sarpanch* or member, during the remainder of the term of the office of members of the *Panchayat.*

Filling up of vacancies.

131. If any vacancy occurs due to the disablement, death, resignation, disqualification, absence without leave or removal or otherwise of *Sarpanch* or *Upa-Sarpanch* or other member, it shall be filled by nomination of another *Sarpanch* or *Upa-Sarpanch* or member, who shall hold office so long only as the *Sarpanch, Upa-Sarpanch* or member in whose place he has been nominated, would have held office if the vacancy had not occurred.

Vacancy not to affect proceedings of *Panchayat.*

132. (*1*) During any vacancy in the *Panchayat,* the continuing members may act as if no vacancy had occurred.

(*2*) The *Panchayat* shall have power to act notwithstanding any vacancy in the membership or any defect in the constitution thereof; and such proceedings of the *Panchayat* shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled to do so sat or voted or otherwise took part in the proceedings.

(*3*) No act or proceedings of a *Panchayat* shall be deemed to be invalid on account of any defect or irregularity in any such act or proceedings not affecting the merits of the case or on account of any irregularity in the service of notice upon any member or for mere informality.

Dissolution or supersession of *Panchayat* for default.

133. (*1*) If, in the opinion of the Board, a *Panchayat* exceeds or abuses its powers or is incompetent to perform, or makes persistant default in the performance of, the duties imposed on it or functions entrusted to it, by or under this Chapter or fails to obey an order made by the Board, the Board may, with the approval of the Authority, after giving the *Panchayat* an opportunity of rendering an explanation, by order in the *Official Gazette*—

(*i*) dissolve such *Panchayat,* or

(*ii*) supersede such *Panchayat* for the period specified in the order.

(*2*) When a *Panchayat* is so dissolved or superseded, the following consequences shall ensue, that is to say,—

(*a*) all members of the *Panchayat* shall, in the case of dissolution, as from the date specified in the order of dissolution, and in the case of supersession, as from the date of the order of supersession, vacate their office as such member;

(*b*) all powers and duties of the *Panchayat* shall, during the period of dissolution or supersession, be exercised and performed by such person or persons as the Board may, from time to time, appoint in that behalf;

(*c*) all property vested in the *Panchayat* shall, during the period of dissolution or supersession, vest in the Board.

Functions of the Panchayat, Finance and Control.

Duties of *Panchayat.*

134. Where the Board entrusts all or any of its powers or duties under clauses (*b*), (*c*), (*d*) and (*e*) of section 104 to a *Panchayat,* the *Panchayat* shall, subject to the superintendence, direction and control of the Board,—

(*a*) undertake the works of maintenance and repairs in respect of any improvement works executed by the Board and handed over to the *Panchayat* for maintenance;

(*b*) collect service charges in connection with the maintenance of improvement works handed over by the Board to the *Panchayat;*

(*c*) recover compensation from the occupiers of Government lands falling within the jurisdiction of the *Panchayat;*

(*d*) report to the Board forthwith any damage done to the improvement works; and

(*e*) do all other things which the Board may from time to time require it to do. The rate of service charges to be recovered under clause (*b*) of this section shall be determined by the Board, and the rate of compensation to be recovered under clause (*c*) of this section shall be determined by the State Government.

Certain services to be provided by local authority and *Panchayat* to be responsible for collection and payment of taxes, fees and charges.

135. (*1*) Notwithstanding anything contained in any law governing the local authority concerned, a Municipal Corporation, a Municipal Council or any other local authority having jurisdiction in any slum improvement area, shall provide water supply and drainage and scavenging, cleansing, lighting and other services, in the said area, as it provides in other areas within its jurisdiction, and also such additional services, as the Board may in respect of any slum improvement area specify in this behalf.

(*2*) Where there is *a Panchayat*, the *Panchayat* shall be responsible to the local authority to collect from the occupiers and other persons liable therefor the taxes, fees and charges due for the services so provided, and to arrange to pay the amount due from time to time to the local authority concerned.

Use of property assigned or entrusted by Board.

136. (*1*) The Board may assign or entrust to the *Panchayat* any property, whether moveable or immoveable, for use by the *Panchayat* for the purposes of this Chapter on such terms and conditions as may be specified by the Board on behalf of the Authority. It shall be the duty of the *Panchayat* to use such property for the purpose for which it is assigned or entrusted.

(*2*) With the approval of the Board, a *Panchayat*, may utilise any open space in the slum improvement area for common purposes such as those specified in clause (*f*) of section 109.

Violation of direction under section 112*(1)*.

137. The *Panchayat* shall ensure that no new building is erected within its jurisdiction in contravention of any direction issued by the Board under sub-section (*1*) of section 112. If any new building is so erected, the *Panchayat* shall immediately make a report to the Board.

Assistance to Board for carrying out demolition.

138. The *Panchayat* shall assist the Board in carrying out demolition of any building under section 113.

Contracts.

139. (*1*) For the purposes of this Chapter, the *Sarpanch* shall be competent to make and execute on behalf of the *Panchayat,* any contract with any person:

Provided that, no contract shall be made unless specifically authorised by the *Panchayat* by passing resolution to that effect, and no contract involving an expenditure exceeding Rs. 1,000 shall be made without the previous sanction of the Chairman.

(*2*) Every contract shall be entered into in such manner and form as may be prescribed.

Recovery of compensation, service charges, etc.

140. (*1*) When any compensation, service charges, tax, fee or other sum has become due, which a *Panchayat* is authorised to collect under this Chapter, the *Panchayat* shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the amount due from him, specifying the details of the claims and the date on or before which the amount shall be paid.

(*2*) If any person fails to pay the amount due on or before the specified date, the *Panchayat* shall cause a writ of demand in the prescribed form to be served on the defaulter.

(*3*) The presentation of every bill under sub-section (*1*) and the service of every writ of demand under sub-section (*2*) shall be effected by an officer or servant of a *Panchayat* in this behalf—

(*a*) by giving or tendering the bill or writ to the person to whom it is addressed; or

(*b*) if such person is not found, by leaving the bill or writ at his last known place of abode, if within the limits of the *Panchayat* by giving or tendering the bill or writ to some adult male member or servant of his family; or

(*c*) if such person does not reside within the limits of the *Panchayat*, and his address elsewhere is known to the Sarpanch or other person directing the issue of the bill or writ, then by forwarding the bill or writ to such person by registered post, under cover bearing the said address; or

(*d*) if none of the means aforesaid be available, then by causing the bill or writ to be affixed on some conspicuous part of the building or land, if any, to which the bill or writ relates in the presence of at least two *Panchas*.

(*4*) If the amount for which a writ of demand has been served is not paid within thirty days from the date of such service, the *Panchayat* may recover such sum by distraint and sale of the moveable property of the defaulter in the prescribed manner.

(*5*) If a *Panchayat* is unable to recover the amount due as aforesaid, it may furnish to the Board a statement of the arrears due with a request for the recovery of the same, and the Board shall proceed against the person to recover the same as if they are arrears of land revenue.

(*6*) For any amount recovered by the *Panchayat* under this section, a written receipt shall be given to the person concerned in such form and in such manner as may be prescribed.

Panchayat fund.

141. (*1*) For every *Panchayat* there shall be a fund, which shall be called the *Panchayat* fund.

(2) The following shall be paid or deposited into the *Panchayat* fund, namely :—

(*a*) the proceeds of service charges collected under clause (*b*) of section 134;

(*b*) the proceeds of compensation collected under clause *(c)* of section 134;

(*c*) the proceeds of any taxes, fees or charges due to a local authority collected under section 135;

(*d*) all sums received from the Board on behalf of the Authority;

(*e*) all sums received by the *Panchayat* from other sources by way of grant, gift and contribution or otherwise.

Application of *Panchayat* fund.

142. All sums received by a *Panchayat* in accordance with the provisions of this Chapter shall be applied subject to the provisions and for the purpose of this Chapter and all such sums and the *Panchayat* fund shall be kept in such custody as may be prescribed.

Appointment of servants.

143. (*1*) A *Panchayat* may, with the approval of the Board, appoint such servants as may be necessary for the proper discharge of its duties under this Chapter and pay their salaries and allowances from the *Panchayat* fund. The *Panchayat* may, from time to time, by written order, fine, suspend, remove or dismiss any servant appointed by it:

Provided that, no such order shall be passed by the *Panchayat* unless the servant is given a reasonable opportunity of being heard.

(*2*) An appeal shall lie against any such order passed by the *Panchayat* to the Chairman or any officer of the Board authorised by him in this behalf, within one month from the date of communication of the order to the servant, and the decision of the Chairman or the said officer, as the case may be, shall be final:

Provided that, no such appeal shall be decided unless the servant is given a reasonable opportunity of being heard.

Budget and accounts.

144. (*1*) A *Panchayat* shall submit annually to the Board on or before such date and in such form as may be prescribed a statement of—

(*a*) the opening balance in the *Panchayat* fund and the estimated receipts by the *Panchayat* for the following year;

(*b*) the expenditure proposed on establishment and discharge of its duties.

(*2*) The Board shall within two months from the date of receipt of such statement either approve the same or direct that the proposed expenditure on any of the duties be increased or decreased :

Provided that, if the Board fails either to approve such statement or to direct that the expenditure on any of the duties be increased or decreased, within two months from the date of receipt of such statement, the statement shall be deemed to have been duly approved by the Board.

(*3*) The *Sarpanch* shall keep or cause to be kept the accounts of the *Panchayat* in such form as may be prescribed. He shall prepare an annual report of the administration of the *Panchayat* and shall place the accounts and the report for approval before the *Panchayat*. The annual statement of such accounts together with the annual report as approved shall be sent to the Board on or before such date and in such form as may be prescribed.

Power to call for proceedings, etc.

145. The Board shall have power—

(*a*) to call for any proceedings of a *Panchayat* or an extract there from, any book or document in the possession or under the control of a *Panchayat*, and any return, statement, account or report which the Board thinks fit to require such *Panchayat* to furnish; and

(*b*) to require a *Panchayat* take into consideration—

(*i*) any objection which appears to the Board to exist to the doing of anything which is about to be done, or is being done, by such *Panchayat*; or

(*ii*) any information which the Board is able to furnish and which appears to the Board to necessitate the doing of a certain thing by the *Panchayat*, and to submit a written reply to the Board within a reasonable time stating its reasons for not desisting from doing or for not doing such things.

Power of Chairman or any officer to inspect office of *Panchayat*.

146. The Chairman or any other officer authorised by him in writing in this behalf may at all reasonable times enter the office of any *Panchayat* and inspect any records, register or other document kept therein; and the *Panchayat* shall comply with the inspection notes, if any, made by the Chairman or, as the case may be, such officer.

Power of authorised officer or person to inspect and give technical guidance.

147. If for the purpose of efficient and economical maintenance of any works undertaken by a *Panchayat*, an officer or person authorised by general or special order of the Board considers it necessary for that purpose to give technical guidance or assistance to the *Panchayat*, then the officer or person so authorised may periodically inspect such works and may give such guidance, assistance or advice as he thinks necessary in relation to such works; and shall forward to the *Sarpanch* through the Chairman, a report on the inspection made, pointing out therein any irregularities noticed, and his suggestions for improvement.

Audit of account of *Panchayat*.

148. (*1*) The audit of the accounts of a *Panchayat* shall be carried out by the State Government in such manner as it deems fit and copy of the audit note shall be forwarded to the Board and the *Panchayat*, within two months of the completion of the audit.

(*2*) On receipt of the audit note referred to in sub-section (*1*), the *Panchayat*, shall either remedy any defects or irregularities, which may have been pointed out in the audit note and send to the Board within two months an intimation of its having done so, or shall, within the said period, supply to the Board any further explanation in regard to such defects or irregularities as it may wish to give.

(*3*) On receipt of such intimation or explanation, the Board may, in respect of all or any of the matters discussed in the audit note,—

(*a*) accept the intimation or explanation given by the *Panchayat* and recommend to the Authority to drop the objection;

(*b*) suggest that the matter be reinvestigated at the next audit or at any earlier date; or

(*c*) hold that the defects or irregularities pointed out in the audit note or any of them, have not been removed or remedied.

(*4*) The Board shall send a report of its decision to the Authority within one month of the date of receipt by it of the intimation or explanation referred to in sub-section (2), or in the event of the *Panchayat* failing to give such intimation or explanation on the expiry of the period of two months referred to in the said sub-section (2), and shall forward a copy of such report to the auditor, and the *Panchayat*. If the Board holds that any defects or irregularities have not been removed or remedied, the Board shall state in the report whether in its opinion the defects or irregularities can be regularised, and if so, by what method, and if they do not admit of being regularised, whether they can be condoned, and if so, by what authority. The Board shall also state whether the amounts to which the defects or irregularities relate should in its opinion be surcharged or charged as hereinafter provided.

(*5*) The Authority may, after considering the report of the Board and after making such further enquiry as it considers necessary, disallow any time which appears to it to be contrary to law and surcharge the same on the

person making or authorising the making of the illegal payment, and may charge against any person responsible therefor the amount of any deficiency or loss caused by the gross negligence or misconduct of that person, or, any sum received, which ought to have been, but is not, brought into accounts, by the person, and—

(*a*) if the person on whom the surcharge or charge is made be a member, direct the Board to proceed against him in the manner provided in sub-sections (*2*) and (*3*) of section 151; and

(*b*) if the person on whom the surcharge or charge is made is not a member, then after taking his explanation direct by order in writing that such person shall pay to the *Panchayat* the amount surcharged or charged, and if the amount is not so paid within one month, the State Government may recover as arrears of land revenue and credit it to the *Panchayat* fund.

(*6*) Any person aggrieved by an order of surcharge or charge made under this section may, within one month from the receipt by him of the decision of the State Government, apply in Greater Bombay to the City Civil Court, and elsewhere, to the District Court to modify or set aside such order; and the Court after taking such evidence as it thinks necessary, may confirm, modify or remit such surcharge or charge and make such order as to costs as it thinks proper in the circumstances. The order made by the Court shall be final.

Execution of works in case of emergency.

149. (*1*) In cases of emergency, the Board may provide for the execution of any work or the doing of any act which a *Panchayat* is empowered to execute or do, and the immediate execution or doing whereof is, in its opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the *Panchayat*:

Provided that, the Board may direct the *Panchayat* to pay the amount of actual expenses or an amount not exceeding 10 per cent. of the annual income of the *Panchayat* for the year immediately preceding, whichever is less.

(*2*) If the expenses are not so paid, the Board may, by order, direct the person in whose custody the *Panchayat* fund is kept to pay such expense or so much thereof as is possible, from the balance of such fund in his hands, and such person shall comply with such directions. Any payment made pursuant to such order shall be a sufficient discharge to such person from all liability to the *Panchayat* in respect of the sum so paid.

Panchayat to conform to instructions given by Board.

150. A *Panchayat* shall conform to any instructions that may, from time to time, be given by the Aurhority or Board, in the execution by the *Panchayat* of its duties and functions under this Chapter.

Liability of members for loss, waste or misapplication.

151. (*1*) Every member of a *Panchayat* shall be personally liable for the loss, waste or misapplication of any money or other property of the *Panchayat* to which he has been party or which has been caused or facilitated by his misconduct, gross neglect of his duty as a member.

(*2*) If after giving the member concerned a reasonable opportunity for showing cause to the contrary, the Board is satisfied that the loss, waste or misapplication of any money or other property of the *Panchayat* is direct consequence of misconduct or gross neglect on his part, the Board shall by order in writting direct such member to pay to the *Panchayat* before fixed date, the amount required to reimburse it for such loss, waste or misapplication.

(*3*) If the amount is not so paid, it shall be recoverable as arrears of land revenue on a certificate of an officer appointed by the State Government in this behalf and when recovered, the Board shall credit it to the *Panchayat* fund.

(*4*) Any person aggrieved by the decision of the Board under this section may apply to the Court as provided in sub-section (*6*) of section 148, within the like time for redress of his grievance and that Court may pass any order thereon which it can pass under that section.

Entry for purposes of this Chapter.

152. It shall be lawful for any person authorised by a *Panchayat* in this behalf to enter into or upon any building or land in a slum improvement area for the purposes of exercising any powers conferred or duties imposed on the *Panchayat*, and to execute necessary works authorised by or under this Chapter.

Other powers of the Authority under this Chapter.

Powers of inspection.

153. The Authority may, by general or special order, authorise any person,—

(*a*) to inspect any drain, latrine, urinal, cesspol, pipe, sewer or channel in or on any building or land in a slum improvement area and in his discretion, to cause the ground to be opened for the purpose of preventing or removing any nuisance arising from the drain, latrine, urinal, cesspool, pipe, sewer or channel, as the case may be;

(*b*) to examine works under construction in a slum improvement area, to take levels or to remove, test, examine, replace or read any meter.

After such inspection and taking necessary action for preventing or removing the nuisance, if any, the ground and other works which are opened shall be filled in, reinstated or made good, as the case may be.

Power to enter land adjoining land where work is in progress.

154.(*1*) Any person authorised by a Board in this behalf may, with or without assistants or workmen, enter on any land within one hundred metres of any work authorised by or under this Chapter for the purpose of depositing thereon any soil, gravel, stone or other materials, or for obtaining access to such work or for any other purposes connected with the carrying on of the same.

(*2*) The person so authorised shall, before entering on any land under sub-section (*1*) state the purpose thereof, and shall, if so required by the occupier or owner, fence off so much of the land as may be required for such purpose.

(*3*) The person so authorised shall, in exercising any power conferred by this section, do as little damage as may be and compensation shall be payable by the Board on behalf of the Authority to the owner or occupier of such land or to both for any such damage, whether permanent or temporary.

Power to enter any place.

155. It shall be lawful for any person authorised in writing by a Board in this behalf to make an entry into any place, to open or cause to be opened any door, gate or other barrier—

(*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.

Occupier's or owner's consent ordinarily to be obtained.

156. Save as provided in this Chapter, no building or land 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 such occupier or owner, as the case may be, not less than twenty-four hours, written notice of the intention to make such an entry :

Provided that, no such notice shall be necessary, if the place to be inspected is a shed for cattle or a latrine, urinal or a work under construction.

Power to remove offensive or dangerous trades from slum improvement areas.

157. A Board may, by order in writing, direct any person carrying on any dangerous or offensive trade in a slum improvement area to remove the trade from that area within such time as may be specified in the order:

Provided that, no order under this section shall be made unless the person carrying on such trade has been given a reasonable opportunity of showing cause as to why the order should not be made.

Penalties.

158. (*1*) Whoever fails to comply with any notice, order or direction issued or given under this Chapter shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(*2*) Whoever commences or causes to be commenced any work in contravention of section 112, or of any terms or conditions imposed under sub-section (*3*) of that section, shall, on conviction, be punished with imprisonment for a term which may extend to six months, and with fine which may extend to one thousand rupees.

(*3*) Whoever obstructs the entry of any person authorised by or under this Chapter to enter into or upon any building or land or molests such person after such entry or incites or instigates or abets such obstruction or molestation shall, on conviction, be punished with imprisonment for a term which may extend to three months, and with fine which may extend to one thousand rupees.

(*4*) If a person committing an offence under this Chapter is a company, every person who at the time the offence is committed was in charge of, and was responsible to, the company for the conduct of the 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 any punishment provided in this Chapter, 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.

(*5*) Notwithstanding anything contained in sub-section (*4*) where an offence under this Chapter has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

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

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

Cesser of corresponding law.

159. Where any area is declared to be a slum improvement area, then as from the date of such declaration, the provisions of any law corresponding to the provisions of this Act, in relation to the slum improvement area shall, save as otherwise provided in this Chapter, cease to be in force in the slum improvement area.

The provisions of this Chapter shall not be taken to effect any property rights in any of the areas to which this Chapter applies; nor shall the provisions by or under this Chapter of any amenities be deemed to legalise what is otherwise illegal by or under any other law for the time being in force.

CHAPTER X

[1][PROVISIONS OF LOANS]

Advance loans by Authority.

160. The Authority may advance loans for the purposes of [2][purchase of any land developed by the Authority, or of purchase, on such terms as the Authority may, with the approval of the State Government, determine, of any building or tenement therein constructed by the Authority, or of construction of houses on land developed by the Authority, or of improvement, renovation or carrying out any extension to any house or hut constructed on any Authority premises] to,—

(*i*) co-operative societies;

XXI of 1860. (*ii*) societies registered under the Societies Registration Act, 1860;

Bom. XXIX of 1950. (*iii*) public trusts registered under the Bombay Public Trusts Act, 1950;

(*iv*) local authorities;

(*v*) companies or occupiers of factories, registered under any law for the time being in force, for housing the employees of the company or workers of [3][factories; or]

[4][(*vi*) any individual.]

Terms and conditions for advancing of loans.

161. Loans under section 160 may be advanced on such terms and conditions as may be determined by regulations.

Loan Advance Reserve Fund.

162. Notwithstanding anything contained in this Act, there shall be a separate reserve fund maintained by the Authority called the Loans Advance Reserve Fund for the purposes aforesaid. This fund shall be operated in such manner as the Authority may with the previous approval of the State Government from time to time determine.

Money borrowed for advancing loans not to be utilised for other purposes.

163. Whenever any sum of money has been borrowed by the Authority for the purposes of advance of loans, no portion thereof shall be applied to any other purposes without the previous sanction of the State Government.

Assistance for obtaining loans from banks or finance institutions.

[5][**163A.** (*1*) In order to enable the Authority to carry out any of its proposals, plans, schemes or projects, the Authority may, on receipt of an application to that effect, assist co-operative housing societies or members thereof or individual allottees, as the case may be, in obtaining loans from a Co-operative Bank or a Scheduled Bank or from a finance institution for the purposes of purchase of any land developed by the Authority, or of purchase of any building or a tenement therein constructed by the Authority or of construction of houses on land developed by the Authority or for improvement, renovation or carrying out any extension to any house or hut constructed on any authority premises or provision of any common amenities or facilities to the members of co-operative societies.

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[1] This heading was substituted by Mah. 12 of 1989, s.14.
[2] This portion was substituted for the words " construction of houses on lands developed by it " by Mah. 4 of 1985, s. 4(*a*)
[3] These words were substituted for the words " the factories,", by Mah. 4 of 1985, s.4(*b*).
[4] Clause (*vi*) was added,by Mah. 4 of 1985, s. 4(*c*).
[5] Section 163A was inserted by Mah. 12 of 1989, s. 15.

(*2*) Assistance by the Authority to obtain a loan under sub-section (*1*) shall, in addition to the usual terms and conditions laid down by a Co-operative Bank or a Scheduled Bank or a finance institution in that behalf, also be subject to such additional terms and conditions as may be determined by regulations.

(*3*) The terms and conditions of the grant of loan and of the mortgage deed to be executed by the borrower in favour of the creditor Bank or the finance institution for the purposes of loan shall be in consonance with the terms and conditions determined by regulations as provided under sub-section (*2*) and any terms and conditions inconsistent with the terms and conditions so determined shall be deemed to be void and inoperative.

(*4*) For avoidance of doubt, it is hereby declared that nothing in this section shall preclude the creditor Bank or the finance institution to take any action available to it under the provisions of any other law for the time being in force for the recovery of its dues under this section and that the provisions of this section in that respect shall be in addition to and not in derogation of such other provision of law.

Explanation.—For the purposes of this section, the expressions—

(*a*) " purchase of land " shall include obtaining land on lease on payment of any premium or any other consideration;

(*b*) " Scheduled Bank " means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934; II of 1934.

(*c*) "finance insitution" means any public finance institution such as Housing and Urban Devlopment Corporation, Housing Development, Finance Corporation, Life Insurance Corporation of India and General Insurance Corporation of India, which provide loans to any individual or any co-operative housing society.

CHAPTER XI

CONTROL

Power of State Government to give directions and instructions and to suspend resolutions and orders.

164. (*1*) The State Government may from time to time issue such directions or instructions as it may think fit in regard to finances and conduct of business and affairs of the Authority or any Board and the Authority and such Board shall be bound to follow and act upon these directions or instructions.

(*2*) (*a*) Without prejudice to the generality of the foregoing provision, if the State Government is of opinion that the execution of any resolution or order of the Authority or of any Board is in contravention of, or in excess of, the powers conferred by or under this Act or any other law for the time being in force, or is likely to lead to abuse or misuse of or to cause waste of the Fund of the Authority, the State Government may, in the public interest, by order in writing, suspend the execution of such resolution or order. A copy of such order shall be sent forthwith by the State Government to the Authority and its Chief Executive Officer and the Board concerned and its Chief Officer.

(*b*) On receipt of the order sent as aforesaid, the Authority, or the Board, as the case may be, shall be bound to follow and act upon such order.

Power of State Government to order inquiries.

165. (*1*) The State Government may, with a view to satisfying itself that the powers and duties of the Authority or any of its Boards are being exercised and performed properly, at any time, appoint any person or persons to make inquires into all or any of the activities of the Authority or the Boards, as the case may be, and to report to the State Government the result of such inquiries.

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

Reconstitution of Authority or Board.

166. (*1*) Notwithstanding anything contained in this Act, the State Government, if it is of opinion that it is expedient for any reason to reconstitute the Authority or any Board which is duly constituted under this Act, then it may, by notification in the *Official Gazette,* direct that the Authority or Board specified in the notification and functioning immediately before the date of such notification shall cease to function, and reconstitute such Authority or Board as provided in section 6, or as the case may be, section 18 of this Act.

(*2*) The opinion formed by the State Government under this section to reconstitute the Authority or any Board shall be final and conclusive and shall not be called in question in any court.

Default in performance of duty.

167. (*1*) If the State Government is satisfied that the Authority or any Board has made default in performing any duty imposed on it by or under this Act it may fix a period for the performance of that duty.

(*2*) If in the opinion of the State Government, the Authority or the Board fails or neglects to perform such duty within the period so fixed for its performance, it shall be lawful for the State Government, notwithstanding anything contained in section 6 or 18, to supersede and reconstitute the Authority, or as the case may be, the Board in the perscribed manner.

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

(*4*) Notwithstanding anything contained in this section, if the Authority is satisfied that any Board is not performing any duty imposed on it by or under this Act to secure efficient implementation thereof, the Authority may recommend to the State Government that the Board may be dissolved. On receipt of such recommendation, the State Government may dissolve the Board and either appoint an Administrative Officer to exerise all the powers and perform all the duties of the Board or appoint another Board to exercise such powers and perform such duties.

Power to appoint Administrators.

168.(*1*) If it appears to the State Government that the Authority is unable to exercise the powers or perform or discharge the duties or functions conferred or imposed upon it by or under this Act, or that majority of the members has resigned or the term of office of the members has expired and the State Government does not consider it expedient to reconstitute the Authority or fill the vacancies, the State Government may, notwithstanding anything contained in section 6 or any other provision of this Act, by notification in the *Official Gazette*, in place of the Authority consituted under section 6, appoint an Administrator for such period or periods, as may be determined by the State Government. After the expiry of his term of office the Administrator shall continue in office until the day immediately preceding the date of the first meeting of the Authority duly reconstituted in accordance with provisions of section 6.

(*2*) The Administrator so appointed shall be deemed to constitute the Authority for the time being, and shall exercise all the powers and perform and discharge all the duties and functions conferred and imposed upon the Authority or any of its authorities, members or officer, by or under this Act, or any other law for the time being in force.

(*3*) The Administrator shall receive such remuneration from the fund of the Authority, and the other conditions of service shall be such, as the State Government may determine.

(*4*) The Administrator may, subject to the general or special order of the State Government, delegate any of the powers, duties and functions exercisable or to be performed by him, to any officer or officers of the Authority specified in the order:

Provided that, nothing in this section shall affect the powers, duties or functions entrusted to any Board under this Act.

Dissolution of Authority.

169. (*1*) The State Government may, by notification in the *Official Gazette*, declare that, with effect from such date as may be specified in the notification, the Authority shall stand dissolved:

Provided that, no such declaration shall be made by the State Government unless a resolution to that effect has been moved in, and passed by, the Maharashtra Legislative Assembly.

(*2*) With effect from the date specified in the notification under sub-section (*1*)—

(*a*) all the members shall vacate their office;

(*b*) all properties, funds and dues which are vested in or realisable by the Authority shall vest in, and be realisable, by the State Government;

(*c*) all liabilities enforceable against the Authority shall be enforceable against the State Government to the extent of the properties, funds and dues vested in, or realised by the State Government.

(*3*) Nothing in this section shall affect the liability of the State Government in respect of loans or debentures guaranteed under sub-section (*5*) of section 36.

CHAPTER XII

MISCELLANEOUS.

Annual and other reports.

170. (*1*) The Authority shall submit, in respect of each year, an annual report to the State Government, in such form and before such date in the next succeeding year as the State Government may determine.

(*2*) The annual report, after it is approved by the State Government, shall be laid before each House of the State Legislature, as far as possible before the expiry of the year next succeeding the year to which it relates.

Other statements and returns.

171. The Authority shall also submit to the State Government such statistics, returns, particulars, statements, documents or papers in regard to any proposal, plan or project undertaken under this Act or relating to any matter or proceedings connected with the working of the Authority at such time and in such form and manner as may be determined by the State Government, or as the State Government may from time to time direct.

Power of entry.

172. Without prejudice to any provisions regarding entry elsewhere in any other provisions of this Act, it shall be lawful for any person authorised by the Authority in this behalf to enter into, or upon any building or land for the purposes of this Act, with or without assistants or workmen, in order to make any inquiry, inspection, census, measurement, valuation of survey or to execute any work which is authorised by or under this Act or which it is necessary to execute for any of the purposes of this Act or of any notice, rule, regulation, order, proposal, plan or project, or any instrument made thereunder:

Provided that no such entry shall be made between sunset and sunrise.

Notice of suit against Authority, etc.

173. No person shall commence any suit against the Authority or against any member of the Authority or of any Board or of any *Panchayat* or any officer or servant of the Authority or *Panchayat* or any person acting under the orders of the Authority or Board, or *Panchayat* for anything done or purporting to have been done in pursuance of this Act (including any contract thereunder), without giving to the Authority, member, officer or servant or person two months previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of.

And in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action is brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tender.

Members of Authority or Board or *Panchayat*, employees of Authority or *Panchayat* to be public servants.

174. All members of the Authority or any Board or any *Panchayat* and all employees of the Authority or *Panchayat* shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act to be public servants within the meaning of section 21 of the Indian Penal Code.

XIV of 1860.

Protection of action taken in good faith.

175. No suit, prosecution or other legal proceeding shall lie against any members of the Authority or Board or *Panchayat* or any employees of the Authority or *Panchayat* for anything which is in good faith done or intended to be done under this Act, or any rule, regulation, order, proposal, plan or project or any instrument made under this Act.

Power of prosecution.

176. Unless otherwise expressly provided, no court shall take cognisance of any offence punishable under this Act except on the complaint of, or upon information received from, the Authority or some person authorised by the Authority by general or special order in this behalf.

Bar of jurisdiction.

177. Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Authority or the Tribunal is empowered by or under this Act, to determine; and no injunction or stay shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred or duty imposed by or under this Act.

Compounding offences.

178. (*1*) The Chief Executive Officer or any of the officers who may be authorised by him in this behalf by general or special order may, either before or after the institution of the proceedings, compound any offence punishable under this Act.

(2) When an offence has been compounded, the offender, if in custody, shall be discharged; and no further proceedings shall be taken against him in respect of the offence compounded.

Authority to enforce certain contracts or agreements.

179. All contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of constitution of the authority and to which an existing Board was a party shall be of full force and effect against or in favour of the Authority and may be enforced and acted upon fully and effectively as if instead of the existing Boards, the Authority had been a party thereto or as if they had been entered into or issued in favour of the existing Board for the purposes of the Authority.

Recovery of sums due to existing Board or Authority as arrears of land revenue.

180. Notwithstanding anything contained in this Act, all sums payable to any existing Board immediately before the appointed date or to the Authority by any person or recoverable by it by or under the provisions of this Act and all charges and expenses incurred in connection therewith shall, without prejudice to any other mode of recovery, or otherwise provided by or under this Act, be recoverable as arrears of land revenue on the application of the Authority.

Powers to delegate.

181. (*1*) The Authority may, by general or special order, delegate any power exercisable by it or any function to be discharged or any duty to be performed by it by or under this Act to any of its officers [1][or to any Board or to any officers of the Board] on such terms and conditions as may be specified in such order.

[2][(*2*) The Authority may, by general or special order, delegate any power exercisable by a Board by or under this Act to any of its officer or to any officers of the Board on such terms and conditions as may be specified in such order.

(*3*) Notwithstanding anything contained in sub-section (*1*) or (*2*), the State Government may, by order in writing, direct the Authority to delegate,—

(*i*) such of its powers and functions conferred or imposed on it by or under this Act to the Board or such other authority or any officer of the Authority or of the Board; or

(*ii*) such of the powers and functions conferred or imposed on the Board by or under this Act to such other authority or any officer of the authority or of the Board,

as may be specified in the order, and it shall be duty of the Authority to follow and act upon such order.]

Penalty for obstruction, etc.

182. If any person-

(*a*) obstructs, or molests any person with whom the Authority 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 under this Act, or

(*b*) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Act,

he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Removal of diffculty.

183. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by order do anything which appears to it to be necessary for the purpose of removing the difficulty.

CHAPTER XIII

Rules, Regulations And By-laws

Power to make rules.

184. (*1*) The State Government may, by notification in the *Official Gazette*, make rules [3][prospectively or retrospectively, with effect from such date, as it may specify in such notification,] for the purpose of carrying into effect the provisions of this Act.

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[1] These words were substituted for the words "or to any Board" by Mah. 12 of 1989, s.16(*a*).
[2] These sub-sections were substituted for sub-section (*2*), by Mah. 12 of 1989, s. 16 (*b*).
[3] These words were inserted by Mah. 23 of 2002, s .2.

(*2*) In particular and without prejudice to the generality of the provisions of sub-section (*1*), such rules, may provide for all or any of the following matters, namely :—

(*i*) for regulating the mode of recruitment including provisions for absorption or promotion of persons already working in any Board and for providing terminal benefits under sub-section (*5*) of section 19;

(*ii*) conditions to be prescribed under sub-section (*1*) including issue of debentures under sub-section (*2*) of section 36;

(*iii*) the manner of maintenance of the books of account and the preparation of the annual statement of accounts of the Authority under sub-section (*1*) of section 39;

(*iv*) the manner of service of the notice under the proviso to sub-section (*1*) of section 41;

(*v*) the manner of holding the inquiry by the Land Acquisition Officer and service of notice on the owner of the land, under sub-section (*5*) of section 44;

(*vi*) the period within which the betterment charges proposed by the Authority to be accepted by the person concerned, under sub-section (*3*) of section 54;

(*vii*) the rate of interest to be charged on any outstanding payment of the Authority under sub-section (*1*) of section 55;

(*viii*) the rules subject to which the Authority may retain, lease, sell, exchange, or otherwise dispose of any land, etc., under section 64;

(*ix*) the other manner in which a notice under sub-section (*1*) of section 66 may be given;

(*x*) the manner of publication of notice under sub-section (*4*) of section 66;

(*xi*) [1][the penalty to be imposed] for default in the payment of rent or compensation under *Explanation* II to section 66;

(*xii*) the rules subject to which the recovery of rent, compensation or damages may be recovered as arrears of land revenue under sub-section (*1*) of section 67;

(*xiii*) the other matters in respect of which the Competent Authority shall have the powers of the civil court under the Code of Civil Procedure, 1908, under section 69;

V of 1908.

(*xiv*) the manner in which the rebate shall be claimed by, and paid to the Municipal Corporation of Greater Bombay, under sub-section (*2*) of the section 85;

(*xv*) regulating all matters connected with [2][the Mumbai Building Repairs and Reconstruction Fund] under sub-section (*3*) of section 86;

(*xvi*) regulating all matters connected with the Maharashtra Slum Improvement Fund, under sub-section (*2*) of section 117;

(*xvii*) the manner in which the resignation shall be delivered by the members, *Sarpanch* or *Upa-Sarpanch* of a *Panchayat* resigning his office, under section 126;

(*xviii*) prescribing notice to be given for moving no-confidence motion against the *Sarpanch* or the *Upa-Sarpanch,* under sub-section (*1*) of section 127;

(*xix*) the intervals and the procedure for the meetings of the *Panchayat,* under section 128;

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[1] These words were substituted for the words "the manner of levying penalty" by Mah. 12 of 1989, s.17.

[2] These words were substituted for the original by Mah. 25 of 1996, s. 2, Sch., para (3).

(*xx*) the powers to be exercised and functions to be performed by the *Sarpanch* and *Upa-Sarpanch,* under section 129;

(*xxi*) the manner and the form in which every contract made and executed by the *Sarpanch* on behalf of the *Panchayat,* under sub-section (*2*) of section 139;

(*xxii*) the form of the writ of demand under sub-section (*2*), the manner of distraint and sale of moveable property under sub-section (*4*), and the form and manner in which a written receipt for any amount recovered by the *Panchayat* shall be given under sub-section (*6*), of section 140;

(*xxiii*) the custody in which the sums received by the *Panchayat* and the *Panchayat* fund shall be kept, under section 142;

(*xxiv*) the date before which and the form in which the annual statement of the opening balance in the *Panchayat* fund and the expenditure the *Panchayat* shall submit to the Board under sub-section (*1*) and the form in which the accounts of the *Panchayat* shall be kept by the *Sarpanch* and the date before and the form in which the annual statement of accounts shall be sent to the Board by the *Sarpanch* under sub-section (*3*) of section 144;

(*xxv*) the manner of supersession and reconstitution of the Authority, or as the case may be, the Board under sub-section (*2*) of section 167;

(*xxvi*) levy fees for any of the purposes of this Act, and for refund of such fees.

(*3*) Except when rules are made for the first time, all rules made under this Act shall be subject to the condition of previous publication.

(*4*) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two succesive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette,* the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Power to make regulations.

185. (*1*) The Authority may, from time to time, with the previous sanction of the State Government, make regulations, consistent with this Act and the rules made thereunder, and for all or any of the matters which have to be or may be, prescribed or provided by regulation under any of the provisions of this Act.

(*2*) If it appears to the State Government that it is necessary or desirable for carrying out the purposes of this Act to make any regulations in respect of matters specified in sub-section (*1*) or to amend any regulation made under that sub-section, the State Government may call upon the Authority to make regulation or, amendment within such time as it may specify. If the Authority fails to make such regulation or amendment within the time specified, the State Government itself may make such regulation or amendment and the regulation or the amendment so made shall be deemed to have been duly made by the Authority under sub-section (*1*).

Power to make by-laws.

186. (*1*) The Authority may make by-laws, not inconsistent with this Act or any rule or regulation, which may be necessary or expedient for the purpose of carrying out its duties and functions under this Act.

(*2*) No by-law made by the Authority shall come into force until it has been confirmed by the State Government with or without modification.

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

Penalty for contravention of by-laws.

187. Whoever contravenes a by-law made under section 186 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

CHAPTER XIV

Repeal And Savings

Repeal and savings.

188. (*1*) On and from the appointed day—

Bom. LXIX of 1948. (*a*) the Bombay Housing Board Act, 1948, as in force in the Bombay and Hyderabad Area of the State,

M. P. Act XLIII of 1950. (*b*) the Madhya Pradesh Housing Board Act, 1950, as in force in the Vidarbha Region of the State;

Mah. XLVII of 1969. (*c*) the Bombay Building Repairs and Reconstruction Board Act, 1969; [1][and]

Mah. XXIII of 1973. (*d*) the Maharashtra Slum Improvement Board Act, 1973; [2]*

[3]* * * * * *

shall stand repealed:

Provided that, the repeal shall not affect—

(*a*) the previous operation of any law so repealed or anything duly done or suffered thereunder, or

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed, or

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed, or

(*d*) any investigation, proceedings, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, proceedings, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forefeiture or punishment may be imposed as if this Act had not been passed :

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[1] The word " and " was inserted by Mah. 54 of 1977, s.6(*a*).

[2] The word " and " was deleted by Mah. 54 of 1977, 6(*b*).

[3] Clause (*e*) was deleted by Mah. 54 of 1977, s. 6(*c*).

Provided further that subject to the preceding proviso and any saving provisions made elsewhere in this Act, anything done or any action taken under the provisions of any law so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act; and shall continue to be in force accordingly unless and until superseded by anything done or action taken under this Act.

(*2*) (*a*) Any reference in any law or in any instrument or other document to the provisions of any law so repealed shall, unless a different intention appears, be construed as a reference to the corresponding provisions of this Act;

(*b*) any reference in any law or in any instrument to any existing Board shall, unless a different intention appears, be construed as a reference to the Authority and such law or insturment shall apply to the Authority.

Consequences of repeal.

189. With effect from the appointed day, without prejudice to the generality of the provisions of the provisos to sub-section (*1*) of section 188, the following consequences shall, unless the State Government by a general or special order directs otherwise, ensue, that it is to say,—

(*a*) all properties, moveable and immovable and interests of whatsoever nature and kind therein which vested in an existing Board immediately before the appointed day shall be deemed to be transferred to, and shall vest, without further assuarance, in the Authority subject to all limitations and conditions and rights or interests of any person, body or authority in force or subsisting immediately prior to the appointed day;

(*b*) all rights, liabilities and obligations of an existing Board including those arising under any agreement or contract shall be deemed to be the rights, liabilities and obligations of the Authority;

(*c*) all sums due to an existing Board, whether under any contract or otherwise shall be recoverable by the Authority, and for the purposes of such recovery, the Authority shall be competent to take any measures or institute any proceedings which it would have been open to the existing Board or any Authority thereof to take or institute before the appointed day;

(*d*) any fund vesting in an existing Board shall be deemed to be the fund of the Authority;

(*e*) all contracts made with, and all instruments executed on behalf of, an existing Board shall, subject to the provisions of section 179, be deemed to have been made with, or executed on behalf of, the Authority, and shall have effect, accordingly;

(*f*) if, on the date of constitution of the Authority, any suits, appeals or legal proceedings of whatever nature by or against any existing Board are pending, then such suits, appeals or legal proceedings shall not abate, be discontinued or be in any way prejudicially affected by reason of transfer to the Authority of the property, assets, rights and liabilities of the existing Board, but the suits, appeals or legal proceedings may be continued, prosecuted and enforced by or against the Authority.

Mah. XLV of 1963. Mah. XXVIII of 1977.

190. The Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963, shall not apply to the Authority duly constituted under the Maharashtra Housing and Area Development Act, 1976, or to any land or building belonging to or vesting in, any such Authority. Mah. XLV of 1963 not to apply to Authority, etc.

Mah. XXXVII of 1966.

191. In the Maharashtra Regional and Town Planning Act, 1966,— Amendment of sections 2 and 40 of Mah. XXXVII of 1966.

*[1][(*a*) in section 2, in clause (*15*), in paragraph (*c*), for sub-paragraph (*ii*), the following sub-paragraphs shall be substituted, namely :—

Mah. XXVIII of 1977.

"(*ii*) the Authority constituted under the Maharashtra Housing and Area Development Act, 1976;

C. P. and Berar XXXVI of 1936.

(*iii*) the Nagpur Improvement Trust constituted under the Nagpur Improvement Trust Act, 1936,";]

(*b*) in section 40, in sub-section (*1*), after clause (*a*), the following clause shall be inserted, namely :—

Mah. XXVIII of 1977.

"(*aa*) appoint the Authority constituted under the Maharashtra Housing and Area Development Act, 1976, or ".

Bom LII of 1956.

192. In the Bombay Legislature Members (Removal of Disqualifications) Act, 1956, in Schedule I, for entry 15, the following entry shall be substituted, namely :— Amendment of Schedule I of Bom. LII of 1956.

"15. The office of a member of the Maharashtra Housing and Area Development Authority (including the President and the Vice-President thereof) constituted under the Maharashtra Housing and Area Development Act, 1976, or a member of any of the Housing and Area Development Boards (including the Chairman and the Vice-Chairman thereof) established under that Act, or a member of any *Panchayat* (including the *Sarpanch* and *Upa-Sarpanch* thereof) established under that Act, by reason only of his holding such office.".

Mah. XXVIII of 1977.

193.*[Substitution of section 272 of C.P. and Berar II of 1950] Deleted by Mah. 54 of 1977, s. 7.*

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[1] Clause (*a*) was deemed to have been substituted for the original on 21st November 1977 by Mah. 29 of 1978, s.3.

* Section 4 of Mah. 29 of 1978 reads as follows :—

Mah. XXVIII of 1977. Mah. XXXVII of 1966.

"4. For the removal of doubt, it is hereby declared that clause (*a*) of section 191 of the Maharashtra Housing and Area Development Act, 1976, which alongwith the other provisions of that Act, was brought into force on the 5th December 1977, shall come into force, and shall be deemed to have come into force, on that day, as amended by this Act, and the Nagpur Improvement Trust shall be deemed to have continued without any break as a local authority for the purposes of clause (*15*) of section 2 of the Maharashtra Regional and Town Planning Act, 1966.". Removal of doubt.

FIRST SCHEDULE

[*See* sub-section (*1*) of section 44]

Principles for determination of the net average monthly income :—

1. The Land Acquistion Officer shall first determine the gross rent actually derived by the owner of land acquired, including any building on such land, during the period of five consecutive years referred to in sub-section (*3*) of section 44.

2. For such determination, the Land Acquisition Officer may hold any local inquiry and obtain, if necessary, certified copies of extracts from the property tax assessment books of the local authority concerned showing the rental value of such land.

3. The net average monthly income referred to in sub-section (*3*) of section 44 shall be sixty per cent. of the average monthly gross rent which shall be one-sixtieth of the gross rent during the five consecutive years as determined by the Land Acquisition Officer under paragraph 1.

4. Forty per cent. of the gross monthly rental referred to above shall not be taken into consideration in determining the net average monthly income but shall be deducted in lieu of the expenditure which the owner of the land would normally incur for payment of any property tax to the local authority, for collection charges, income tax or bad debts as well as for works of repair and maintenance of the building, if any, on the land.

5. Where the land or any portion thereof has been unoccupied, or the owner has not been in receipt of any rent for the occupation of the land during the whole or any part of the said period of five years, the gross rent shall be taken to be income which the owner would in fact have derived if the land had been leased out for rent during the said period, and for this purpose the rent actually derived from the land during a period prior to subsequent to the period during which it remained vacant or from similar land in the vicinity shall be taken into account.

[1][SECOND SCHEDULE

[*See* sub-section (*1*) of section 82]

I. The rates at which cess under Chapter VIII of this Act shall be levied on buildings and lands :—

Serial No.		Buildings classified as belonging to Category 'A'	Buildings classified as belonging to Category'B'	Buildings Classified as belonging to Category 'C'
(1)		(2)	(3)	(4)
1	Where a building is not structurally repaired (or is not deemed to be so repaired) by the Board.	At the rate of 87 per cent. of the rateable value of the building.	At the rate of 63 per cent. of the rateable value of the building.	At the rate of 39 per cent. of the rateable value of the building.

[1] This Schedule was substituted by Mah. 30 of 1994, s. 2.

SCHEDULE—Contd

(1)		(2)	(3)	(4)
2	Where a building is structurally repaired (or is deemed to be so repaired) by the Board and—			
(*i*)	the Board has contributed towards the cost of the repairs, at the rate upto three hundred rupees per square metre;	At the rate of 195 per cent. of the rateable value of the building.	At the rate of 132 per cent. of the rateable value of the building.	At the rate 75 per cent. of the rateable value of the building.
(*ii*)	the Board has contributed towards the cost of the repairs, at the rate exceeding three hundred rupees per square meter but not exceeding five hundred rupees per square metre;	At the rate of 390 per cent. rateable value of the building.	At the rate of 270 per cent. of the rateable value of the building.	At the rate of 150 per cent. of the rateable value of the building.
(*iii*)	the Board has contributed towards the cost of the repairs, at the rate exceedig five hundred rupees per square metre but not exceeding seven hundred and fifty rupees per square metre.	At the rate of 585 per cent. of the rateable value of the building.	At the rate of 405 per cent. of the rateable value of the building.	At the rate of 225 per cent. of the rateable value of the building.

II. Where any part or parts of a building is or are used for non-residential purposes, the rate of the cess to be levied and paid in respect of such part or parts shall be double the rate of cess payable for that part or those parts if they were used for residential purposes.]

[1][THIRD SCHEDULE

[*See* section 103I (*3*)]

Scale showing the percentage of built-up area to be reserved by the co-operative society for allotment by the Board.

In building reconstructed for mixed use i.e. residential and commercial		In building reconstructed for residential use	
Surplus area	Built-up area to be reserved	Surplus area	Built-up area to be reserved
(1)	(2)	(3)	(4)
Upto 40 per cent.	.. Nil	Upto 50 per cent.	Nil
Upto 45 per cent.	.. 5 per cent.	Upto 55 per cent.	5 per cent.
Upto 55 per cent.	.. 10 per cent.	Upto 65 per cent.	10 per cent.
Upto 60 per cent.	.. 15 per cent.	Upto 70 per cent.	15 per cent.
Upto 65 per cent.	.. 20 per cent.	Upto 75 per cent.	20 per cent.
Upto 70 per cent.	.. 25 per cent.	Upto 80 per cent.	25 per cent.
Upto 80 per cent.	.. 30 per cent.	Upto 90 per cent.	30 per cent
Upto 85 per cent.	.. 35 per cent.	Upto 95 per cent.	35 per cent.
Upto 90 per cent	.. 40 per cent.	above 95 per cent.	40 per cent.
above 90 per cent.	.. 50 per cent.	....	....].

[1] The Third Schedule was added by Mah. 21 of 1986, s. 6.

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