

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.

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.

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

Non-
applicability of
Rent Act or
any corre-
sponding law.

(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.

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

Constitution of
Authority.

(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 company 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.

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 this appointment in the *Official Gazette* :

Term of
office.

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 members, so however, that he does not hold office for a period of more than seven years in the aggregate.

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.

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

(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.

Disqualifica-
tions of
members.

11. (1) Subject to the provisions of this section, a persons 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 person 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.

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 —

Removal of members.

(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 persons 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.

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.

Filling of vacancies.

(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.

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.

Proceedings presumed to be good and valid.

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.

Existing Boards to continue until Authority constituted.

Organisation of the Authority

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

Authorities charged with execution of this Act.

(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 (1)	Area of jurisdiction districts of— (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].

¹ This 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 and Sch. para (3).

³ These words were substituted for the words "The City of Bombay", *ibid.*

⁴ These words were substituted for the words "Bombay Suburban", *ibid.*

¹[(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 the districts as shown against each of them on and with effect from such date as may be specified in that notification, namely :—

- | | |
|--|---|
| (1) ² [The Mumbai Repairs and Reconstruction Board] | ³ [The City of Mumbai.] |
| (2) ⁴ [The Mumbai Slum Improvement Board]. | (a) ⁵ [The City of Mumbai.]
(b) ⁶ [The Mumbai Suburban]. |

⁷[(2) Every Board shall consist of a Chairman and not more than ⁷[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).

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) ²[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.

¹ Clause (c) was added by Mah. 11 of 1993, s. 2 (a).

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

³ These words were substituted for the words "City of Bombay", *ibid.*,

⁴ These words were substituted for the words "the Bombay Slum Improvement Board," *ibid.*

⁵ These words were substituted for the words "Bombay Suburban," *ibid.*

⁶ Sub-section (2) was substituted by Mah. 54 of 1977, s. 3 (a).

⁷ This figure was substituted for the figure "14" by Mah. 42 of 1994, s. 2.

⁸ 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).

(11) 1* * * * *

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 ²[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.

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(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. ³[(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) 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.]

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, and be absorbed as, an employee of the Authority. He shall hold his office in

¹ Sub-section (11) was deleted by Mah. 11 of 1993, s. 3 (c).

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

³ Section 21 was re-numbered as sub-section (1) thereof and after sub-section (1) so renumbered sub-section (2) was added by Mah. 12 of 1989, s. 2.

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.

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, of a revision of the other terms and conditions of service applicable, to employees of 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 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.

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

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.

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.

General disqualification of all employees.

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 vote, 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 meetings, 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.

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