

CHAPTER VIII

REPAIRS AND RECONSTRUCTION OF DILAPIDATED BUILDINGS

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 for purposes of this Chapter.

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.

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

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

Duties relating to repairs and reconstruction of dilapidated buildings.

(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 buildings, 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 repaired 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 ;

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 and 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 occupier'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

(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 therefore 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 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 section 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 provision 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 per centum 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).

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 subsection 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) Whether 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 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.

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of
1962. (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,—

(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.

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 building 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 thereon 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;

Exemption
of certain
buildings and
lands from
payment of
cess.

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

(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 Building Repairs and Reconstruction Board Act, 1969, came into force in such area ;

(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.]

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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.

¹ Clause (p) was added by Mah. 16 of 1998, s. 2 (4).

² Sub-section (2) was deleted, *ibid.*, s. 2 (b).

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of
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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 retable 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.

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.]

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86. (1) The proceeds of the cess collected and paid to the State Government by the Bombay 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 ¹[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 ²[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.

¹[Mumbai
Building
Repairs and
Re-
constructio
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.

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.

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

87. (1) If the ¹[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 satisfied 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 a building will exceed ²[One thousand and two hundred rupees] per square metre, or

(b) the cost of structural repairs to a building will exceed ³[One thousand and two hundred rupees] per square metre 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 such building does not exceed ³[One thousand and two hundred rupees] per square metre,

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 "one thousand rupees" by Mah. 6 of 2005, s. 2.

³ These words were substituted for the words "one thousand rupees" by Mah. 6 of 2005, s. 4.

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

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

(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 carried 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."

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 '[one thousand and two hundred rupees] per square metre 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 strural 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.

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.

Procedure
before
undertaking
structural
repairs.

(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.

(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.

¹ These words were substituted for the words "One thousand rupees" by Mah. 6 of 2005, s. 4.

(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
accommoda-
tion 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 occupier 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.

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 forthwith 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.

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.

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

(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 ¹[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: ²[* * *]

³[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 ⁴[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 Commissioner 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

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

² 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).

³ The proviso was inserted, *ibid.*, s. 5(b).

⁴ These words were substituted for the word "rent", *ibid.*, s. 9(b).

pull down the building, with a view to preventing all cause of danger 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.

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.

Clearance and
compulsory
acquisition.

(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 Gazette* 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.

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 day's 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 allotted 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

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

eviction and the responsibility of the Board to provide him any accommodation shall cease.]

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 :

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

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.

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 :

Summary eviction of Occupiers in certain cases.

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 unauthorisely 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.]

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.

Amount of acquisition.

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.

Contribution by State Government, Mumbai Corporation and 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.]

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
'[Mumbai
Corporation].

99. (1) The '[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 '[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 '[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
reconstruc-
tion
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 '[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 recon-
structed 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.

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

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 undertaken by the Board :

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

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.

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.

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