

**MAHARASHTRA ACT No. XXIII OF 1973<sup>1</sup>**

[THE MAHARASHTRA SLUM IMPROVEMENT BOARD ACT, 1973]

[26th April 1973]

**An Act to provide for the establishment of a separate Board to carry out works of improvement in the slum areas of the State.**

WHEREAS, several slums have sprung up and continue to exist in the various areas of the State ;

AND WHEREAS, despite continued efforts by local authorities, Housing Boards, Improvement Trusts and other bodies to remove the slums, and to rehouse and resettle the slum dwellers in housing colonies and the like, it has not been possible to keep pace with the necessities of the situation ;

AND WHEREAS, existing slums are becoming a source of danger to the health, safety and convenience of the slum dwellers and also to the surrounding areas, and generally a source of nuisance to the public ;

AND WHEREAS, until such time as these slums are removed and the persons settled and housed in proper buildings, it is necessary to provide the basic necessities, such as water, sanitary arrangements, light, etc., to the slum dwellers ; and for the purpose of more effectively and most speedily providing these amenities, it is now expedient to set up a Slum Improvement Board ; and to provide for matters connected with the purposes aforesaid ; It is hereby enacted in the Twenty-fourth Year of the Republic of India as follows :—

**CHAPTER I.**

*Preliminary*

1. (1) This Act may be called the Maharashtra Slum Improvement Board Act, 1973. Short title, extent and commencement.

(2) It extends to the whole of the State of Maharashtra.

(3) This Act shall come into force at once in the areas specified in Schedule I. The State Government may, by notification in the *Official Gazette*, bring it into force in any other area on such subsequent date as may be appointed in the notification, and different dates may be appointed for different areas.

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

(1) " Board " means the Board established under section 3 ;

(2) " building " includes a house, out-house, stable, shed, hut and other enclosure or structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever, whether used as a human dwelling or otherwise ; and also includes *verandahs*, fixed platforms, plinths, door-steps, electric meters, walls including compound walls and fencing and the like ; but does not include plant or machinery comprised in a building ;

(3) " Chairman " means the Chairman of the Board ;

(4) " Chief Executive Officer " means the Chief Executive Officer of the Board ;

(5) " Housing Board " means the Maharashtra Housing Board constituted under the Bombay Housing Board Act, 1948 or the Vidarbha Housing Board constituted under the Madhya Pradesh Housing Board Act, 1950, as the case may be, within its respective jurisdiction ;

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<sup>1</sup> For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1973, Part V, pp. 637-639

(6) "land" includes building and also benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth ;

(7) "Member" means a member of the Board, and includes the Chairman ;

(8) "Municipal Corporation" means the Municipal Corporation of Greater Bombay, the Corporation of the City of Nagpur, or the Municipal Corporation of the City of Poona or the City of Sholapur or of any other City constituted under the Bombay Provincial Municipal Corporations Act, 1949, as the case may be, within its respective jurisdiction ;

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(9) "Municipal Council" means a Municipal Council constituted under the Maharashtra Municipalities Act, 1965 ;

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(10) "Nagpur Improvement Trust" means the Nagpur Improvement Trust constituted under the Nagpur Improvement Trust Act, 1936 ;

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(11) "non-official Member" means a Member not being an *ex-officio* member ;

(12) "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 ;

(13) "owner", when used with reference to any building or land, means the person who receives or is entitled to receive the rent of the building or land, if the building or land 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 or land devoted to religious or charitable purpose ;

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

(d) a mortgagee in possession ;

(14) "Panchayat" means a Panchayat established for any slum improvement area under section 48 ;

(15) "prescribed" means prescribed by regulations ;

(16) "regulations" means the regulations made by the Board under section 100 ;

(17) "rules" means the rules made by the State Government under section 99 ;

(18) "Sarpanch" and "Upa-Sarpanch" means a Sarpanch and Upa-Sarpanch of a Panchayat ;

(19) "slum improvement area" means any area declared as such by the Board under sub-section (1) of section 26 ;

(20) "Tribunal" means the Tribunal constituted under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, and discharging the functions of the Tribunal under this Act ;

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(21) "year" means the year commencing on the 1st day of April.

## CHAPTER II.

*Establishment, Proceedings and Organisation of the Board.*

3. The State Government shall, by notification in the *Official Gazette*, establish for the purpose of this Act, a Board by the name of "the Maharashtra Slum Improvement Board".

Establishment of the Board.

4. (1) The Board shall consist of the Chairman and the following other Members, namely :—

Composition of the Board.

(a) the Chairman appointed by the State Government ;

(b) the Housing Commissioner, Maharashtra Housing Board, *ex-officio* ;

(c) the Housing Commissioner, Vidarbha Housing Board, *ex-officio* ;

(d) an officer of the Municipal Corporation of Greater Bombay, not below the rank of City Engineer, nominated by the Municipal Commissioner of that Corporation, *ex-officio* ;

(e) an officer of the Municipal Corporation of the City of Poona, not below the rank of City Engineer, nominated by the Municipal Commissioner of that Corporation, *ex-officio* ;

(f) an officer of the Municipal Corporation of the City of Sholapur, not below the rank of City Engineer, nominated by the Municipal Commissioner of that Corporation, *ex-officio* ;

(g) an officer of the Corporation of the City of Nagpur, not below the rank of City Engineer, nominated by the Municipal Commissioner of that Corporation, *ex-officio* ;

(h) an officer of the Aurangabad Municipal Council, not below the rank of Municipal Engineer, nominated by that Council, *ex-officio* ;

(i) a Deputy Secretary to Government in the Finance Department, appointed by the State Government, *ex-officio* ;

(j) a Deputy Secretary to Government in the Revenue and Forests Department, appointed by the State Government, *ex-officio* ;

(k) eight non-official Members appointed by the State Government ;

(l) the Chief Executive Officer, *ex-officio*, who shall also be the Secretary of the Board.

(2) The names of the non-official Members appointed under sub-section (1) shall be published in the *Official Gazette*.

5. (1) Every non-official Member shall hold office for a period of three years from the date of his appointment :

Term of office and conditions of service of non-official Members.

Provided that, the State Government may extend the said period by a further period not exceeding one year :

Provided further that, after the expiry of the period of his appointment, a person shall, unless disqualified or removed, be eligible for re-appointment.

(2) Every non-official Member shall receive such allowances for the purpose of meeting the personal expenditure incurred in attending the meeting of the Board or in performing any other functions as such Member, as may be determined by the State Government, from time to time.

(3) The allowances to the non-official Members shall be paid from the Fund of the Board.

6. 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.

Resignation of non-official Members.

Temporary  
absence of  
Members.

7. If any Member is by infirmity or otherwise rendered temporarily incapable of carrying out his duties 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.

Disqualifi-  
cations of  
non-official  
Members.

8. (1) A person shall be disqualified for being appointed or continuing as a non-official Member, if he—

- (a) holds any office or place of profit under the State Government ;
- (b) is of unsound mind, and stands so declared by a competent Court ;
- (c) is 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 State Government, in connection with the affairs of the Board ;
- (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 State Government, in connection with the affairs, of the Board ; or
- (f) has been or is convicted of any offence involving moral turpitude.

(2) 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 those 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 Board is inserted.

(3) 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 within the meaning of those clauses, by reason only of his being a share-holder 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.

9. If the State Government is of opinion that any Member is guilty of misconduct in the discharge of his duties, or is incompetent to perform or has become incapable of performing his duties as a Member or should for any other good and sufficient reason be removed, the State Government may, after giving the Member an opportunity to show cause against his removal, by notification in the *Official Gazette*, remove him from office.

Vacation of  
member-  
ship.

10. If a non-official Member—

- (a) becomes subject to any of the disqualifications mentioned in section 8, or
- (b) is absent without the permission of the Board from all meetings of the Board for a period of two successive months,

he shall cease to be a Member.

Filling of  
vacancies.

11. (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.

12. The Board may, from amongst its members, appoint such Committees (including an Executive Committee or a Technical Committee) consisting of such number of persons and for such period as it may think fit for any purposes which, in the opinion of the Board, would better be regulated and managed by means of a Committee ; and may delegate, with such restrictions or conditions (if any), as it may think fit to impose, any of its powers or functions to any such Committee. The proceedings of such Committees shall be regulated in accordance with the regulations made in that behalf.

Appointment of Committees.

13. (1) The Board shall meet at such times, at least once in a month, and at such places as the Chairman may determine.

Meetings of the Board.

(2) The Chairman, or in his absence any other Member chosen by the Members present from amongst themselves, shall preside at a meeting of the Board.

(3) All questions at a meeting of the Board 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) One-third of the total number of Members shall be the quorum required to constitute a meeting of the Board.

(5) Minutes shall be kept of the names of the Members present and of others who attend the meetings of the Board 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 be signed at the next ensuing meeting after confirmation at such meeting and shall be open to inspection by any Member during office hours.

(6) Subject as aforesaid, the Board may observe such rules of procedure in regard to the transaction of its business, as it may deem proper and expedient.

14. No act or proceedings of the Board or any of its Committees shall be invalid by reason only of a vacancy therein, or any defect in the appointment of any person acting as the Chairman or Member, if such act or proceeding is otherwise in accordance with the provisions of this Act.

Proceedings presumed to be good and valid.

15. (1) The Board may, with the previous sanction of the State Government associate with itself or consult such persons whose assistance or advice it may require for the purpose of performing any of its functions under this Act ; such persons may be paid by the Board from its Fund such remuneration or fees or allowances as may be sanctioned by the State Government.

Consultation of association with experts.

(2) The person so assisting or advising the Board may take part in the discussions of the Board relevant to the purpose for which he is associated or consulted, but he shall not have the right to vote at a meeting or take part in the discussions of the Board relating to other purposes.

16. (1) The Board shall have a Chief Executive Officer, Chief Technical Officer one or more Technical Officers, Chief Accounts Officer and such other officers and servants as the Board may consider necessary, for the efficient performance of its powers and functions.

Appointment of officers and servants.

(2) The appointment of the Chief Executive Officer, the Chief Technical Officer, the Chief Accounts Officer and all other officers of Class I and Class II shall be made by the State Government.

(3) The appointment of Class III and Class IV servants shall be made by the Chief Executive Officer, in the same manner in which recruitment and appointment of such servants is made in the local offices of the State Government.

**Preparation and maintenance of Schedule of establishment.** 17. Before the first of May every year, the Board shall prepare and maintain a Schedule of Establishment as on the first day of April of that year showing—

(i) the number, designations and grades and scales of pay of the officers and servants (other than the employees who are paid by the day or whose pay is charged to temporary work), whom it considers necessary and proper to employ for the purposes of this Act ;

(ii) the amount and nature of the salary, allowances and fees to be paid to each officer or servant ;

(iii) the amount to be laid towards leave salary, pension, provident fund or any other purpose in respect of each officer or servant.

**Conditions of service of officers and servants.** 18. The remuneration and other conditions of service of the Chief Executive Officer and other Government officers and servants serving under the Board shall be such as may be determined by the State Government.

**Expenses of the Board on the staff.** 19. All expenses incurred by the Board, including expenses incurred on account of salaries, allowances, fees and other remuneration payable to the officers and servants serving under the Board shall be met from the Fund of the Board.

### CHAPTER III.

#### *Powers, Duties and Functions of the Board*

**Duties of the Board.** 20. Subject to the control, direction and superintendence of the State Government, it shall be the duty of the Board,—

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

(b) to undertake, from time to time, the works of maintenance and repairs in respect of any improvement works in 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 State Government to facilitate exercising of its powers and performance of its duties under this Act.

**Power of Board to entrust improvement works.** 21. In any slum improvement areas, the Board, may with the previous approval of the State Government and on such terms and conditions as may be agreed upon, entrust to the Housing Board, the Nagpur Improvement Trust, 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 by Government, Municipal Corporation, ect.** 22. The State Government, the Housing Board, the Nagpur Improvement Trust, the Municipal Corporation or the Municipal Council may assign or entrust to the Board, any property, whether movable or immovable, for use by the Board, for the purposes of this Act, on such terms and conditions as may be agreed upon by the Board and approved by the State Government. It shall be the duty of the Board to use such property for the purpose for which it is assigned or entrusted.

23. (1) The Housing Board, the Nagpur Improvement Trust, the Municipal Corporation or the Municipal Council may transfer to the Board, any improvement works completed by it in any slum improvement area, for the purpose of maintenance, or for any other purpose of this Act, on such terms and conditions as may be agreed upon by the Board and approved by the State Government, and it shall be the duty of the Board to carry out the purpose for which such works are transferred. Transfer of improvement works to the Board.

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

24. (1) For the purpose of this Act, the Chief Executive Officer, or any other officer authorised by the State Government in this behalf, shall be competent to make and execute on behalf of the State Government, any contract with any person subject to the provisions of next succeeding sub-sections. Contracts, suits and proceedings.

(2) No contract involving an expenditure of rupees fifty thousand or more shall be made without the previous sanction of the Board.

(3) No contract involving an expenditure of rupees one lakh or more shall be made without the previous sanction of the State Government.

(4) Sub-sections (2) and (3) shall apply to every variation or abandonment of a contract or estimate as well as to an original contract or estimate.

(5) Every contract shall be entered into in such manner and form as may be laid down by rules.

(6) For the removal of doubt, it is hereby declared that,—

(a) all contracts made under this section are contracts made in exercise of the executive power of the State ;

(b) all suits and proceedings in connection with the administration of this Act may be instituted by or against the State Government.

25. Subject to the other provisions of this Act, and the rules and regulations made thereunder, the Board shall have power— Other powers of the Board.

(1) to delegate, with the previous sanction of the State Government, any of its powers and duties generally or specially to any of its committees or its officers ;

(2) to do such other things and perform such acts as it may think necessary or expedient for the proper exercise and discharge of its powers, duties and functions, and generally for the purpose of carrying into effect the purposes of this Act.

#### CHAPTER IV.

##### *Slum Improvement.*

26. (1) Where the 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 that area or of its neighbourhood by reason of the area having inadequate or no basic amenities, or being insanitary, squalid, overcrowded or otherwise, 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. A copy of such declaration shall be displayed in conspicuous places in such area. Declaration of slum improvement area.

(2) Any person aggrieved by a declaration made under sub-section (1) may, within thirty days of the date of 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.

Powers of the Board of execution of works of improvement.

27. (1) Where the Board is satisfied that any slum improvement area or any part thereof is capable of being improved, at a reasonable expense, so as not to be a source of danger to the health, safety or convenience of the public of that area, it shall serve upon the owner or owners and every mortgagee of the properties in that area or any part thereof, so far as it is reasonably practicable to ascertain such persons, a notice informing them of its intention to carry out such improvement works as in its opinion are necessary and asking each of them to submit this objections or suggestions, if any, to the Board within thirty days from the date of such notice. A copy of such notice shall also be displayed at some conspicuous places in the area for the information of the occupiers thereof and for giving them also an opportunity to submit their objections or suggestions, if any. Such display of the notice shall be conclusive proof that the owners, occupiers and other persons concerned have been duly informed of the matters stated therein.

(2) After considering the objections and suggestions received within the time aforesaid, from the owners, occupiers and other persons concerned, the Board may decide and proceed to carry out the improvement works, with or without modifications or may postpone them for a certain period or cancel the intention to undertake the works.

Improvement works. 28. For the purpose of the last preceding section, the improvement works may consist of all or any of the following :—

- (a) laying of water mains, sewers and storm water drains ;
- (b) provision of urinals, latrines, community baths, and water-taps ;
- (c) widening, realigning or paving of existing roads, lanes and pathways and constructing new roads, lanes and pathways ;
- (d) providing street lighting ;
- (e) cutting, filling, levelling and landscaping 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 run on a non-profit basis ;
- (g) demolition of obstructive or dilapidated buildings or portions 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.

Powers of the Board to require the occupiers to vacate premises.

29. (1) Where the Board undertakes the improvement works in any 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 specified date or dates. It may as far as practicable offer such occupiers alternative sites in any other area. If any occupier fails to vacate and to shift 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 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.

(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.

(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 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.

30. (1) The Board may, by notification in the *Official Gazette* (and also published in such other manner as may be prescribed), direct that in a slum improvement area no person shall erect any building, except with its previous permission, in writing. Restriction on buildings in slum improvement area.

(2) Every notification issued under sub-section (1) shall cease to have effect on the expiration of two years from the date thereof, or such extended period or periods not exceeding a further five years as the State Government may, by notification in the *Official Gazette* (and also published in such other manner as may be prescribed), from time to time, specify in this behalf, except as respect things done or omitted to be done before such cesser.

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

(4) On receipt of such application and after making such inquiry as it considers necessary, the Board shall 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 making an order refusing such permission, the applicant shall be given a reasonable opportunity to show cause why the permission should not be refused.

31. (1) Where the erection of any building has been commenced, or is being carried out, or has been completed, in contravention of the provisions of the last preceding section, the Board may, notwithstanding the provision contained in any other law, direct by an order that such, erection shall be demolished by the owner or the person who has erected the building, 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 building so erected shall be liable to forfeiture or 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 : Orders of demolition of building in certain cases.

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

(2) Forfeiture under this section shall be adjudged by the Board and any property so forfeited 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 necessary.

**Acquisition of land.** 32. Where on any representation from the Board, the State Government is satisfied that for the purpose of executing any work of improvement in relation to a slum improvement area or any building in such area, it is necessary to acquire all or any of the lands within, adjoining or surrounded by any such area, the State Government may acquire such lands in the manner provided in Chapter V of the Maharashtra Slum Areas Improvement, Clearance and Redevelopment Act, 1971, and on payment of the amount determined in accordance with the principles laid down in that Chapter. The acquisition of any land for the purposes aforesaid shall be deemed to be a public purpose. Mah. XXVIII of 1971.

**Delegation of certain powers.** 33. The Board may authorise any officer, not below the rank of Executive Engineer or Deputy Collector, to exercise and perform the powers and functions under this Chapter on its behalf, subject to such restrictions and conditions (if any) as it may deem fit to impose.

## CHAPTER V.

### *Recovery of Boards' dues*

**Recovery of service charges.** 34. (1) Where works of improvement have been executed in any slum improvement area, any expenses incurred by the Board or, by any other authority at the instance of the Board, in connection with the maintenance of such works of improvement 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 improvement area separately and shall be recovered as service charges from the occupier of each building in the area.

**Recovery of dues.** 35. (1) Where any person is in arrears of service charges, as determined by the Board in pursuance of the last preceding section, the Board may, by notice served, (i) by post, or (ii) by fixing 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 ten days as may be specified in the notice.

(2) Where any person causes any damage to the property of the Board of the works of improvement provided by the Board, the Board shall assess the cost of such damages and shall after serving a notice on the person in the manner prescribed in sub-section (1) order that person to pay the cost 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 Board shall be recoverable as arrears of land revenue.

**Appeal.** 36. Any person aggrieved by an order of the Board under sub-section (1) or (2) of the last preceding section may, within thirty days of the date of the order, prefer an appeal to the Tribunal, and the decision of the Tribunal shall be final.

## CHAPTER VI

### *Finance and Annual Reports*

**Separate Maharashtra Slum Improvement Fund.** 37. (1) Where works of improvements have been executed in any slum improvement area, the service charges recovered from the occupiers under section 34 shall first be credited to the Consolidated Fund of the State ; and an equivalent amount shall, under appropriation duly made by law in this behalf, be entered in and transferred to a Reserve Fund called the Maharashtra Slum Improvement Fund (in this Act referred to as "the Fund").

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

(3) The amount in the Fund shall be placed at the disposal of the Board for being expended for the purposes of this Act. 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.

38. As soon as the Board is established, for meeting the initial expenditure, the State Government may give an advance to the Board of such amount, not exceeding rupees one crore, as the State Government may determine.

Advance for  
initial  
expenditure.

39. (1) All monies received by the Board, from time to time, by way of grants subventions, donations, gifts or otherwise, from the Housing Board, the Nagpur Improvement Trust, the Municipal Corporation, the Municipal Council or from any individual or body, whether incorporated or not, shall first be credited to the Consolidated Fund of the State, and thereafter, under appropriation duly made by law in this behalf, be entered in and transferred to the Fund. The State Government may transfer, from time to time, such further amounts as it thinks necessary to the Fund.

Disposal of  
monies  
received by  
the Board.

(2) Under appropriation duly made by law in this behalf, the State Government may pay an annual contribution of rupees two crores to the Board.

(3) The State Government may, after consultation with the local authority concerned, direct such local authority to make an annual contribution to the Board for the purposes of this Act.

(4) The Board may also accept grants, subventions, donations, gifts from the Housing Board, the Nagpur Improvement Trust, the Municipal Corporation, the Municipal Council or any individual or body, whether incorporated or not, for all or any of the purposes of this Act.

(5) The monies placed at the disposal of the Board shall be applied for the purposes of this Act, that is to say, towards meeting—

(a) all expenditure in connection with the execution of improvement works and their maintenance ;

(b) the expenditure referred to in sections 5, 15 and 19 ;

(c) any other expenditure which may have to be incurred for the purposes of administration of this Act ;

(d) the expenditure on such other purposes as the State Government may direct.

40. All sums payable to the Board 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, be recoverable as arrears of land revenue on application by the Board.

Recovery of  
sums due  
to the  
Board as  
arrears of  
land  
revenue.

41. (1) The Board shall prepare and forward to the State Government an annual report within six months from the end of every year, giving a complete account of its activities during the previous year.

Annual  
Report.

(2) The report shall be submitted in such form and in such manner as the State Government may direct from time to time.

(3) Every such report shall be laid before each House of the State Legislature within six months from the time it is received by the State Government.

## CHAPTER VII.

*Control*

**Directions by the State Government.** 42. The State Government may issue to the Board such general or special directions as to the exercise, performance of discharge or its powers, duties or functions under this Act, as it may think necessary or expedient for the purpose of carrying into effect the purposes of this Act ; and the Board shall be bound to follow and act upon such directions.

**Provisions as to local enquiries.** 43. The State Government may hold such local enquiries as it may think fit in relation to any matters to which its sanction, approval or consent is required by or under this Act and in relation to any other matters connected with its powers and duties under this Act.

**Default in performance of duties.** 44. (1) If the State Government is satisfied that the Board has made default in performing any duty, function or obligation imposed or cast on it by or under this Act, the State Government may by order fix a period for the performance thereof and give notice to the Board accordingly.

(2) If, in the opinion of the State Government, the Board has failed or neglected to perform such duty or function or obligation within the period so fixed for its performance, it shall be lawful for the State Government by order to dissolve the Board.

(3) After the dissolution of the Board and until it is reappointed, in the manner laid down in Chapter II, the powers, duties and functions of the Board under this Act shall be carried on by the State Government, or by such Officer or Officers or body of officers of the State Government, as may be notified in the *Official Gazette*.

## CHAPTER VIII.

*Special provisions relating to acts done by the Housing Board in certain areas*

**Housing Board to cease to exercise Powers as competent authority under the Maharashtra slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.** 45. (1) With effect from the date of establishment of the Board, the Housing Board shall cease to exercise any powers and discharge any functions under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, as the Competent Authority, in respect of matters dealt with under this Act and in particular the improvement of slum areas. Mah. XX-VIII of 1971.

(2) Any area declared as the slum area by the Housing Board under sub-section (1) of section 4 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, shall be deemed to be a slum improvement area declared by the Board under Chapter IV of this Act. Mah. XX-VIII of 1971.

**Transfer of certain assets and liabilities of the Housing Board.** 46. (1) All property, assets, rights and liabilities of the Housing Board shall, in so far as such property, assets, rights and liabilities are relatable immediately before the establishment of the Board, to the improvement of any slum area, stand transferred to the Board on behalf of the State Government.

(2) (a) If any doubt or dispute arises whether any property, assets, rights and liabilities stand transferred under sub-section (1), the matter shall be referred to the State Government, whose decision shall be final.

(b) Before giving any decision, the State Government shall give an opportunity to the Housing Board and to the Board to make their representations.

47. (1) All contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of the establishment of the Board and to which the Housing Board is a party, in so far as some contracts, agreements and instruments are relatable to the improvement of a slum area, shall be of a full force and effect against or in favour of the State Government and may be enforced or acted upon fully and effectively as if, instead of the Housing Board, the State Government had been a party thereto or as if they had been entered into or issued in favour of the State Government for the purposes of the Board.

Government to enforce certain contracts and agreements.

(2) If on the date of establishment of the Board, any suit, appeal or other legal proceeding of whatever nature by or against the Housing Board is pending, then such suit, appeal or legal proceeding in so far as it is relatable to the improvement of a slum area, shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the State Government of the property, assets, rights and liabilities of the Housing Board, but the suit, appeal or other legal proceeding may be continued, prosecuted and enforced by or against the State Government.

## CHAPTER IX.

### *Establishment of Panchayats in slum improvement areas.*

48. The Board may establish, by notification in the *Official Gazette*, a Panchayat for any slum improvement area.

Establishment of Panchayat.

49. 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 a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and may by the said name sue or be sued.

Incorporation of Panchayat.

50. (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 determine.

Constitution of Panchayat.

(2) The members of the 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*.

51. 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 8, in the case of a non-official Member of the Board.

Disqualifications.

52. (1) The members of a Panchayat shall, save as otherwise provided in this Act, hold office for a term of four years.

Term of office of members.

(2) The Board may by order in writing and for reasons recorded therein extend the said term for a period not exceeding in the aggregate five years.

53. The term of office of the members of a Panchayat shall be deemed to commence from the date of their nomination.

Commencement of the term of office.

54. Any member of a 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 Chief Executive Officer. The notice of every such resignation shall be delivered in the prescribed manner, and the office concerned shall thereupon become vacant.

Resignation of office by members.

**Motion of no confidence.** 55. (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-thirds 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 Act 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 a 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*.

**Meetings of Panchayat and procedure to be followed.** 56. The *Panchayat* shall meet at such intervals, and follow such procedure for its meetings as may be prescribed.

**Powers of Sarpanch and Upa-Sarpanch.** 57. The *Sarpanch* and the *Upa-Sarpanch* shall exercise such powers and perform such functions as may be prescribed.

**Removal from office.** 58. (1) The Board may 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 Chief Executive Officer holds an enquiry after giving the notice to the *Panchayat* and the person concerned ; and the person concerned has been given a reasonable opportunity of being heard and thereafter the Chief Executive Officer 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 office of members of the *Panchayat*.

**Filling up of vacancies.** 59. If any vacancy occurs due to the disablement, death, resignation, disqualification, absence without leave or removal or otherwise of a *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.** 60. (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 proceedings.

(3) No act or proceeding of a *Panchayat* shall be deemed to be invalid on account of any defect or irregularity in any such act or proceeding 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.

61. (1) If, in the opinion of the Board, a *Panchayat* exceeds or abuses its powers or is incompetent to perform, or makes persistent default in the performance of, the duties imposed on it or functions entrusted to it, by or under this Act, or fails to obey an order made by the Board, the Board may, after giving the *Panchayat* an opportunity of rendering an explanation, by order in the *Official Gazette*—

Dissolution or supersession of *Panchayat* for default.

(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 members ;

(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 State Government, and shall be held by the Board on behalf of the State Government.

## CHAPTER X.

### *Functions of the Panchayat, Finance and Control*

62. Where the Board entrusts all or any of its duties under clauses (b), (c), (d) and (e) of section 20 to a *Panchayat*, the *Panchayat* shall, subject to the control, direction and superintendence of the Board,—

Duties of the *Panchayat*.

(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) recover 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 :

Provided that, the rate of service charges to be recovered under clause (b) shall be determined by the Board and the rate of compensation to be recovered under clause (c) shall be determined by the State Government.

63. (1) Notwithstanding anything contained in any law governing the local authority concerned, the Municipal Corporation, the 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.

Certain services to be provided by local authority and *Panchayat* to be responsible for collection and payment of taxes, fees and charges.

(2) Where there is a *Panchayat*, the *Panchayat* shall be responsible to the local authority to collect from the occupiers and other persons liable there for 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 the Board. **64.** (1) The Board may assign or entrust to the *Panchayat*, any property, whether movable or immovable, for use by the *Panchayat*, for the purpose of this Act on such terms and conditions as may be specified by the Board. 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, the *Panchayat*, may utilise any open space in the slum improvement area for common purposes such as those specified in clause (f) of section 28.

Violation of the direction under section 30(1). **65.** The *Panchayat* shall ensure that no new building is erected within its jurisdiction in contravention of any directions issued by the Board under sub-section (1) of section 30. If any new building is so erected, the *Panchayat* shall immediately make a report to the Board.

Assistance to Board for carrying out demolitions. **66.** The *Panchayat* shall assist the Board in carrying out demolition of any building under section 31.

Contracts. **67.** (1) For the purposes of this Act, 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 a resolution to that effect, and no contract involving an expenditure exceeding Rs. 1,000 shall be made without the previous sanction of the Chief Executive Officer.

(2) Every contract shall be entered into in such manner and forms as may be prescribed.

Recovery of compensation, service charges, etc. **68.** (1) When any compensation, service charges, tax, fee or other sum has become due, which a *Panchayat* is authorised to collect under this Act, 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 claim 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 a member, officer or servant of the *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* or 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 movable 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.

69. (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 62 ;
- (b) the proceeds of compensation collected under clause (c) of section 62 ;
- (c) the proceeds of any taxes, fees or charges due to a local authority collected under section 63 ;
- (d) all sums received from the Board ;
- (e) all sums received by the *Panchayat* from other sources by way of grant, gift and contribution or otherwise.

70. All sums received by the *Panchayat* in accordance with the provisions of this Act shall be applied subject to the provisions and for the purposes of this Act and all such sums and the *Panchayat* fund shall be kept in such custody as may be prescribed.

71. (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 Act 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 Chief Executive Officer, within one month from the date of communication of the order to the servant, and the decision of the Chief Executive Officer shall be final :

Provided that, no such appeal shall be decided unless the servant of the *Panchayat* is given a reasonable opportunity of being heard.

72. (1) A *Panchayat* shall determine annually and shall submit 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 shall 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 the 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.

73. The Board shall have power—

(a) to call for any proceedings of a *Panchayat* or an extract therefrom, 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* to 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 to the doing of a certain thing by the *Panchayat* ;

and to make 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  
Chief  
Executive  
Officer or  
any officer to  
inspect  
office of  
*Panchayat*.

74. The Chief Executive Officer 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 Chief Executive Officer or, as the case may be, such officer.

Power of  
authorised  
officer or  
person to  
inspect and  
give technical  
guidance.

75. 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 Chief Executive Officer, a report on the inspection made, pointing out therein any irregularities noticed, and his suggestions for improvement.

Audit of  
accounts of  
*Panchayat*.

76. (1) The audit of the accounts of a *Panchayat* shall be carried out by the State Government in such a manner as it deems fit and a 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 three 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 State Government 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 State Government 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 three 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 State Government may, after considering the report of the Board and after making such further enquiry it considers necessary, disallow any item which appears to it contrary to law and surcharge the same on the person making or authorizing 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 account, by that 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 prescribed in sub-sections (2) and (3) of section 79; 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 be not so paid within one month, the State Government shall recover it 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 that 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 Court shall be final.

77. (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* : Execution of works in case of emergency.

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 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.

78. A *Panchayat* shall conform to any instructions that may, from time to time, be given by the Board, in the execution by the *Panchayat* of its duties and functions under this Act. Panchayats to conform instructions given by the Board.

Liability of members for loss, waste or misapplication

79. (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 or 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 a direct consequence of misconduct or gross neglect on his part, the Board shall by order in writing direct such member to pay to the *Panchayat* before a 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 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 76, 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 the Act.

80. It shall be lawful for any person authorised by the *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 Act.

## CHAPTER XI.

### *Miscellaneous*

Authentication of orders and documents of the Board.

81. All permissions, orders decisions, notices and other documents of the Board shall be authenticated for and on behalf of the Board by the signature of the Chief Executive Officer or of such other officer or officers as may be authorised by the Board in this behalf.

Furnishing returns, etc

82. The Board shall furnish to the State Government such returns, statistics, reports, accounts and other information with respect to its conduct of affairs, properties in its charge, funds and activities or in regard to any proposed work or scheme as the State Government may from time to time require.

Powers of entry.

83. It shall be lawful for any person authorised by the Board in this behalf to enter into or upon any building or land in a slum improvement area for the purposes of this Act, with or without assistants or workmen, in order to make any inquiry, inspection, census, measurement, valuation or 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 or in pursuance of any of the provisions of this Act or of any notice, rule, regulation or order made thereunder.

Powers of Inspection.

84. The Board may, by general or special order, authorise any person,—

(a) to inspect any drain, latrine, urinal, cesspool, pipe, sewer or channel in or on any building or land in a slum improvement area to which the provisions of this Act apply, 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.

85. (1) Any person authorised by the Board in this behalf may, with or without assistants or workmen, enter on any land within one hundred meters of any work authorised by or under this Act 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.

Power to enter land adjoining land where work is in progress.

(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 the section, do as little damage, as may be, and compensation shall be payable by the Board to the owner or occupier of such land or to both for any such damage, whether permanent or temporary.

86. It shall be lawful for any person authorised in writing by the Board in this behalf to make any entry into any place, to open or cause to be opened any door, gate or other barrier—

Breaking into building.

(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.

87. No entry authorised by or under this Act shall be made, except at reasonable hours and between the hours of sun-rise and sun-set.

Entry to be made in day time.

88. Save as provided in this Act, 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 the said occupier or owner, as the case may be, not less than twenty-four hours written notice of the intention to make such an entry :

Occupier's or owner's consent ordinarily to be obtained.

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.

89. The 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 :

Power to remove offensive or dangerous trades from slum improvement areas.

Provided that, no order under this section shall be made unless the person carrying the trade has been afforded a reasonable opportunity of showing cause as to why the order should not be made.

90. The Tribunal constituted under clause (i) of section 2 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) 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.

**Appeals.** 91. (1) Except as otherwise expressly provided in this Act, any person aggrieved by any notice, order or direction issued or given by the Board may appeal to the Tribunal, within a period of thirty days from the date of issue of such notice, order or direction.

(2) Every appeal under this Act shall be made by petition in writing accompanied by a copy of the notice, order or direction appealed against.

(3) On the admission of an appeal, all proceedings to enforce the notice, order or direction and all prosecutions for any contravention thereof shall be held in abeyance pending the decision of the appeal ; and if the notice, order or direction is set aside on appeal, disobedience thereto shall not be deemed to be an offence.

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

(5) The decision of the Tribunal on appeal shall be final and shall not be questioned in any court.

**Penalties.** 92. (1) Whoever fails to comply with any notice, order or direction issued or given under this Act 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 30, or of any terms or conditions imposed under sub-section (4) 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 Act 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 the person committing an offence under this Act, 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 Act, 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 Act, 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 of 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.

93. No court inferior to that of Magistrate of the First Class, or Presidency Magistrate, shall try an offence punishable under this Act. Jurisdiction of Courts.

94. No Court shall take cognisance of any offence punishable under this Act, except on the complaint of, or upon information received from, the Chief Executive Officer or any officer authorised by the Board by a general or special order. Authority for prosecution.

95. (1) The Chief Executive Officer or any officer authorised by the Board by general or special order may, either before or after the institution of the proceedings compound any offence punishable under this Act. Compounding of offences.

(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.

96. All members, officers and servants of the Board or of any *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. Members, officers and servants of the Board and *Panchayats* to be public servants.

97. No suit, prosecution or other legal proceedings shall lie against any member, officer or servant of the Board or of any *Panchayat* or against the State Government or any *Panchayat* for anything which is in good faith done or intended to be done under this Act or any notice, rule, regulation or order made thereunder. Protection of action taken in good faith.

98. Save as otherwise expressly provided in this Act, no Civil Court shall have jurisdiction in respect of any matter which the Board or the Tribunal is empowered by or under this Act to determine ; and no injunction 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. Bar of jurisdiction.

99. (1) The power to make all rules under this Act shall be exercisable by the State Government by notification in the *Official Gazette*, subject to the condition of previous publication. Power to make rules.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act generally to carry out the purposes of this Act.

(3) 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 successive 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 of annulment shall be without prejudice of the validity of anything previously done or omitted to be done under that rule.

**100.** The Board may, from time to time, with the previous sanction of the State Government, make regulations, consistent with this Act, and the rules made thereunder, for all or any of the matters which have to be, or may be, prescribed or provided by regulations under any of the provisions of this Act.

**101.** The State Government may, by notification in the *Official Gazette*, delegate any power (other than the power to make rules or to give previous sanction to regulations) exercisable by it under this Act or the rules made thereunder, to any officer of the State Government.

**102.** The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, is hereby amended to the extent and in the manner mentioned in Schedule II.

**103.** The provisions of this Act shall be in addition to and not in derogation of any other Act, Ordinance or Regulation for the time being in force.

**104.** The provisions of this Act shall not be taken to affect any property rights in any of the areas to which this Act applies; nor shall the provision by or under this Act of any amenities be deemed to legalise what is otherwise illegal by or under any other law for the time being in force.

**105.** If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by order to anything which appears it to be necessary for the purpose of removing the difficulty.

#### Schedule I

[See sub-section (3) of section 1]

The areas within the limits of—

- (1) the Municipal Corporation of Greater Bombay;
- (2) the Municipal Corporation of the City of Poona;
- (3) the Municipal Corporation of the City of Sholapur;
- (4) the Municipal Corporation of the City of Nagpur;
- (5) the Aurangabad Municipal Council.

#### Schedule II

(See section 102)

In the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971,—

“(1) in section 2,—

(a) after clause (g), the following clause shall be inserted, namely :—

“(ga) ‘slum area’ means any area declared as such by the Competent Authority under sub-section (1) of section 4;”;

(b) in clause (i) after the words “means a Tribunal” the words “which the State Government is hereby empowered to constitute,” shall be inserted;”

(2) in section 4, for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) Where the Competent Authority is satisfied that—

(a) any area is or may be a source of danger to the health safety or convenience of the public that area or of its neighbourhood by reason of the area having inadequate or no basic amenities, or being insanitary squalid overcrowded or otherwise; or

(b) the buildings in any area, used or intended to be used for human habitation are—

(i) in any respect, unfit for human habitation ; or

(ii) by reason of dilapidation, overcrowding, faulty arrangement and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities or any combination of these factors, detrimental to the health, safety or convenience of the public of that area,

the Competent Authority may, by notification in the *Official Gazette*, declare such area to be a slum area. Such declaration shall also be published in such other manner (as will give due publicity to the declaration in the area) as may be prescribed.” ;

(3) existing section 5 shall be renumbered as section 5C, and before section 5C as so renumbered, the following sections shall be inserted, namely :—

“ 5. (1) Where the Competent Authority is satisfied that any slum area or any part thereof is capable of being improved, at a reasonable expense, so as to not be a source of danger to the health, safety or convenience of the public of that area, it may serve upon the owner or owners and every mortgagee of the properties in that area or any part thereof, a notice informing them of its intention to carry out such improvement works as in its opinion are necessary and asking each of them to submit his objections or suggestions, if any, to the Competent Authority, within thirty days from the date of such notice. A copy of such notice shall also be displayed at some conspicuous places in the area for the information of the occupiers thereof and for giving them also an opportunity to submit their objections or suggestions, if any. On such display of the notice, the owners, occupiers and all other persons concerned shall be deemed to have been duly informed of the matters stated therein.

Power of  
Competent  
Authority of  
executoin of  
works of  
improve-  
ment.

(2) After considering the objections and suggestions received within the time aforesaid, from the owners, occupiers and other persons concerned, the Competent Authority may decide and proceed to carry out the improvement works with or without modifications or may postpone them for a certain period or cancel the intention to undertake the works.

5A. For the purpose of the last preceding section, the improvement works may consist of all or any of the following :—

Improve-  
ment works.

(a) laying of water mains, sewers and storm water drains ;

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

(c) widening, realigning or paving of existing roads, lanes and pathways and constructing new roads, lanes and pathways ;

(d) providing street lighting ;

(e) cutting, filling, levelling and landscaping 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 run on a non-profit basis;

(g) demolition of obstructive or dilapidated buildings or portions of buildings;

(h) any other matter for which, in the opinion of the Competent Authority, 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.

Power of  
Competent  
Authority  
to require  
occupiers to  
vacate  
premises.

**5B.** (1) Where the Competent Authority undertakes the improvement works in any area and is of opinion that any of the occupiers thereof should vacate their premises, it shall give them notice to vacate by a specified date or dates. It may as far as practicable offer such occupiers alternative sites in any other area. If any occupier fails to vacate and to shift to the alternative site offered to him within the specified period, the responsibility of the Competent Authority to provide him alternative site shall cease.

(2) Notwithstanding anything contained in this Act, where any occupier does not vacate his premises, the Competent Authority 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.

(3) The Competent Authority 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.

(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 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, it shall refer such dispute to a Civil Court of competent jurisdiction and the decision of the Court shall be final. ” ;

(4) in section 6, in sub-section (1), for the word and figure “ section 5 ” the word, figure and letter “ section 5C ” shall be substituted ;

(5) for section 7, the following section shall be substituted, namely :—

Expenses of  
maintenance  
of works of  
improvement  
to be  
recoverable  
from  
occupier.

“ 7. Where works of improvement have been executed in any slum area or in relation to any building or buildings in a slum area, in pursuance of the provisions of sections 5, 5C and 6, any expenses incurred by the Competent Authority or, as the case may be, any local authority, in connection with the maintenance of such works or the enjoyment of amenities and conveniences rendered possible by such works, shall be recoverable from the occupiers of the area or of buildings, concerned as service charges ; and if the amount due is not paid within the time specified, it shall be recoverable from the occupier concerned as arrears of land revenue. ” ;

(6) in section 8, in sub-section (5) in clause (a), for the word and figure “ section 5 ” the word, figure and letter “ section 5C ” shall be substituted ;

(7) after section 10, the following section shall be inserted, namely :—

Power of  
Competent  
Authority  
to entrust  
improvement  
and other  
works.

“ 10A. In any slum area, the Competent Authority may, with the previous approval of the State Government and on such terms and conditions as may be agreed upon, entrust to any agency recognised by it for the purpose,—

(a) the execution, under its own supervision, of any improvement, clearance or re-development works ;

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

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

(8) in section 14,—

(a) in sub-section (1), after the words “ to enable the Authority ” the words “ to execute any work of improvement in relation to any slum area or any building in such area or ” shall be inserted ;

(b) after sub-section (1), the following sub-section shall be inserted, and shall be deemed always to have been inserted, namely :—

“ (1A) the acquisition of land for any purpose mentioned in sub-section (1) shall be deemed to be a public purpose. ”.