THE MAHARASHTRA APARTMENT OWNERSHIPACT, 1970

[*Text as on 24th April 2025*]

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SCHEDULE

LIST OF AMENDMENT ACTS

1. Amended by Mah. 6 of 1974[1] (13-3-1974)
2. Amended by Mah. 53 of 1974 (1-1-1975)
3. Amended by Mah. 14 of 1986 (31-1-1986)
4. Amended by Mah. 41 of 2018
5. Amended by Mah. 21 of 2020
6. Amended by Mah. 3 of 2024[2] (23-10-2023)

1 Mah. Ordinance No. II of 1974 was repealed by Mah. 6 of 1974, s. 7.

2 Maharashtra Ordinance No. IX of 2023 was repealed by Mah. 3 of 2024, s. 4.

Note.- The date mentioned in the bracket indicates the date of commencement of the Act.

MAHARASHTRA ACT No. XV OF 1971[1]

[THEMAHARASHTRAAPARTMENTOWNERSHIPACT,1970.]

[This Act received the assent of the President on the 12th day of February 1971 ; assent was first published in the *Maharashtra Government Gazette*, Extraordinary, Part IV, on the 19th February 1971.]

An Act to provide for the ownership of an individual apartment in a building and to make such apartment heritable and transferable property.

WHEREAS, it is expedient to provide for the ownership of an individual apartment in a building and to make such apartment heritable and transferable property, and to provide for matters connected with the purposes aforesaid ; It is hereby enacted in the Twenty-first Year of the Republic of India as follows :—

1. Short title, extent and commencement.— (*1*) This Act may be called the Maharashtra Apartment Ownership Act, 1970.

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

(*3*) This section shall come into force at once; and the remaining provisions of this Act shall come into force in such areas, and on such dates[2] as the State Government may, by notification in the *Official Gazette*, appoint ; and different dates may be appointed for different areas.

2. Application of Act.— This Act applies only to property, the sole owner or all of the owners of which submit the same to the provisions of this Act by duly executing and registering a Declaration as hereinafter provided :

Provided that, no property shall be submitted to the provisions of this Act, [3][unless it is used or proposed to be used for residence, office, practice of any profession or for carrying on any occupation, trade or business or for any other type of independent use :]

[4][Provided further that the sole owner or all the owners of the land may submit such land to the provisions of this Act with a condition that he or they shall grant a lease of such land to the apartment owners, terms and conditions of the lease being disclosed in the Declaration either by annexing a copy of the instrument of lease to be executed to the Declaration or otherwise.]

1 For Statement of Objects and Reasons of the L. C. Bill No. XIII of 1970, *see Maharashtra Government Gazette*, 1970, Extraordinary No. 44, Part V, dated the 11th December 1970, pages 343-344.

2 (*A*) 10th day of August 1972 in the areas of (*1*) Municipal Corporation of Greater Bombay, (*2*) New Bombay, (*3*) City of Kolhapur, Municipal Corporation of the City of Pune, (*4*) Corporation of the City of Nagpur, (*5*) Municipal Corporation of the Solapur and (*6*) Municipal Councils of Akola, Amravati, Aurangabad, Jalna, Beed, Dhule, Jalgaon, Ichalkaranji, Nanded, Malegaon, Nashik, Latur, Osmanabad, Udgir, Basmatnagar, Parbhani, Pimpri-Chinchwad, Islampur, Ambernath, Dombivali, Thane, Hinganghat and Pulgaon.

(*Vide* G.N., U.D., P.H. & H.D., No. FOB. 1071/26752-I, dated the 10th August 1972).
(*B*) 28th day of May 1982 in the areas within the limits of (*1*) the Kalyan Municipal Council in Thane district, and (*2*) the Ulhasnagar Municipal Council in Thane district.
(*Vide* G.N., H. & S.A.D., No. MAD. 1180/(329)/II(*ii*), dated 28th May 1982).
(*C*) 1st day of May 1983 in the area within the limits of Ahmednagar Municipal Council of Ahmednagar district.
(*Vide* G.N., H. & S.A.D., No. MAO. 1182/1613/D-II, dated 16th April 1983).
(*D*) 1st day of April 1986 in the area of the villages of Tarapur and Boisar in Thane district.
(*Vide* G.N., H. & S.A.D., No. 1085/(7758)/II, dated 31st March 1986).
(*E*) 27th day of November 1987 in the area within the limit of Shrirampur Municipal Council of Ahmednagar district.
(*Vide* G.N., H. & S.A.D., No. 1087 (9238)/II, dated 27th November 1987).
(*F*) 20th day of June 1990 in the Municipal areas of Sangli, Miraj, Tasgaon, Vita, Ashta Municipal Councils in Sangli district.
(*Vide* G.N., H. & S.A.D., No. 1088/262/D-II, dated 18th June 1990).
(*G*) 1st day of January 1996 in the Municipal areas within the limits of Satara and Karad Municipal Councils in Satara district.
(*Vide* G.N., H. & S.A.D., No. MHS. 3895/(27)/DVP-2, dated 27th December 1995).

3 These words were substituted for the words "unless it is mainly used, or proposed to be used for residential purposes" by Mah. 53 of 1974, s. 2.

4 This proviso was deemed always to have been added by Mah. 6 of 1974, s. 2.

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

1[(*a*) "apartment" whether called block, chamber, dwelling unit, flat, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or godown or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified ;]

(*b*) "apartment owner" means the person or persons owning an apartment and an undivided interest in the common areas and facilities in the percentage specified and established in the Declaration ;

(*c*) "apartment number" means the number, letter, or combination thereof designating the apartment in the Declaration ;

(*d*) "Association of Apartment Owners" means all of the apartment owners acting as a group in accordance with the bye-laws and Declaration ;

(*e*) "building" means a building containing five or more apartments, or two or more buildings, each containing two or more apartments, with a total of five or more apartments for all such buildings, and comprising a part of the property ;

(*f*) "common areas and facilities", unless otherwise provided in the Declaration or lawful amendments thereto, means—

(*1*) the land on which the building is located ;

(*2*) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stair-ways, fire-escapes and entrances and exists of the building ;

(*3*) the basements, cellars, yards, gardens, parking areas and storage spaces ;

(*4*) the premises for the lodging of janitors or persons employed for the management of the property ;

(*5*) installations of central services, such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating ;

(*6*) the elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use ;

(*7*) such community and commercial facilities as may be provided for in the Declaration ; and

(*8*) all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use ;

(*g*) "common expenses" means,—

(*1*) all sums lawfully assessed against the apartment owners by the Association of Apartment Owners ;

(*2*) expenses of administration, maintenance, repair or replacement of the common areas and facilities ;

(*3*) expenses agreed upon as common expenses by the Association of Apartment Owners ;

(*4*) expenses declared as common expenses by the provisions of this Act, or by the Declaration or the bye-laws ;

1 Clause (*a*) was substituted for the original by Mah. 41 of 2018, s. 2.

(*h*) "common profits" means the balance of all income, rents, profits and revenues from the common areas and facilities remaining after the deduction of the common expenses ;

1[(*i*) "Competent authority",—

(*1*) in relation to buildings constructed or to be constructed by the Housing and Area Development Authority established under section 3, or a Housing and Area Development Board established under section 18 of the Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977), or by a company, means the Deputy Chief Engineer or the officer referred to in sub-section (*2*) of section 7 of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963 (Mah. XLV of 1963) ; and

(*2*) in any other case, means the Registrar of Co-operative Societies as defined in the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961) ;]

2[(*i-1*) "Co-operative Court" means the Co-operative Court constituted under Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961) ;

(*j*) "Declaration" means the instrument by which the property is submitted to the provisions of this Act, 3[as provided by section 2], and such Declaration as from time to time may be lawfully amended ;

4* * * * * *

(*m*) "joint family" means an undivided Hindu family, and in the case of other persons, a group or unit, the members of which are by custom joint in possession or residence ;

(*n*) "limited common areas and facilities" means those common areas and facilities designated in the Declaration as reserved for use of certain apartment or apartments to the exclusion of the other apartments ;

(*o*) "majority" or "majority of apartment owners" means the apartment owners with 51 per cent. or more of the votes in accordance with the percentages assigned in the Declaration to the apartments for voting purposes ;

(*p*) "person" includes a joint family ;

(*q*) "prescribed" means prescribed by rules made under this Act ;

(*r*) "property" means the land, the building, all improvements and structures thereon, 5* * * and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been, or are intended to be, submitted to the provisions of this Act.

6[(*s*) "Registrar" means a person appointed to be the Registrar of Co-operative Societies

under the provisions of the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961);]

4.Status of apartments.—[7][Subject to the provisions of the second proviso to section 2 of this Act, each apartment], together with its undivided interest in the common areas and facilities, appurtenant to such apartment, shall for all purposes constitute heritable and transferable immoveable property within the meaning of any law for the time being in force in the State ;

1 Clause (*i*) was substituted for the original by Mah. 14 of 1986, s. 2(*a*).

2 Clause (*i-1*) was added by Mah. 21 of 2020, s. 2(*a*).

3 These words and figures were substituted for the words "as hereinafter provided" by Mah. 53 of 1974, s. 3(*2*). 4 Clauses (*k*) and (*l*) were deleted by Mah. 14 of 1986, s. 2(*b*).

5 The words "all owned in freehold or held on lease or as occupant under any law relating to land revenue" were deemed always to have been deleted by Mah. 6 of 1974, s. 3.

6 Clause (*s*) was inserted by Mah. 21 of 2020, s. 2(*b*).

7 These words and figure were deemed always to have been substituted for the words "Each apartment" by Mah. 6 of 1974, s. 4.

and accordingly, an apartment owner may transfer his apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment by way of sale, mortgage, lease, gift, exchange or in any other manner whatsoever in the same manner, to the same extent and subject to the same rights, privileges, obligations, liabilities, investigations, legal proceedings, remedies and to penalty, forfeiture and punishment as any other immoveable property, or make a bequest of the same under the laws applicable to the transfer and succession of immoveable property.

5. Ownership of apartments.— (*1*) Each apartment owner shall be entitled to the exclusive ownership and possession of his apartment [1][in accordance with the Declaration executed and registered as required by section 2 of this Act].

(*2*) Each apartment owner [2][shall execute a Deed of Apartment] in relation to his apartment in the manner prescribed for the purpose.

6. Common areas and facilities.— (*1*) Each apartment owner shall be entitled to an undivided interest in the common areas and facilities in the percentage expressed in the Declaration. Such percentage shall be computed by taking as a basis the value of the apartment in relation to the value of the property and such percentage shall reflect the limited common areas and facilities.

(*2*) The percentage of the undivided interest of each apartment owner in the common areas and facilities as expressed in the Declaration shall have a permanent character, and shall not be altered without the consent [3][of majority] of the apartment owners expressed in an amended Declaration duly executed and registered as provided in this Act. The percentage of the undivided interest in the common areas and facilities shall not be separated from the apartment to which it appertains, and shall be deemed to be conveyed or encumbered with the apartment even though such interest is not expressly mentioned in the conveyance or other instrument.

(*3*) The common areas and facilities shall remain undivided and no apartment owner or any other person shall bring any action for partition or division of any part thereof, unless the property has been removed from the provisions of this Act as provided in sections 14 and 22. Any covenant to the contrary shall be null and void.

(*4*) Each apartment owner may use the common areas and facilities in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other apartment owners.

(*5*) The necessary work of maintenance, repair and replacement of the common areas and facilities and the making of any additions or improvements thereto shall be carried out only as provided herein and in the bye-laws.

(*6*) The Association of Apartment Owners shall have the irrevocable right, to be exercised by the Manager or Board of Managers, to have access to each apartment from time to time during reasonable hours as may be necessary for the maintenance, repairs and replacement of any of the common areas and

facilities therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to another apartment or apartments.

[4][6A. **Re-development of apartments.—** Notwithstanding anything contained in sub-section (*3*) of section 6, section 14 and section 22 of this Act, any work in relation to the re-development of a building can be carried out after obtaining the consent of the majority of apartment owners of such building :

Provided that, in respect of such building, a period of thirty years has been completed, from the date of issuance of Completion Certificate by the concerned Planning Authority or from the date of issuance of permission to occupy a building by the concerned Planning Authority, whichever is earlier, or, the concerned Planning Authority has declared such building is in ruinous condition, or likely to

1 These words and figure were deemed always to have been added by Mah. 6 of 1974, s. 5.

2 These words were substituted for the words "shall execute a Declaration that he submits his apartment to the provisions of this Act and a Deed of Apartment" by Mah. 53 of 1974, s. 4.

3 These words were substituted for the words "of all" by Mah. 41 of 2018, s. 3.

4 Section 6A was inserted by Mah. 41 of 2018, s. 4.

fall, or in any way dangerous to any person occupying, resorting to or passing by such structure or any other structure or place in the neighbourhood thereof.

Explanation.— For the purposes of this section, the expression "re-development" shall have the meaning as assigned to it in relevant Development Control Regulations.].

[1][6B. **Summary eviction of apartment owners in certain cases.—** (*1*) Where the Association of Apartment Owners, after obtaining the consent of the majority of apartment owners, submits the proposal to the concerned Planning Authority for redevelopment of the building as per section 6A, and if the said proposal is approved by the Planning Authority, then it shall be binding on all the apartment owners to vacate the apartment :

Provided that, it shall be binding upon the concerned Association of Apartment Owners or developer responsible for the redevelopment, as the case may be, to make available to all the apartment owners of such apartment or building, alternate temporary accommodation or rent in lieu of such accommodation.

(*2*) If the apartment owner refuses to vacate the apartment as per provisions of sub-section (*1*), then the Association of Apartment Owners or developer may request in writing to the Planning Authority to evict such apartment owner.

(*3*) The Planning Authority may, after receipt of such a request under sub-section (*2*), by a written notice, order any apartment owner to vacate the apartment forthwith or within the time specified in such notice.

(*4*) In every such notice the Planning Authority shall clearly specify the reasons for requiring such apartment owner to vacate the apartment.

(*5*) The affixing of such written notice on any part of such apartment or building shall be deemed a sufficient intimation to the occupiers of such apartment or building or portion thereof.

(*6*) On the issue of a notice under sub-section (*3*), every person in occupation of the apartment thereof to which the notice relates shall vacate such apartment as directed in the notice and no person shall so long as the notice is not withdrawn, enter the apartment.

(*7*) The Planning Authority may direct that any person who acts in contravention of this section shall be evicted from such apartment or building by any police officer and may also use such force as is reasonably necessary to effect entry in the said apartment or building.]

7. Compliance with convenants, bye-laws and administrative provisions.— Each apartment owner shall comply strictly with the bye-laws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in the Declaration or in the Deed to his apartment. Failure to comply with any of the same shall be a ground for an action to recover sums due, for damages or

injunctive relief or both maintainable by the Manager or Board of Managers on behalf of the Association of Apartment Owners, or, in a proper case, by an aggrieved apartment owner.

8. Certain work prohibited.— No apartment owner shall do any work which could jeopardize the soundness or safety of the property, reduce the value thereof or impair any easement or hereditament nor may any apartment owner add any material structure or excavate any additional basement or cellar without in every such case the 2[consent of majority of] the other apartment owners being first obtained.

9. Encumbrances against apartments; removal from encumbrances, effect of part payment.— (*1*) Subsequent to recording the Declaration as provided in this Act, and while the property remains subject to this Act, no encumbrance of any nature shall thereafter arise or be effective against the property. During such period encumbrances may arise or be created only against each apartment and the percentage of undivided interest in the common areas and facilities appurtenant to

1 Section 6B was inserted by Mah. 3 of 2024, s. 2.

2 These words were substituted for the words "unanimous consent of all" by Mah. 41 of 2018, s. 5.

such apartment, in the same manner and under the same conditions in every respect as encumbrances may arise or be created upon or against any other separate parcel of property subject to individual ownership :

Provided that, if during the period any encumbrance has arisen or been created against such apartment and the percentage of undivided interest in the common areas and facilities, appurtenant to such apartment, no apartment and such percentage of undivided interest shall be partitioned or sub-divided in interest :

Provided further that, no labour performed or materials furnished with the consent or at the request of an apartment owner or his agent or his contractor or sub-contractor shall be the basis for a charge or any encumbrance under the provisions of the Transfer of Property Act, 1882 (IV of 1882), against the apartment of any other property of any other apartment owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any apartment in the case of emergency repairs thereto. Labour performed and material furnished for the common areas and facilities if duly authorised by the Association of Apartment Owners the Manager or Board of Managers in accordance with this Act, the declaration or bye-laws, shall be deemed to be performed or furnished with the express consent of each apartment owner and shall be the basis for a charge or encumbrance under the Act aforesaid against each of the apartments and shall be subject to provisions of sub-section (*2*) of this section.

(*2*) In the event of a charge or any encumbrance against two or more apartments becoming effective, the apartment owners of the separate apartments may remove their apartments and the percentage of undivided interest in the common areas and facilities appurtenant to such apartments from the charge or encumbrance by payment of the fractional or proportional amounts attributable to each of the apartments affected. Such individual payment shall be computed by reference to the percentages appearing in the Declaration. Subsequent to any such payment, discharge or other satisfaction, the apartment and the percentage of undivided interest in the common areas and facilities appurtenant thereto shall thereafter be free and clear of the charge or encumbrance so paid, satisfied or discharged. Such partial payment, satisfaction or discharge shall not prevent the person having a charge or any other encumbrance from proceeding to enforce his rights against any apartment and the percentage of undivided interest in the common areas and facilities appurtenant thereto not so paid, satisfied or discharged.

10. Common profits and expenses.— The common profits of the property shall be distributed among, and the common expenses shall be charged to, the apartment owners according to the percentage of the undivided interest in the common areas and facilities.

11.Contents of Declaration.— (*1*) The Declaration shall contain the following particulars, namely :—

(*a*) Description of the land on which the building and improvements are or are to be located; and whether the land is freehold or leasehold 1[and whether any lease of the land is to be granted in accordance with the second proviso to section 2 of this Act] ;

(*b*) Description of the building stating the number of storeys and basements, the number of apartments and the principal materials of which it is or is to be constructed ;

(*c*) The apartment number of each apartment, and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access, and any other data necessary for its proper identification ;

(*d*) Description of the common areas and facilities ;

(*e*) Description of the limited common areas and facilities, if any, stating to which apartments their use is reserved ;

(*f*) Value of the property and of each apartment, and the percentage of undivided interest in the common areas and facilities, appertaining to each apartment and its owner for all purposes,

1 These words and figure were deemed always to have been added by Mah. 6 of 1974, s. 6.

including voting ; and a statement that the apartment and such percentage of undivided interest are not encumbered in any manner whatsoever on the date of the Declaration ;

(*g*) Statement of the purposes for which the building and each of the apartments are intended and restricted as to use ;

(*h*) The name of a person to receive service of process in the cases hereinafter provided, together with the residence or place of business of such person which shall be within the city, town or village in which the building is located ;

(*i*) Provision as to the 1[percentage of majority of votes] by the apartment owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage or destruction of all or part of the property ;

(*j*) Any other details in connection with the property which the person executing the Declaration may seem desirable to set forth consistent with this Act ;

(*k*) The method by which the Declaration may be amended, consistent with the provisions of this Act.

(*2*) A true copy of each of the Declaration and bye-laws and all amendments to the Declaration or the bye-laws shall be filed in the office of the competent authority.

12. Contents of Deeds of Apartments.— (*1*) Deeds of apartments shall include the following particulars, namely :—

(*a*) Description of the land as provided in section 11 of this Act of the post-office address of the property, including in either case the liber, page and date of executing the Declaration, the date and serial number of its registration under the 2[Registration Act, 1908 (XVI of 1908)], and the date and other reference, if any, of its filing with the competent authority.

(*b*) The apartment number of the apartment in the Declaration and any other data necessary for its proper identification.

(*c*) Statement of the use for which the apartment is intended and restrictions on its use, if any.

(*d*) The percentage of undivided interest appertaining to the apartment in the common areas and facilities.

(*e*) Any further details which the parties to the Deed may deem desirable to set forth consistent with the Declaration and this Act.

(*2*) A true copy of every Deed of Apartment shall be filed in the office of the competent authority.

3**[12A. Amendment in contents of Declaration or Deed of Apartments.—** The apartment owners may by resolution passed by majority in special meeting of the Association of Apartment Owners, change or amend the contents of the Declaration or Deed of Apartments.]

13. Declarations, Deeds of Apartments and copies of floor plans to be registered.— (*1*) The Declaration and all amendments thereto and the Deed of Apartment in respect of each apartment and the floor plans of the buildings referred to in subsection (*2*) shall all be registered under the [4][Registration Act, 1908 (XVI of 1908)].

(*2*) Simultaneously with the registration of the Declaration there shall be filed alongwith it a set of the floor plans of the building showing the layout, location, apartment numbers and dimensions of the apartments, stating the name of the building or that it has no name, and bearing the verified statement of an architect certifying that it is an accurate copy of portions of the plans of the building as filed with

1 These words were substituted for the words "percentage of votes" by Mah. 41 of 2018, s. 6.

2 These words and figures were substituted for the words and figures "Indian Registration Act, 1908" by Mah. 14 of 1986, s. 3.

3 Section 12A was inserted by Mah. 21 of 2020, s. 3.

4 These words and figures were substituted for the words and figures "Indian Registration Act, 1908" by Mah. 14 of 1986, s. 4.

and approved by the local authority within whose jurisdiction the building is located. If such plans do not include a verified statement by such architect that such plans fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built, there shall be recorded prior to the first conveyance of any apartment, an amendment to the Declaration to which shall be attached a verified statement of an architect certifying that the plans theretofore filed, or being filed simultaneously with such amendment, fully and accurately depict the layout, location, apartment number and dimensions of the apartment as built.

(*3*) In all registration offices a book called "Register of Declaration and Deeds of Apartments under the Maharashtra Apartment Ownership Act, 1970" and Index relating thereto shall be kept. The book and the Index shall be kept in such form and shall contain such particulars as the State Government may prescribe.

(*4*) It shall be the duty of every Manager or Board of Managers to sent to the Sub-Registrar of the sub-district in which the property containing the apartment is situate, or if there is no Sub-Registrar for the area, to the Registrar of the district in which such property is situate, a certified copy of the Declaration and Deed of Apartment made in respect of every apartment contained in the building

forming part of the property together with a memorandum containing such particulars as the State Government may prescribe.

(*5*) The Sub-Registrar, or as the case may be, the Registrar shall register the Declaration alongwith floor plans of the building and the Deed of Apartment in the Register of Declarations and Deeds of Apartments under the Maharashtra Apartment Ownership Act, 1970 (Mah. XV of 1971) and shall also enter particulars in the Index kept under sub-section (*3*). Any person acquiring any apartment of any apartment owner shall be deemed to have notice of the Declaration and of the Deed of Apartment as from the date of its registration under this section.

(*6*) Except as provided in this section, the provisions of the [1][Registration Act, 1908 (XVI of 1908)], shall *mutatis mutandis* apply to the registration of such Declaration and Deeds of Apartments and the words and expressions used in this section but not defined in this Act, shall have the meanings assigned to them in the [2][Registration Act, 1908 (XVI of 1908)].

14. Removal from provisions of Act.— [3][(*1*) A property may be removed from the provisions of this Act, by majority of apartment owners by an instrument to that effect duly executed.] :

Provided that, the holders of all charges and other encumbrances affecting any of the apartments consent thereto or agree, in either case by instruments duly executed that their charges or encumbrances be transferred to the percentage of the undivided interest of the apartment owner in the property as hereinafter provided.

(*2*) Upon removal of the property from the provisions of this Act, the property shall be deemed to be owned in common by the apartment owners. The undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities.

15. Removal no bar to subsequent resubmission of property to Act.— The removal provided for in the preceding section shall in no way bar the subsequent resubmission of the property to the provisions of this Act.

16. Bye-laws, their contents.— (*1*) The administration of every property shall be governed by bye-laws a true copy of which shall be annexed to the Declaration. No modification of or amendment to the bye-laws shall be valid, unless set forth in an amendment to the Declaration, and such amendment is duly recorded, and a copy thereof is duly filed with the competent authority.

1 These words and figures were substituted for the words and figures "Indian Registration Act, 1908" by Mah. 14 of 1986, s. 4.

2 These words and figures were substituted for the words and figures "Indian Registration Act, 1908" by Mah. 14 of 1986, s. 4.

3 Sub-section (*1*) was substituted for the original by Mah. 41 of 2018, s. 7.

(*2*) The bye-laws shall provide for the following matters, namely :—

(*a*) The election from among the apartment owners of a Board of Managers, the number of persons constituting the same, and that the terms of at least one-third of the members of such Board shall expire annually ; the powers and duties of the Board ; the compensation, if any, of the members of the Board ; the method of removal from office of members of the Board ; and whether or not the Board may engage the services of a Secretary, a Manager or Managing Agent, and specifying which of the powers and duties granted to the Board by this Act or otherwise may be delegated by the Board to either or both of them ;

(*b*) Method of calling meetings of the apartment owners ; what percentage, if other than a majority of apartment owners, shall constitute a quorum ;

(*c*) Election of a President from among the members of the Board of Managers who shall preside over the meetings of such Board and of the Association of Apartment Owners ;

(*d*) Election of a Secretary who shall keep a minute book wherein resolutions shall be recorded ;

(*e*) Election of a Treasurer who shall keep the financial records and books of accounts ;

(*f*) Maintenance, repair and replacement of the common areas and facilities and payments therefor ;

(*g*) Manner of collecting from the apartment owners their share of the common expenses ;

(*h*) Designation and removal of persons employed for the maintenance, repair and replacement of the common areas and facilities ;

(*i*) The method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common areas and facilities ;

(*j*) Such restrictions on the requirements respecting the use and maintenance of the apartments and the use of the common areas and facilities not set forth in the Declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common areas and facilities by the several apartment owners ;

(*k*) The percentage of the votes required to amend the bye-laws.

(*3*) The bye-laws may also provide for the following matters, namely :—

(*a*) Subject to the provisions of this Act, provision for regulating transfer or partition of any apartment and percentage of undivided interest in the common areas and facilities appurtenant to such apartment, subject to such terms and conditions as may be specified in the bye-laws ;

(*b*) Provisions enabling the Board of Managers to retain certain areas of the building and lease to non-residents for commercial purposes and for distribution of resulting proceeds to the apartment owners as income or application thereof in reduction of their common charges for maintaining the building ;

(*c*) Any other provisions not inconsistent with the provisions of this Act, relating to the audit and accounts and administration of the property and annual and special general meetings, annual report and the like.

[1][16A. **Filing of complaint with the Authority.—** Any aggrieved apartment owner, Association of Apartment Owners, may file a complaint with the Registrar, for any violation or contravention of the provisions of this Act or the rules made thereunder against any apartment owner or the sole owner or all the owners of the property. Every such complaint as far as possible, be disposed of by the Registrar within a period of thirty days from the date of its receipt :

Provided that, where such complaint is not so disposed of within the said period of thirty days, the Registrar shall record the reasons for the delay.

1 Sections 16A and 16B were inserted by Mah. 41 of 2018, s. 4.

16B. Appeal to Co-operative Court.— (*1*) Any person aggrieved by any direction or order or decision of the Registrar, Co-operative Societies may prefer an appeal to the Co-operative Court (hereinafter in this section referred to as "the appellate authority").

Explanation.—For the purpose of this section, "person" means apartment owner, Association of Apartment Owners, sole owner, or all the owners of the property.

(*2*) Every appeal under sub-section (*1*) shall be preferred within a period of sixty days from the date on which a copy of the direction, order or decision made by the Registrar is received by the aggrieved person :

Provided that, the appellate authority may entertain any appeal after the expiry of sixty days, if it is satisfied that there was sufficient cause for not filing it within that period.

(*3*) On receipt of an appeal under sub-section (*1*), the appellate authority may, after giving the parties a reasonable opportunity of being heard, pass such orders thereon as it thinks fit.

(*4*) The appellate authority shall send a copy of every order made by it to the parties and to the Registrar.

(*5*) The appeal preferred under sub-section (*1*) shall be dealt with by the appellate authority as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within ninety days from the date of receipt of appeal.]

17. Waiver of use of common areas and facilities ; abandonment of apartment.— No apartment owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas and facilities, or by abandonment of his apartment.

18. Separate assessment.— Notwithstanding anything to the contrary contained in any law relating to local authorities, each apartment and its percentage of undivided interest in the common areas and facilities appurtenant to such apartment (being an apartment submitted to the provisions of this Act) shall be deemed to be separate property for the purpose of assessment to tax on lands and buildings leviable under such law and shall be assessed and taxed, accordingly ; and for this purpose, a local authority shall make all suitable rules to carry out the provisions of this section. Neither the building, the property nor any of the common areas and facilities shall be deemed to be separate property for the purposes of the levy of such tax.

19. Charge for property of common expenses.— All sums assessed by the Association of Apartment Owners but unpaid for the share of the common expenses chargeable to any apartment shall constitute a charge on such apartment prior to all other charges *except* only (*i*) charge, if any, on the apartment for payment of Government and municipal taxes, and (*ii*) all sums unpaid on a first mortgage of the apartment.

20. Joint and several liability of vendor, etc., for unpaid common expenses.— Upon the sale of an apartment, the purchaser of the apartment shall be jointly and severally liable with the vendor for all unpaid assessments against the latter or his share of the common expenses upto the time of the sale without prejudice to the purchaser's or grantee's right to recover from the vendor the amount paid by the purchaser or grantee therefore. Any such purchaser shall be entitled to a statement from the Secretary of Board of Managers, setting forth the amount of the unpaid assessment against the vendor and such purchaser or grantee shall not be liable for, nor shall the apartment sold be subject to a charge for any unpaid share of common expenses against such apartment accrued prior to such sale or request in excess of the amount therein set forth.

21. Insurance.— The Manager or Board of Managers, if required by the Declaration or the bye-laws or by a majority of the apartment owners, or at the request of a mortgagee having a first mortgage covering an apartment, shall have the authority to, and shall obtain insurance for the property against loss or damage by fire, and such other hazards under such terms and for such amounts as shall be required, or requested. Such insurance coverage shall be written on the property in the name of such Manager or of the Board of Managers of the Association of the Apartment Owners as trustee for each

of the apartment owners in the percentages established in the Declaration. Premiums shall be common expenses. Provisions for such insurance shall be without prejudice to the right of each apartment owner to insure his own apartment for his benefit.

22. Disposition of property ; destruction or damage.— If within sixty days of the date of damage or destruction to all or part of the property, it is not determined by [1][the Association of Apartment Owners by majority] to repair, reconstruct or rebuild, then and in that event,—

(*a*) the property shall be deemed to be owned in common by the apartment owners ;

(*b*) the undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of the undivided interest previously owned by such owner in the common areas and facilities ;

(*c*) any encumbrances affecting any of the apartments shall be deemed to be transferred in accordance with the existing priority to the percentage of the undivided interest of the apartment owner in the property as provided therein ;

(*d*) the property shall be subject to an action for partition at the suit of any apartment owner, in which even the net proceeds of sale together with the net proceeds of the insurance on the property, if

any, shall be considered as one fund and shall be divided among all the apartment owners in percentage equal to the percentage of undivided interest owned by each owner in the property after first paying out, all the respective shares of the apartment owners to the extent sufficient for the purpose and all charges on the undivided interest in the property owned by each apartment owner.

23. Action.— Without limiting the rights of any apartment owner, actions may be brought by the Manager or Board of Managers, in either case in the discretion of the Board of Managers on behalf of two or more of the apartment owners as their respective interest may appear, with respect to any cause of action relating to the common areas and facilities or more than one apartment. Service of process on two or more apartment owners in any action relating to the common areas and facilities or more than one apartment may be made on the person designated in the Declaration to receive service of process.

24. Act to be binding on apartment owners, tenants, etc.— (*1*) All apartment owners, tenants of such owners, employees of owners and tenants, or any other person that may in any manner use property or any part thereof submitted to the provisions of this Act shall be subject to this Act and to the Declaration and the bye-laws of the Association of Apartment Owners adopted pursuant to the provisions of this Act.

(*2*) All agreements, decisions and determinations lawfully made by the Association of Apartment Owners in accordance with the voting percentages established under this Act, Declaration or bye-laws, shall be deemed to be binding on all apartment owners.

[2]**[24A.Power to exempt from stamp duty, registration fee and court-fees; power to refund.—** (*1*) The State Government, by notification in the *Official Gazette*, may reduce or remit whether prospectively or retrospectively—

(*a*) the stamp duty with which under any law relating to stamp duty for the time being in force, instruments or documents executed by or on behalf of a promoter, an apartment-owner or association of apartment owners relating to any of the purposes of the Act are respectively chargeable ;

(*b*) any fee payable by or on behalf of any promoter, apartment-owner or association of apartment owners in relation to the instruments or documents referred to in clause (*a*) under any law relating to the registration of documents or to courtfees, for the time being in force which the State Government is competent to levy.

1 These words were substituted for the words "Association of Apartment Owners" by Mah. 41 of 2018, s. 8. 2 Section 24A was inserted by Mah. 53 of 1974, s. 5.

(*2*) The State Government may refund the amount of any duty or fee paid in pursuance of any law referred to in sub-section (*1*) in such circumstances, to such extent and subject to such terms and conditions, if any, as the State Government may by order determine.]

25. Power to make rules.— (*1*) The State Government may, subject to the condition of previous publication by notification in the *Official Gazette*, make rules for carrying into effect the provisions of this Act.

(*2*) Every rule made under this section 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 or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

26. Removal of doubt.— For the removal of doubt, it is hereby declared that the provisions of the Transfer of Property Act, 1882 (IV of 1882), shall in so far as they are not inconsistent with the provisions of this Act, apply to every apartment together with its undivided interest in the common areas and facilities appurtenant to such apartment as those provisions apply in relation to any immovable property,

and the provisions of this Act shall take effect, notwithstanding anything to the contrary contained in any contract.

27. Amendment to certain Acts.— The [1][enactment] specified in the Schedule hereto shall be amended in the manner and to the extent specified in the third column thereof.

28. Severability.— If any provision of this Act or any section, sentence, clause, phrase, or word, or application thereof in any circumstances is held invalid, the validity of the remainder of this Act and of the application of any such provision, section, sentence, clause, phrase or word, in any other circumstances shall not be affected thereby.

1 This word was substituted for the word "enactments" by Mah. 14 of 1986, s. 5.

SCHEDULE

(*See* section 27)

Number and year of enactment	Subject or title	Extent of amendment
1	2	3
[1]* * * * *		
Mah. XLV of 1963.	The Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management of a building and and transfer) Act, 1963.	(*1*) In section 2— (*a*) in clause (*a*), after the words "part includes an apartment" shall be added ; (*b*) in clause (*c*), after the words "building of flats" the words "or apartments" shall be inserted ; (*c*) in clause (*e*), after the word "flats" at both the places where it occurs, the words "or apartments" shall be inserted ; (*d*) after clause (*e*), the following shall be added, namely :— "(*f*) the expression 'apartment' and 'apartment owner' shall have the meanings, respectively assigned to them in the Maharashtra Apartment Ownership Act, 1970 (Mah. XV of 1971). (*2*) Section 10 shall be renumbered as Sub-section (*1*) of that section and after sub-section (*1*) so renumbered, the following sub-section shall be added, namely :— "(*2*) If any property consisting of building or buildings is constructed or to be constructed and the apartment takers propose to submit the apartments to the provisions of the Maharashtra Apartment Ownership Act, 1970 (Mah. XV of 1971) by executing Declaration and Deeds of Apartments as required by that Act, then the promoter shall inform the Registrar as defined in the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961), accordingly ; and in such cases, it

[1] The entries relating to the Bombay Housing Board Act, 1948 and the Madhya Pradesh Housing Board Act, 1950 were deleted by Mah. 14 of 1986, s. 6.

SCHEDULE—*contd.*

Number and year of enactment	Subject or title	Extent of amendment
1 2	3	
		shall not be lawful to form any co-operative society or company, and each apartment owner shall be entitled to the exclusive ownership and possession of his apartment as provided in the first mentioned Act.”.
		(*3*) In section 11, after the word “flat takers” the words “or apartment owners” shall be inserted.