THE NATIONAL HOUSING BANK ACT, 1987

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THE NATIONAL HOUSING BANK ACT, 1987

ACT NO. 53 OF 1987

[23*rd December*, 1987.]

An Act to establish a bank to be known as the National Housing Bank to operate as a principal agency to promote housing finance institutions both at local and regional levels and to provide financial and other support to such institutions and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(*1*) This Act may be called the National Housing Bank Act, 1987.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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

(*a*) "Board" means the Board of Directors of the National Housing Bank referred to in section 6;

(*b*) "Chairman" means the Chairman of the Board appointed under section 6;

(*c*) "director" means a director appointed under section 6;

(*d*) "housing finance institution" includes every institution, whether incorporated or not, which primarily transacts or has as [2][one of its principal objects], the transacting of the business of providing finance for housing, whether directly or indirectly;

(*e*) "Managing Director" means the Managing Director appointed under section 6;

(*f*) "National Housing Bank" means the National Housing Bank established under section 3;

(*g*) "notification" means a notification published in the Official Gazette;

(*h*) "prescribed" means prescribed by regulations made under this Act;

(*i*) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934).

(*j*) words and expressions used herein and not defined but defined in the Reserve Bank of India Act, 1934 (2 of 1934), shall have the meanings respectively assigned to them in that Act;

(*k*) words and expressions used herein and not defined either in this Act or in the Reserve Bank of India Act, 1934 (2 of 1934), but defined in the Banking Regulation Act, 1949 (10 of 1949), shall have the meanings respectively assigned to them in the Banking Regulation Act, 1949.

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1. 9th July, 1988, *vide* notification No. S.O. 684(E), dated 9th July, 1988, *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*) [in except Chapter V and sub-section (*3*) of section 49].

   1st June, 1989, *vide* notification No. S.O. 394(E), dated 1st June, 1989, *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*) [in respect of Chapter V and sub-section (*3*) of section 49].

2. Subs. by Act 15 of 2000, s. 2, for "its principal object" (w.e.f. 12-6-2000).

CHAPTER II

ESTABLISHMENT OF THE NATIONAL HOUSING BANK AND CAPITAL THEREOF

3. Establishment and incorporation of National Housing Bank.—(*1*) With effect from such date as the Central Government may, by notification, appoint, there shall be established for the purposes of this Act, a bank to be known as the National Housing Bank.

(*2*) The National Housing Bank shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by that name, sue and be sued.

(*3*) The head office of the National Housing Bank shall be at [1][New Delhi or at such other place as the Central Government] may, by notification, specify.

(*4*) The National Housing Bank may establish offices, branches or agencies at any place in India, and with the previous approval of [2][the Central Government], at any place outside India.

[3]**[4. Capital.**—(*1*) The authorised and paid-up capital of the National Housing Bank shall be three hundred and fifty crores of rupees:

[4][Provided that the Central Government may, by notification, increase the authorised capital up to two thousand crore rupees or such other amount as may be determined by it from time to time.]

(*2*) The Board may, on such terms and conditions, as determined by it from time to time, issue the increased authorised capital to [5]*** the Central Government, scheduled banks, public financial institutions, housing finance institutions or such other institutions, as may be approved by the Central Government:

Provided that no increase in the issued capital shall be made in such manner that [5]*** the Central Government, public sector banks, public financial institutions or other institutions owned or controlled by the Central Government, hold in aggregate at any time, less than fifty-one per cent. of the issued capital of the National Housing Bank.]

[6][(*3*) The subscribed capital of one thousand four hundred and fifty crore rupees of the National Housing Bank, which has been subscribed to by the Reserve Bank, shall stand transferred to, and vested in the Central Government upon payment of the face value of the subscribed capital, to the Reserve Bank from such date as may be notified by the Central Government.]

CHAPTER III

MANAGEMENT OF THE NATIONAL HOUSING BANK

5. Management.—(*1*) The general superintendence, direction and management of the affairs and business of the National Housing Bank shall vest in the Board of Directors, which shall exercise all powers and do all acts and things, which may be exercised or done by the National Housing Bank.

(*2*) Subject to the provisions of this Act, the Board, in discharging its functions, shall act on business principles with due regard to public interest.

(*3*) Subject to the provisions of sub-section (*1*) and save as otherwise provided in the regulations made under this Act,—

1. Subs. by Act 13 of 2018, s. 163, for "Bombay or at such other place as the Reserve Bank" (w.e.f. 1-6-2018).
2. Subs. by s. 163, *ibid.*, for "the Reserve Bank" (w.e.f. 1-6-2018).
3. Subs. by Act 15 of 2000, s. 3, for section 4 (w.e.f. 12-6-2000).
4. The Proviso subs. by Act 13 of 2018, s. 164 (w.e.f. 1-6-2018).
5. The words "the Reserve Bank," omitted by s. 164, *ibid*. (w.e.f. 1-6-2018).
6. The Proviso ins. by s. 164, *ibid.* (w.e.f. 1-6-2018).

[1][(*a*) the Chairman, if he is a whole-time director or if he is holding offices both as the Chairman and the Managing Director, or

(*b*) the Managing Director, if the Chairman is not if he is whole-time director, or if the Chairman being a whole-time director, is absent,]

shall also have powers of general superintendence, direction and management of the affairs and business of the National Housing Bank and may also exercise all powers and do all acts and things which may be exercised or done by the National Housing Bank and shall act on business principles with due regard to public interest.

(*4*) The Managing Director shall, in the discharge of his powers and functions, follow such directions as the Chairman may give.

(*5*) In the discharge of its functions under this Act, the National Housing Bank shall be guided by such directions in matters of policy involving public interest as the Central Government [2]*** may give in writing.

6. Board of Directors.—(*1*) The Board of Directors of the National Housing Bank shall consist of the following, namely:—

(*a*) a Chairman and a Managing Director:

Provided that the same person may be appointed as Chairman and as Managing Director;

(*b*) [3][two directors] from amongst the experts in the field of housing, architecture, engineering, sociology, finance, law, management and corporate planning or in any other field, special knowledge of which is considered useful to the National Housing Bank;

[4][(*c*) two directors, who shall be persons with experience in the working of institutions involved in providing funds for housing or engaged in housing development or have experience in the working of financial institutions or scheduled banks;

(*ca*) two directors elected in such manner as may be prescribed by shareholders other than [5]*** the Central Government and other institutions owned or controlled by the Central Government;]

(*d*) [6][one director] from out of the directors of the Reserve Bank;

(*e*) three directors from amongst the officials of the Central Government;

(*f*) two directors from amongst the officials of the State Government.

(*2*) The Chairman, the Managing Director and other directors [7][excluding the directors referred to in clauses (*ca*) and (*d*)], shall be appointed by the Central Government [8][the director] referred to in clause (*d*) shall be nominated by the Reserve Bank.

7. Term of office of Chairman, Managing Director and other directors, service conditions, etc.—(*1*) The Chairman and the Managing Director shall hold office for such term, not exceeding five years and shall receive such salary and allowances and be governed by such terms and conditions of service as the Central Government may [9]*** specify and shall be eligible for re-appointment:

Provided that the Chairman or, as the case may be, the Managing Director shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

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1. Subs. by Act 15 of 2000, s. 4, for clauses (*a*) and (*b*) (w.e.f. 12-6-2000).
2. The words ", in consultation with the Reserve Bank, or the Reserve Bank," omitted by Act 13 of 2018, s. 165 (w.e.f. 1-6-2018).
3. Subs. by Act 15 of 2000, s. 5, for "three directors" (w.e.f 12-6-2000).
4. Subs. by s. 5, *ibid*., for clause (*c*) (w.e.f. 12-6-2000).
5. The words "the Reserve Bank," omitted by Act 13 of 2018, s. 166 (w.e.f. 1-6-2018).
6. Subs. by s. 166, *ibid*., for "two directors" (w.e.f. 1-6-2018).
7. Subs. by Act 15 of 2000, s. 5, for "excluding the directors referred to in clause (*d*)" (w.e.f. 12-6-2000).
8. Subs. by Act 13 of 2018, s. 166, for "in consultation with the Reserve Bank and directors" (w.e.f. 1-6-2018).
9. The words ", in consultation with the Reserve Bank," omitted by s. 167, *ibid*. (w.e.f. 1-6-2018).

(*2*) The directors referred to in [1][clauses (*b*), (*c*) and (*ca*)] of sub-section (*1*) of section 6 shall hold office for a term of three years:

[2]* * * * *

(*3*) The Central Government may [3]*** remove the Chairman or the Managing Director, or any other director referred to in sub-section (*2*), at any time before the expiry of his term of office after giving him a reasonable opportunity of showing case against the proposed removal.

(*4*) Notwithstanding anything contained in sub-sections (*1*) and (*3*), the Central Government [3]***shall have the right to terminate the term of office of the Chairman or, as the case may be, the Managing Director, at any time before the expiry of the term specified under sub-section (*1*), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof and the Chairman or the Managing Director, as the case may be, shall also have the right to relinquish his office at any time before the expiry of the term specified under sub-section (*1*), by giving to the Central Government notice of not less than three months in writing or three months' salary and allowances in lieu thereof.

(*5*) The directors shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or of any of its committees and for attending to any other work of the National Housing Bank:

Provided that no such fee shall be payable to any director, who is an official of the Government or a director of the Reserve Bank.

8. Disqualifications.—No person shall be a director of the Board, if he—

(*a*) is, or becomes of unsound mind and has been so declared by a competent court; or

(*b*) is or has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude; or

(*c*) is, or at any time has been, adjudicated as insolvent or has suspended payment of his debts or has compounded with his creditors; or

(*d*) has, for any reason, been removed or dismissed from the service of—

(*i*) the Government, or

(*ii*) the Reserve Bank, the State Bank or any other bank, or

(*iii*) any public financial institution, or state financial corporation, or

(*iv*) any other corporation owned or controlled by the Government.

9. Vacation and resignation of office by directors.—(*1*) If a director—

(*a*) becomes subject to any of the disqualifications mentioned in section 8; or

(*b*) is absent without leave of the Board for three or more consecutive meetings thereof,

his seat shall thereupon become vacant.

(*2*) Any director may resign his office by giving notice thereof in writing to the authority that appointed or, as the case may be, nominated him and on his resignation being accepted by such authority or if his resignation is not sooner accepted, on the expiry of three months from the receipt thereof by such appointing authority, he shall be deemed to have vacated his office.

10. Casual vacancy in the office of Chairman or Managing Director.—If the Chairman, or as the case may be, the Managing Director, is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise, in circumstances not involving the vacation of his appointment, the Central Government may, appoint another person to act in his place during his absence.

1. Subs. by Act 15 of 2000, s. 6, for "clauses (*b*) and (*c*)" (w.e.f. 12-6-2000).
2. The proviso omitted by Act 45 of 2006, s. 19 (w.e.f. 16-10-2006).
3. The words ", in consultation with the Reserve Bank," omitted by Act 13 of 2018, s. 167 (w.e.f. 1-6-2018).

11. Meetings of Board.—(*1*) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.

(*2*) The Chairman, or, if for any reason he is unable to attend a meeting of the Board, the Managing Director, or, in the event of both the Chairman and the Managing Director being unable to attend a meeting, any other director nominated by the Chairman in this behalf and in the absence of such nomination, any director elected by the directors present from among themselves at the meeting, shall preside at the meeting.

(*3*) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the directors present and voting, and in the event of an equality of votes, the Chairman, or, in his absence, the person presiding, shall have a second or casting vote.

12. Executive Committee and other committees.—(*1*) The Board may constitute an Executive Committee consisting of such number of directors as may be prescribed.

(*2*) The Executive Committee shall discharge such functions as may be prescribed, or, as may be delegated to it, by the Board.

(*3*) The Board may constitute such other committees, whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons as it thinks fit for such purposes, as it may decide and any committee so constituted shall discharge such functions as may be delegated to it by the Board.

(*4*) The Executive Committee or any other committees constituted under this section shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meetings, as may be prescribed.

13. Director of Board or member of committee thereof not to participate in meetings in certain cases.—Any director of the Board or any member of a committee, who has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board or a committee thereof, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and the disclosure shall be recorded in the minutes of the Board, or the committee, as the case may be, and the director or member shall not take any part in any deliberation or decision of the Board or the committee with respect to that matter.

CHAPTER IV

BUSINESS OF THE NATIONAL HOUSING BANK

14. Business of the National Housing Bank.—Subject to the provisions of this Act, the National Housing Bank may transact all or any of the following kinds of business, namely:—

(*a*) promoting, establishing, supporting or aiding in the promotion, establishment and support of housing finance institutions;

[1][(*b*) making of loans and advances or rendering any other form of financial assistance whatsoever for housing activities to housing finance institutions, scheduled banks, state co-operative agricultural and rural development banks or any other institution or class of institutions as may be notified by the Central Government;

(*ba*) making of loans and advances for housing or residential township-cum-housing development or slum clearance projects;]

(*c*) subscribing to or purchasing stocks, shares, bonds, debentures and securities of every other description;

(*d*) guaranteeing the financial obligations of housing finance institutions and underwriting the issue of stocks, shares, bonds, debentures and securities of every other description of housing finance institutions;

1. Subs. by Act 15 of 2000, s. 7, for clause (*b*) (w.e.f. 12-6-2000).

(*e*) drawing, accepting, discounting or rediscounting, buying or selling and dealing in bills of exchange, promissory notes, bonds, debentures, hundies, coupons and other instruments by whatever name called;

[1][(*ea*) buying, selling or otherwise dealing in any loans or advances secured by mortgage or charge of the immovable property relating to scheduled banks or housing finance institutions;

(*eb*) creating one or more trusts and transferring loans or advances together with or without securities therefor to such trusts for consideration;

(*ec*) setting aside loans or advances held by the National Housing Bank and issuing and selling securities based upon such loans or advances so set aside in the form of debt obligations, trust certificates of beneficial interest or other instruments, by whatever name called, and to act as trustee for the holders of such securities;

(*ed*) setting up of one or more mutual funds for undertaking housing finance activities;

(*ee*) undertaking or participating in housing mortgage insurance;]

[2][(*f*) promoting, forming, conducting or associating in the promotion, formation or conduct of companies, mortgage banks, subsidiaries, societies, trusts or such other association of persons as it may deem fit for carrying out all or any of its functions under this Act;]

(*g*) undertaking research and surveys on construction techniques and other studies relating to or connected with shelter, housing and human settlement;

(*h*) formulating one or more schemes, for the purpose of mobilisation of resources and extension of credit for housing;

[3][(*hh*) formulating a scheme for the purpose of accepting deposits referred to in clause (*a*) of section 2 of the Voluntary Deposits (Immunities and Exemptions) Act, 1991 (47 of 1991) and crediting forty per cent. of the amount of such deposits to a special fund created under section 37;]

(*i*) formulating one or more schemes; for the economically weaker sections of society which may be subsidised by the Central Government or any State Government or any other source;

(*j*) organising training programmes, seminars and symposia on matters relating to housing;

(*k*) providing guidelines to the housing finance institutions to ensure their growth on sound lines;

(*l*) providing technical and administrative assistance to housing finance institutions;

(*m*) co-ordinating with the Life Insurance Corporation of India the Unit Trust of India, the General Insurance Corporation of India and other financial institutions, in the discharge of its overall functions;

(*n*) exercising all powers and functions in the performance of duties entrusted to the National Housing Bank under this Act or under any other law for the time being in force;

(*o*) acting as agent of the Central Government, the State Government or the Reserve Bank or of any authority as may be authorised by the Reserve Bank;

(*p*) any other kind of business which the Central Government may, on the recommendation of the Reserve Bank, authorise;

(*q*) generally, doing of all such matters and things as may be incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act.

15. Borrowings and acceptance of deposits by National Housing Bank.—(*1*) The National Housing Bank may, for the purpose of carrying out its functions under this Act—

1. Ins. by Act 15 of 2000, s. 7 (w.e.f. 12-6-2000).
2. Subs. by Act 15 of 2000, s. 7, for clause (*f*) (w.e.f. 12-6-2000).
3. Ins. by Act 47 of 1991, s. 5 (w.e.f. 20-9-1991).

(*a*) issue and sell bonds and debentures with or without the guarantee of the Central Government, in such manner and on such terms as may be prescribed;

(*b*) borrow money from [1][the Central Government, scheduled banks, financial institutions, mutual funds] and from any other authority or organisation or institution approved by that Government on such terms and conditions as may be agreed upon;

(*c*) accept deposits repayable after the expiry of [2][such period and] on such terms as may generally or specially be approved by the Reserve Bank:

[3][Provided that nothing contained in this clause shall apply to deposits accepted under the scheme formulated by the Bank in pursuance of clause (*hh*) of section 14;]

(*d*) borrow money from the Reserve Bank—

[4][(*i*) by way of loans and advances and generally obtain financial assistance in such manner or on such terms and conditions as may be specified by the Reserve Bank;]

(*ii*) out of the National Housing Credit (Long Term Operations) Fund established under section 46D of the Reserve Bank of India Act, 1934 (2 of 1934) or any of the purposes specified in that section;

(*e*) receive for services rendered, such remuneration, commission, commitment charges, consultancy charges, service charges, royalties, premia, licence fees and any other consideration of whatever description;

(*f*) receive gifts, grants, donations or benefactions from Government or any other source.

(*2*) The Central Government may, on a request being made to it by the National Housing Bank, guarantee the bonds and debentures issued by the National Housing Bank as to the repayment of principal and the payment of interest at such rate as may be fixed by that Government.

16. Loans in foreign currency.—(*1*) Notwithstanding anything contained in [5][the Foreign Exchange Management Act, 1999 (42 of 1999)] or in any other law for the time being in force relating to foreign exchange, the National Housing Bank may, for the purpose of making loans and advances under this Act, borrow in such manner and on such conditions as may be prescribed in consultation with the Reserve Bank and with the previous approval of the Central Government, foreign currency from any bank or financial institution in India or elsewhere.

(*2*) The Central Government may, where necessary, guarantee any loan taken by the National Housing Bank under sub-section (*1*) or any part thereof as to the repayment of principal and the payment of interest and other incidental charges.

[6][16A. Assistance to borrower when to operate or a charge in the property offered as security.—(*1*) Where any person or institution seeks any financial assistance from the National Housing Bank on the security of any immovable property belonging to him or to that institution or on the security of the property of some other person whose property is offered as a collateral security for such assistance, such person or institution or, as the case may be, such other person may execute a written declaration in the form set out in the Third Schedule to this Act stating therein the particulars of the immovable property which is proposed to be offered as security, or as the case may be, collateral security, for such assistance and agreeing that the dues relating to the assistance, if granted, shall be a charge on such immovable property and, if on receipt of such declaration, the National Housing Bank grants any financial assistance to the person or institution aforesaid, the dues relating to such assistance shall, without prejudice to the rights of any other creditor holding any prior charge or mortgage in respect of the immovable property so

1. Subs. by Act 15 of 2000, s. 8, for "the Central Government" (w.e.f. 12-6-2000).
2. Subs. by s. 8, *ibid.*, for "a period which shall not be less than twelve months from the date of the making of the deposit" (w.e.f. 12-6-2000).
3. Added by Act 47 of 1991, s. 5 (w.e.f. 20-9-1991).
4. Subs. by Act 15 of 2000, s. 8, for sub-clause (*i*) (w.e.f. 12-6-2000).
5. Subs. by Act 13 of 2018, s. 168, for "the Foreign Exchange Regulation Act, 1973 (46 of 1973) (w.e.f. 1-6-2018).
6. Ins. by Act 15 of 2000, s. 9 (w.e.f. 12-6-2000).

specified, be, by virtue of the provisions of this section, a charge on the property specified in the declaration aforesaid.

(*2*) Where any further immovable property is offered by a person or an institution as security for the financial assistance referred to in sub-section (*1*), such person or institution may execute a fresh declaration, as far as may be in the form set out in the Third Schedule to this Act, whereupon the dues relating to such assistance shall, by virtue of the provisions of this section, also be a charge on the property specified in such fresh declaration.

(*3*) A declaration made under sub-section (*1*) or sub-section (*2*) may be varied or revoked at any time by the person or institution as aforesaid, with the prior approval of the National Housing Bank.

(*4*) Every declaration made under sub-section (*1*) or sub-section (*2*) shall be deemed to be a document registrable as an agreement under the provisions of the Registration Act, 1908 (16 of 1908) and no such declaration shall have effect unless it is so registered.

16B. Amount and security to be held in trust.—(*1*) Any sums received by a borrowing institution in repayment or realisation of loans and advances financed or refinanced either wholly or partly by the National Housing Bank shall, to the extent of the accommodation granted by the National Housing Bank and remaining outstanding, be deemed to have been received by the borrowing institution in trust for the National Housing Bank, and shall accordingly be paid by such institution to the National Housing Bank.

(*2*) Where any accommodation has been granted by the National Housing Bank to a borrowing institution, all securities held, or which may be held, by such borrowing institution on account of any transaction in respect of which such accommodation has been granted, shall be held by such institution in trust for the National Housing Bank.]

17. Power to transfer rights.—The rights and interests of the National Housing Bank (including any other rights incidental thereto) in relation to any loan or advance made, or any amount recoverable, by it, may be transferred by the National Housing Bank, either in whole or in part, by the execution or issue of any instrument or by the transfer of any instrument by endorsement, or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the National Housing Bank may, notwithstanding such transfer, act as the trustee within the meaning of section 3 of the Indian Trusts Act, 1882 (2 of 1882), for the transferee.

18. Power to acquire rights.—The National Housing Bank shall have the right to acquire, by transfer or assignment, the rights and interests of any [1][institution] (including any other rights incidental thereto) in relation to any loan or advance made, or any amount recoverable by such institution, either in whole or in part, by the execution or issue of any instrument or by the transfer of any instrument or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred.

[2]**[18A. Exemption from registration**.—Notwithstanding anything contained in sub-section (*1*) of section 17 of the Registration Act, 1908 (16 of 1908),—

(*a*) any instrument in the form of debt obligations or trust certificate of beneficial interest or other instruments, by whatever name called, issued by the National Housing Bank to securities the loans granted by the housing finance institutions and scheduled banks, and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immovable property except in so far as it entitles the holder to an undivided interest afforded by a registered instrument, whereby the National Housing Bank has acquired the rights and interests in relation to such loans and in securities therefor; or

(*b*) any transfer of such instruments referred to in clause (*a*),

shall not require compulsory registration.

1. Subs. by Act 15 of 2000, s. 10, for "housing finance institution" (w.e.f. 12-6-2000).
2. Ins. by s. 11, *ibid*. (w.e.f. 12-6-2000).

18B. Recovery of dues as arrears of land revenue.—Where any amount is due under an agreement to the National Housing Bank, whether acting as a trustee or otherwise, in respect of securitisation of loans of housing finance institutions and scheduled banks, the National Housing Bank may without prejudice to any other mode of recovery make an application to the State Government for the recovery of the amount due to it, and if the State Government or such authority, as that Government may specify in this behalf, is satisfied that any amount is due, it may issue a certificate for the amount to the Collector and the Collector shall proceed to recover that amount in the same manner as arrears of land revenue.]

19. Power to impose conditions for accommodation.—In entering into any transaction under this Chapter with any borrowing [1][institutions], the National Housing Bank may impose such conditions as it may think necessary or expedient for protecting the interests of the National Housing Bank.

20. Power to call for repayment before agreed period.—Notwithstanding anything to the contrary contained in any agreement, the National Housing Bank may, by notice in writing, require any borrowing [1][institutions] to discharge forthwith in full its liabilities to the National Housing Bank—

(*a*) if it appears to the Board that false or misleading information in any material particular was given in the application for the loan or advance; or

(*b*) if the borrowing [1][institutions] has failed to comply with any of the terms of the agreement with the National Housing Bank in the matter of the loan or advance; or

(*c*) if there is a reasonable apprehension that the borrowing [1][institutions] is unable to pay its debts or that proceedings for liquidation may be commenced in respect thereof; or

(*d*) if for any reason, it is necessary so to do to protect the interests of the National Housing Bank.

21. National Housing Bank to have access to records.—(*1*) The National Housing Bank shall have free access to all such records of any [1][institutions] which seeks to avail of any credit facilities from the National Housing Bank and to all such records of any person who seeks to avail of any credit facilities from such [1][institutions], the perusal of which may appear to the national Housing Bank to be necessary in connection with the providing of finance or other assistance to such [1][institutions] or the refinancing of any loan or advance made to such person by that [1][institutions].

(*2*) The National Housing Bank may require any institution or person referred to in sub-section (*1*), to furnish to it copies of any of the records referred to in that sub-section and the institution or the person, as the case may be, shall be bound to comply with such requisition.

22. Validity of loan or advance not to be questioned.—Notwithstanding anything to the contrary contained in any other law for the time being in force, the validity of any loan or advance made by the National Housing Bank in pursuance of the provisions of this Act shall not be called in question merely on the ground of non-compliance with the requirements of such other law or of any resolution, contract, or any instrument regulating the constitution of the borrowing [1][institutions]:

Provided that nothing in this section shall enable any company or co-operative society to obtain any loan or advance where the instrument relating to the constitution of such company or co-operative society does not empower such company or co-operative society so to do.

23. National Housing Bank not to make loans or advances against its own bonds or debentures.—The National Housing Bank shall not make any loan or advance on the security of its own bonds or debentures.

24. Power to inspect.—(*1*) The National Housing Bank may at any time and shall, on being directed so to do by the Reserve Bank, cause an inspection to be made by one or more of its officers of any [1][institutions] to which the National Housing Bank has made any loan or advance or granted any other financial assistance, and its books, accounts and other documents; and the National Housing Bank shall supply to the [1][institutions] a copy of its report on such inspection.

(*2*) It shall be the duty of every officer, employee or other person or persons incharge of the whole or part of the affairs of the [1][institutions] to produce to any officer making an inspection under

1. Subs. by Act 15 of 2000, s. 12, for "housing finance institutions" (w.e.f. 12-6-2000).

sub-section (*1*), all such books, accounts and other documents in his custody or power and to furnish within such time as the said officer may specify, any statements, information relating to the affairs of the [1][institutions] as the said officer may require of him.

25. Power to collect credit information.—(*1*) The National Housing Bank may, for the purpose of the efficient discharge of its functions under this Act, at any time direct any [1][institutions] to submit to it credit information in such form and within such time as may be specified by the National Housing Bank from time to time.

(*2*) Every [1][institutions] shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any instrument regulating the constitution thereof or in any agreement executed by it, relating to the secrecy of its dealings with its constituents, be bound to comply with any directions issued under sub-section (*1*).

(*3*) The National Housing Bank may, for the purpose of the efficient discharge of its functions under this Act collect from the Central and State Governments, local authorities, the Reserve Bank, any bank or such financial or other institutions as the Reserve Bank may specify in this behalf, credit information or other information.

Explanation.—For the purposes of this section and section 26, credit information means any information relating to—

(*i*) the amount of loans and advances and other credit facilities granted for the purpose of housing;

(*ii*) the nature of security taken for such loans, advances or other credit facilities;

(*iii*) the guarantees furnished; and

(*iv*) any other information which has a bearing on the credit-worthiness of the borrower.

26. Power to publish information.—The National Housing Bank, if it considers it in the public interest so to do, may publish any credit information or other information obtained by it under this Act, in such consolidated form or in any other form as it thinks fit.

27. Advisory services.—The National Housing Bank may provide advisory services to the Central and State Governments, local authorities and other agencies connected with housing, in respect of—

(*a*) formulation of overall policies aimed at promoting the growth of housing and housing finance institutions;

(*b*) legislation relating to matters having a bearing on shelter, housing and human settlement.

CHAPTER V

[2][PROVISIONS RELATING TO HOUSING FINANCE INSTITUTIONS]

28. Definition of deposit.—In this Chapter the term 'deposit' shall have the meaning assigned to it in section 451 of the Reserve Bank of India Act, 1934 (2 of 1934).

29. Chapter not to apply in certain cases.—(*1*) The provisions of this Chapter shall not apply to deposits accepted by a housing finance institution which is a firm or an unincorporated association of individuals.

(*2*) For the removal of doubts, it is hereby declared that the firms and unincorporated associations of individuals referred to in sub-section (*1*) shall continue to be governed by the provisions of Chapter IIIC of the Reserve Bank of India Act, 1934 (2 of 1934).

[3][29A. Requirement of registration and net owned fund—[4][(*1*) Notwithstanding anything contained in this Chapter or in any other law for the time being in force, no housing finance institution

1. Subs. by Act 15 of 2000, s. 12, for "housing finance institution" (w.e.f. 12-6-2000).
2. Subs. by Act 23 of 2019, s. 153, for the heading (w.e.f. 9-8-2019).
3. Ins. by Act 15 of 2000, s. 13 (w.e.f. 12-6-2000).
4. Subs. by Act 23 of 2019, s. 154, for sub-sections (*1*) and (*2*) (w.e.f. 9-8-2019).

which is a company shall commence housing finance as its principal business or carry on the business of housing finance as its principal business without—

(*a*) obtaining a certificate of registration issued under this Chapter; and

(*b*) having the net owned fund of ten crore rupees or such other higher amount, as the Reserve Bank may, by notification, specify.

(*2*) Every housing finance institution which is a company shall make an application for registration to the Reserve Bank in such form as may be specified by the Reserve Bank:

Provided that an application made by a housing finance institution which is a company to the National Housing Bank and pending for consideration with the National Housing Bank as on the date of commencement of the provisions of Part VII of Chapter VI of the Finance (No. 2) Act, 2019, shall stand transferred to the Reserve Bank and thereupon the application shall be deemed to have been made under the provisions of this sub-section and shall be dealt with accordingly:

Provided further that the provisions of this sub-section shall not apply to the housing finance institution which is a company and having a valid registration certificate granted under sub-section (*5*) on the date of commencement of the provisions of Part VII of Chapter VI of the Finance (No.2) Act, 2019, and such housing finance institution shall be deemed to have been granted a certificate of registration under the provision of this Act.]

[1]* * * * *

(*4*) The [2][Reserve Bank], for the purpose of considering the application for registration, may require to be satisfied by an inspection of the books of such housing finance institution or otherwise that the following conditions are fulfilled:—

(*a*) that housing finance institution is or shall be in a position to pay its present or future depositors in full as and when their claims accrue;

(*b*) that the affairs of the housing finance institution are not being or are not likely to be conducted in a manner detrimental to the interest of its present or future depositors;

(*c*) that the general character of the management or the proposed management of the housing finance institution shall not be prejudicial to the public interest or the interests of its depositors;

(*d*) that the housing finance institution has adequate capital structure and earning prospects;

(*e*) that the public interest shall be served by the grant of certificate of registration to the housing finance institution to commence or to carry on the business in India;

(*f*) that the grant of certificate of registration shall not be prejudicial to the operation and growth of the housing finance sector of the country; and

(*g*) any other condition, fulfilment of which in the opinion of the [2][Reserve Bank], shall be necessary to ensure that the commencement of or carrying on the business in India by a housing finance institution shall not be prejudicial to the public interest or in the interests of the depositors:

[3][Provided that the Reserve Bank may, wherever it considers necessary so to do, require the National Housing Bank to inspect the books of such housing finance institution and submit a report to the Reserve Bank for the purpose of considering the application.]

(*5*) The [2][Reserve Bank] may, after being satisfied that the conditions specified in sub-section (*4*) are fulfilled, grant a certificate of registration subject to such conditions which it may consider fit to impose.

(*6*) The [2][Reserve Bank] may cancel a certificate of registration granted to a housing finance institution under this section if such institution—

(*i*) ceases to carry on the business of a housing finance institution in India; or

(*ii*) has failed to comply with any condition subject to which the certificate of registration had been issued to it; or

1. Sub-section (*3*) omitted by Act 23 of 2019, s. 154 (w.e.f. 9-8-2019).
2. Subs. by s. 154, *ibid*., for "National Housing Bank" (w.e.f. 9-8-2019).
3. Ins. by s. 154, *ibid*. (w.e.f. 9-8-2019).

(*iii*) at any time fails to fulfil any of the conditions referred to in clauses (*a*) to (*g*) of sub-section (*4*); or

(*iv*) fails—

(*a*) to comply with any direction issued by the [1][Reserve bank or the National Housing Bank] under the provisions of this Chapter; or

(*b*) to maintain accounts in accordance with the requirement of any law or any direction or order issued by the [1][Reserve bank or the National Housing Bank] under the provisions of this Chapter; or

(*c*) to submit or offer for inspection its books of account and other relevant documents when so demanded by an inspecting authority of the [1][Reserve bank or the National Housing Bank]; or

(*v*) has been prohibited from accepting deposit by an order made by the National Housing Bank under the provisions of this Chapter and such order has been in force for a period of not less than three months:

Provided that before cancelling a certificate of registration on the ground that the [2][housing finance institution which is a company] has failed to comply with the provisions of clause (*ii*) or has failed to fulfil any of the conditions referred to in clauses (*a*) to (*g*) of sub-section (*4*), the [3][Reserve Bank], unless it is of the opinion that the delay in cancelling the certificate of registration shall be prejudicial to public interest or the interest of the depositors or the [2][housing finance institution which is a company], shall give an opportunity to such institution on such terms as the [3][Reserve Bank] may specify for taking necessary steps to comply with such provision or fulfilment of such condition:

Provided further that before making any order of cancellation of certificate of registration, such institution shall be given a reasonable opportunity of being heard.

(*7*) A housing finance institution aggrieved by the order or rejection of application for registration or cancellation of certificate of registration may prefer an appeal, within a period of thirty days from the date on which such order of rejection or cancellation is communicated to it, to the Central Government and the decision of the Central Government where an appeal has been preferred to it, or of the [3][Reserve Bank] where no appeal has been preferred, shall be final:

Provided that before making any order of rejection of appeal, such institution shall be given a reasonable opportunity of being heard.

Explanation.—For the purposes of this section,—

(*I*) "net owned fund" means—

(*a*) the aggregate of the paid-up equity capital and free reserves as disclosed in the latest balance-sheet of the housing finance institution after deducting therefrom—

(*i*) accumulated balance of loss;

(*ii*) deferred revenue expenditure; and

(*iii*) other intangible assets; and

(*b*) further reduced by the amounts representing—

(*1*) investments of such institution in shares of—

(*i*) its subsidiaries;

(*ii*) companies in the same group;

[4][(*iii*) all other housing finance companies; and]

(*2*) the book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance) made to, and deposits with,—

(*i*) subsidiaries of such company; and

1. Subs. by Act 23 of 2019, s. 154, for "National Housing Bank" (w.e.f. 9-8-2019).
2. Subs. by s. 154, *ibid.*, for "housing finance institution" (w.e.f. 9-8-2019).
3. Subs. by s. 154, *ibid*., for "National Housing Bank" (w.e.f. 9-8-2019).
4. Subs. by s. 154, *ibid*., for sub-item (*iii*) (w.e.f. 9-8-2019).

(*ii*) companies in the same group, to the extent such amount exceeds ten per cent. of (*a*) above;

[1][(*II*) the expressions "subsidiaries" and "companies in the same group" shall have the meanings respectively assigned to them in the Companies Act, 2013 (18 of 2013):

Provided that the National Housing Bank shall, in consultation with the Reserve Bank, specify the companies to be deemed to be in the same group.]

29B. Maintenance of percentage of assets.—(*1*) Every [2][housing finance institution which is a company] shall invest and continue to invest in India in unencumbered approved securities, valued at a price not exceeding the current market price of such securities, an amount which, at the close of business on any day, shall not be less than five per cent. or such higher percentage not exceeding twenty-five per cent. as the [3][Reserve Bank] may, from time to time and by notification, specify, of the deposits outstanding at the close of business on the last working day of the second preceding quarter.

(*2*) Every housing finance institution shall maintain in India in an account with a scheduled bank in term deposits or certificate of deposits (free of charge or lien) or in deposits with the National Housing Bank or by way of subscription to the bonds issued by the National Housing Bank, or partly in such account or in such deposit or partly by way of such subscription, a sum which, at the close of business on any day, together with the investment made under sub-section (*1*) shall not be less than ten per cent. or [4][such higher percentage not exceeding twenty-five per cent., as the Reserve Bank may], from time to time and by notification specify, of the deposits outstanding in the books of the housing finance institution at the close of business on the last working day of the second preceding quarter.

(*3*) For the purpose of ensuring compliance with the provisions of this section, the [3][Reserve Bank] may require every such housing finance institution to furnish a return to it in such form, in such a manner and for such period as may be specified by the [3][Reserve Bank].

(*4*) If the amount invested by a housing finance institution at the close of business on any day is less than the rate specified under sub-section (*1*) or sub-section (*2*), such housing finance institution shall be liable to pay to the National Housing Bank, in respect of such shortfall, a penal interest at a rate of three per cent. per annum above the bank rate on such amount by which the amount actually maintained or invested falls short of the specified percentage, and where the shortfall continues in the subsequent quarters, the rate of penal interest shall be five per cent. per annum above the bank rate on such shortfall for each subsequent quarter.

(*5*) (*a*) The penal interest payable under sub-section (*4*) shall be payable within a period of fourteen days from the date on which a notice issued by the National Housing Bank demanding payment of the same is served on the housing finance institution and, in the event of a failure of the housing finance institution to pay the same within such period, may be levied by a direction of the principal civil court having jurisdiction in the area where an office of the defaulting housing finance institution is situated and such direction shall be made only upon and application made in this behalf to the court by the National Housing Bank; and

(*b*) When the court makes a direction under clause (*a*), it shall issue a certificate specifying the sum payable by the housing finance institution and every such certificate shall be enforceable in the manner as if it were a decree made by the court in a suit.

(*6*) Notwithstanding anything contained in this section, if the National Housing Bank is satisfied that the defaulting housing finance institution had sufficient cause for its failure to comply with the provisions of sub-section (*1*) or sub-section (*2*), it may not demand the payment of the penal interest.

Explanation.—For the purposes of this section,—

(*i*) "approved securities" means securities of any State Government or of the Central Government and such bonds, both the principal whereof and the interest whereon shall have been fully and unconditionally guaranteed by any such Government;

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1. Subs. by Act 23 of 2019, s. 154, for clause (*II*) (w.e.f. 9-8-2019).
2. Subs. by s. 155, *ibid*., for "housing finance institution" (w.e.f. 9-8-2019).
3. Subs. by s. 155, *ibid.*, for "National Housing Bank" (w.e.f. 9-8-2019).
4. Subs. by s. 155, *ibid*., for "such higher percentage not exceeding twenty-five per cent., as the National Housing Bank may" (w.e.f. 9-8-2019).

(*ii*) "unencumbered approved securities" includes the approved securities lodged by the housing finance institution with another institution for an advance or any other arrangement to the extent to which such securities have not been drawn against or availed of or encumbered in any manner;

(*iii*) "quarter" means the period of three months ending on the last day of March, June, September or December.

29C. Reserve fund.—(*1*) Every housing finance institution which is a company shall create a reserve fund and transfer therein a sum not less than twenty per cent. of its net profit every year as disclosed in the profit and loss account and before any dividend is declared.

Explanation.—A housing finance institution creating and maintaining any special reserve in terms of clause (*viii*) of sub-section (*1*) of section 36 of the Income-tax Act, 1961 (43 of 1961), may take into account any sum transferred by it for the year to such special reserve for the purposes of this sub-section.

(*2*) No appropriation of any sum from the reserve fund including any sum in the special reserve which has been taken into account for the purposes of reserve fund in terms of sub-section (*1*), shall be made by such housing finance institution except for the purpose as may be [1][specified by the Reserve Bank] from time to time and every such appropriation shall be [2][reported to the National Housing Bank and the Reserve Bank] within twenty-one days from the date of such withdrawal:

[3][Provided that the National Housing Bank or the Reserve Bank] may, in any particular case and for sufficient cause being shown, extend the period of twenty-one days by such further period as it thinks fit or condone any delay in making such report.

(*3*) Notwithstanding anything contained in sub-section (*1*), the Central Government may, on the recommendation of [4][the Reserve Bank] and having regard to the adequacy of the paid-up capital and reserves of a housing finance institution which is a company in relation to its deposit liabilities, declare by order in writing that the provisions of sub-section (*1*) shall not be applicable to such housing finance institution for such period as may be specified in the order:

Provided that no such order shall be made unless the amount in the reserve fund under sub-section (*1*), together with the amount in the share premium account, is not less than the paid-up capital of the housing finance institution.]

[5]**[30. Reserve Bank to regulate or prohibit issue of prospectus or advertisement soliciting deposits of money—**The Reserve Bank may, if it considers necessary in the public interest so to do, by general or special order,**—**

(*a*) regulate or prohibit the issue by any housing finance institution which is a company of any prospectus or advertisement soliciting deposits of money from the public; and

(*b*) specify the conditions subject to which any such prospectus or advertisement, if not prohibited, may be issued.]

[6]**[30A. Power of Reserve Bank to determine policy and issue directions—**(*1*) If the Reserve Bank is satisfied that, in the public interest or to regulate the housing finance system of the country to its advantage or to prevent the affairs of any housing finance institution which is a company being conducted in a manner detrimental to the interest of the depositors or in a manner prejudicial to the interest of such housing finance institutions, it is necessary or expedient so to do, it may determine the policy and give directions to all or any of the housing finance institution which is a company relating to income recognition, accounting standards, making of proper provision for bad and doubtful debts, capital adequacy based on risk weights for assets and credit conversion factors for off balance-sheet items and also relating to deployment of funds by a housing finance institution which is a company or a group of such housing finance institutions or housing finance institutions which are companies generally, as the

1. Subs. by Act 23 of 2019, s. 156, for "specified by the National Housing Bank" (w.e.f. 9-8-2019).
2. Subs. by s. 156, *ibid*., for "reported to the National Housing Bank" (w.e.f. 9-8-2019).
3. Subs. by s. 156, *ibid*., for "Provided that the National Housing Bank" (w.e.f. 9-8-2019).
4. Subs. by s. 156, *ibid*., for "the National Housing Bank" (w.e.f. 9-8-2019).
5. Subs. by s. 157, *ibid*., for section 30 (w.e.f. 9-8-2019).
6. Subs. by s. 158, *ibid*., for section 30A (w.e.f. 9-8-2019).

case may be, and such housing finance institutions shall be bound to follow the policy so determined and the direction so issued.

(*2*) Without prejudice to the generality of the powers vested under sub-section (*1*), the Reserve Bank may give directions to housing finance institutions which are companies generally or to a group of such housing finance institutions or to any housing finance institution which is a company in particular as to—

(*a*) the purpose for which advances or other fund-based or non-fundbased accommodation may not be made; and

(*b*) the maximum amount of advances or other financial accommodation or investment in shares and other securities which, having regard to the paid-up capital, reserves and deposits of the housing finance institution and other relevant considerations, may be made by that housing finance institution to any person or a company or to a group of companies.

(*3*) The Reserve Bank may, if it considers necessary in the public interest so to do, issue directions to housing finance institutions which are companies accepting deposits referred to in section 31, either generally or to any group of such housing finance institutions accepting deposits, and in particular, in respect of any matters relating to, or connected with, the receipt of deposits, including credit rating of the housing finance institution which is a company accepting deposits, the rates of interest payable on such deposits, and the periods for which deposits may be received.

(*4*) If any housing finance institution which is a company accepting deposits fails to comply with any direction issued under sub-section (*3*), the Reserve Bank may, by order, prohibit the acceptance of deposits by that housing finance institution.]

[1]**[31. Power of National Housing Bank to collect information from housing finance institutions as to deposits.—**(*1*) The National Housing Bank may at any time direct that every housing finance institution which is a company accepting deposits shall furnish to the National Housing Bank and the Reserve Bank in such form, at such intervals and within such time, such statements, information or particulars relating to or connected with deposits received by such housing finance institution, as may be specified by the National Housing Bank by general or special order.

(*2*) Without prejudice to the generality of the power vested in the National Housing Bank under sub-section (*1*), the statements, information or particulars to be furnished under sub-section (*1*), may relate to all or any of the following matters, namely, the amount of the deposits, the purposes and periods for which, and the rates of interest and other terms and conditions on which, such deposits are received.

(*3*) Every housing finance institution which is a company receiving deposits, shall, if so required by the National Housing Bank and within such time as the National Housing Bank may specify, cause to be sent at the cost of such housing finance institution, a copy of its annual balance-sheet and profit and loss account or other annual accounts to every person from whom the housing finance institution which is a company holds, as on the last day of the year to which the accounts relate, deposits higher than such sum as may be specified by the National Housing Bank.]

[2]**[32. Duty of housing finance institutions to furnish statements, etc., under this Chapter.—**Every housing finance institution which is a company shall furnish the statements, information or particulars called for by the National Housing Bank or the Reserve Bank, as the case may be, and shall comply with any direction given to it under the provisions of this Chapter.]

33. Powers and duties of auditors.—(*1*) The auditor of every [3][housing finance institution which is a company] shall enquire whether or not the housing finance institution has furnished to [4][the National Housing Bank and the Reserve Bank] such statements, information or particulars relating to or connected with deposits received by it, as are required to be furnished under this Chapter, and the auditor shall, except where he is satisfied on such enquiry that the [3][housing finance institution which is a company] has furnished such statements, information or particulars, make a report to [4][the National Housing Bank and the Reserve Bank] giving the aggregate amount of such deposits held by the [3][housing finance institution which is a company].

1. Subs. by Act 23 of 2019, s. 159, for section 31 (w.e.f. 9-8-2019).
2. Subs. by s. 160, *ibid*., for section 32 (w.e.f. 9-8-2019).
3. Subs. by s. 161, *ibid*., for "housing finance institution" (w.e.f. 9-8-2019).
4. Subs. by s. 161, *ibid*., for "the National Housing Bank" (w.e.f. 9-8-2019).

[1][(*1A*) The [2][Reserve Bank] may, on being satisfied that it is necessary so to do, in the public interest or in the interest of the depositors or for the purpose of proper assessment of the books of account, issue directions to any housing finance institution or any group of housing finance institutions or housing finance companies generally or to the auditors of such housing finance institution or institutions relating to balance-sheet, profit and loss account, disclosure of liabilities in the books of account or any matter relating thereto.]

(*2*) Where, in the case of a housing finance institution, being a company, the auditor has made, or intends to make a report to [3][the National Housing Bank and the Reserve Bank] under sub-section (*1*), he shall include in his report under [4][sub-section (*2*) of section 143 of the Companies Act, 2013 (18 of 2013)], the contents of the report which he has made, or intends to make, to [3][the National Housing Bank and the Reserve Bank].

[5][(*3*) Where the National Housing Bank is of the opinion that it is necessary so to do in the public interest or in the interest of the housing finance institution or in the interest of the depositors of such institution, [6][it may at any time and shall, on being directed to do so by the Reserve Bank,] by order, direct that a special audit of the accounts of the housing finance institution in relation to any such transaction or class of transactions or for such period or periods, as may be specified in the order, shall be conducted and the National Housing Bank may appoint an auditor or auditors to conduct such special audit and direct the auditor or the auditors to submit the report to it.

(*4*) The remuneration of the auditors as may be fixed by the National Housing Bank, having regard to the nature and volume of work involved in the audit and the expenses of or incidental to the audit, shall be borne by the housing finance institution so audited.]

[7][[8][**33A. Power of Reserve Bank to prohibit acceptance of deposit and alienation of assets.—**(*1*) If any housing finance institution which is a company violates the provisions of any section or fails to comply with any direction or order given by the National Housing Bank or the Reserve Bank, under any of the provisions of this Chapter, the Reserve Bank may, by order, prohibit such housing finance institution from accepting any deposit.

(*2*) Notwithstanding anything to the contrary contained in any agreement or instrument or any law for the time being in force, the Reserve Bank on being satisfied that it is necessary so to do in the public interest or in the interest of the depositors, may direct the housing finance institution which is a company, against which an order prohibiting from accepting deposit has been issued, not to sell, transfer, create charge or mortgage or deal in any manner with its property and assets without prior written permission of the National Housing Bank for such period not exceeding six months from the date of the order.]

33B. Power of National Housing Bank to file winding up petition.—(*1*) The National Housing Bank, on being satisfied that a housing finance institution which is a company,—

(*a*) is unable to pay its debt; or

(*b*) has by virtue of the provisions of section 29A become disqualified to carry on the business of a housing finance institution; or

(*c*) has been prohibited by [9][the National Housing Bank or the Reserve Bank] from receiving deposit by an order and such order has been in force for a period of not less than three months; or

(*d*) the continuance of the housing finance institution is detrimental to the public interest or to the interest of depositors of the company,

may file an application for winding up of such housing finance institution under the [10][Companies Act, 2013 (18 of 2013)].

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1. Ins. by Act 15 of 2000, s. 16 (w.e.f. 12-6-2000).
2. Subs. by Act 23 of 2019, s. 161, for "National Housing Bank" (w.e.f. 9-8-2019).
3. Subs. by s. 161, *ibid.*, for "the National Housing Bank" (w.e.f. 9-8-2019).
4. Subs. by Act 13 of 2018, s. 170, for "sub-section (*2*) of section 143 of the Companies Act, 2013 (18 of 2013)" (w.e.f. 1-6-2018).
5. Ins. by Act 15 of 2000, s. 16 (w.e.f. 12-6-2000).
6. Subs. by Act 23 of 2019, s. 161, for "it may at any time" (w.e.f. 9-8-2019).
7. Ins. by Act 15 of 2000, s. 17 (w.e.f. 12-6-2000).
8. Subs. by Act 23 of 2019, s. 162, for section 33A (w.e.f. 9-8-2019).
9. Subs. by s. 163, *ibid*., for "the National Housing Bank" (w.e.f. 9-8-2019).
10. Subs. by Act 13 of 2018, s. 171, for "Companies Act, 1956 (1 of 1956)" (w.e.f. 1-6-2018).

(*2*) A housing finance institution which is a company shall be deemed to be unable to pay its debt if it has refused or has failed to meet within five working days any lawful demand made at any of its offices or branches and the National Housing Bank certifies in writing that such company is unable to pay its debt.

(*3*) A copy of every application made by the National Housing Bank under sub-section (*1*) shall be sent to [1][the Registrar of Companies and the Reserve Bank].

(*4*) All the provisions of the Companies Act, 1956 (1 of 1956) relating to winding up of a company shall apply to a winding up proceeding initiated on the application made by the National Housing Bank under this provision.]

[2][**33C. Power to take action against auditors.—**Where any auditor fails to comply with any direction given or order made by the National Housing Bank or the Reserve Bank under section 33, the Reserve Bank may, after giving a reasonable opportunity of being heard, remove or debar the auditor from exercising the duties as auditor of any of the Reserve Bank regulated entities for a maximum period of three years, at a time.]

34. Inspection.—(*1*) The National Housing Bank may, [3][at any time or on being directed so to do by the Reserve Bank, shall], cause an inspection to be made by one or more of its officers or employees or other persons (hereafter in this section referred to as the inspecting authority) of any [4][housing finance institution which is a company], for the purpose of verifying the correctness or completeness of any statement, information or particulars furnished to the National Housing Bank or for the purpose of obtaining any information or particulars which the housing finance institution has failed to furnish on being called upon to do so.

(*2*) It shall be the duty of every director or member of any committee or other body or any person for the time being vested with the management of the whole or part of the affairs of every housing finance institution accepting deposits or other officer or employee thereof to produce to the inspecting authority all such books, accounts and other documents in his custody or power and to furnish that authority with any statement and information relating to the business of the institution as that authority may require of him, within such time as may be specified by that authority.

(*3*) The inspecting authority may examine on oath any director or member of any committee or body or any other person for the time being vested with the management of the affairs of the housing finance institution, accepting deposits, or any officer or employee thereof, in relation to its business.

[5][(*4*) The National Housing Bank shall submit a copy of the report of inspection referred to in sub-section (*1*) to the Reserve Bank.]

35. Deposits not to be solicited by unauthorised persons.—No person shall solicit on behalf of any [6][housing finance institution which is a company] either by publishing or causing to be published any prospectus or advertisement or in any other manner deposits of money from the public unless—

(*a*) he has been authorised in writing by the said housing finance institution to do so and specifies the name of the institution which has so authorised him; and

(*b*) the prospectus or advertisement complies with any order made by the [7][Reserve Bank] under section 30 and with any other provision of law for the time being in force applicable to the publication of such prospectus or advertisement.

1. Subs. by Act 23 of 2019, s. 163, for "the Registrar of Companies" (w.e.f. 9-8-2019).
2. Ins. by Act 18 of 2023, s. 2 and Schedule (w.e.f. 22-01-2024).
3. Subs. 23 of 2019, s.164, for "at any time" (w.e.f. 9-8-2019).
4. Subs. by s. 164, *ibid*., for "housing finance institution accepting deposits" (w.e.f. 9-8-2019).
5. Ins. by s. 164, *ibid.* (w.e.f. 9-8-2019).
6. Subs. by s. 165, *ibid*., for "housing finance institution" (w.e.f. 9-8-2019).
7. Subs. by s. 165, *ibid*., for "National Housing Bank" (w.e.f. 9-8-2019).

[1][35A. **Disclosure of information.**—(*1*) Any information relating to a [2][housing finance institution which is a company],—

(*a*) contained in any statement or return submitted by such institution under the provisions of this Chapter; or

(*b*) obtained through audit or inspection or otherwise by [3][the National Housing Bank or the Reserve Bank, as the case may be,]

shall be treated as confidential and shall not, except otherwise provided in this section, be disclosed.

(*2*) Nothing in this section shall apply to—

(*a*) the disclosure by any [2][housing finance institution which is a company], with the previous permission of [3][the National Housing Bank or the Reserve Bank, as the case may be], of any information furnished to [3][the National Housing Bank or the Reserve Bank, as the case may be] under sub-section (*1*);

(*b*) the publication by [3][the National Housing Bank or the Reserve Bank, as the case may be], if it considers necessary in the public interest so to do, of any information collected by it under sub-section (*1*) in such consolidated form as it may think fit without disclosing the name of any [2][housing finance institution which is a company] or its borrowers;

(*c*) the disclosure by the [2][housing finance institution which is a company] or by [3][the National Housing Bank or the Reserve Bank, as the case may be] of any such information to any other [2][housing finance institution which is a company] or in accordance with the practice and usage customary amongst such institutions or as permitted or required under any other law:

Provided that any such information received by a [2][housing finance institution which is a company] under this clause shall not be published except in accordance with the practice and usage customary amongst institutions or as permitted or required under any other law.

(*3*) Notwithstanding anything contained in this Act or in any other law for the time being in force, [3][the National Housing Bank or the Reserve Bank, as the case may be], if it is satisfied that, in the public interest or in the interest of the depositors or the [2][housing finance institution which is a company] or to prevent the affairs of any [2][housing finance institution which is a company] being conducted in a manner detrimental to the interest of the depositors, it is expedient so to do, may, either on its own motion or on being requested, furnish or communicate any information relating to the conduct of business by any [2][housing finance institution which is a company] to any authority constituted under any law.

(*4*) Notwithstanding anything contained in any other law for the time being in force, no court or tribunal or other authority shall compel [3][the National Housing Bank or the Reserve Bank, as the case may be] to produce or to give inspection of any statement or other material obtained by [3][the National Housing Bank or the Reserve Bank, as the case may be] under any provision of this Chapter.

[4][35B. **Power of Reserve Bank to exempt housing finance institution.**—(*1*) The Reserve Bank, on being satisfied that it is necessary so to do, may declare by notification that all or any of the provisions of this Chapter shall not apply to a housing finance institution which is a company or a group of such housing finance institutions either generally or for such period as may be specified, subject to such conditions, limitations or restrictions as it may think fit to impose.

(*2*) Every notification made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.]]

1. Ins. by Act 15 of 2000, s. 18 (w.e.f. 12-6-2000).
2. Subs. by Act 23 of 2019, s. 166, for "housing finance institution" (w.e.f. 09-08-2019).
3. Subs. by s. 166, *ibid*., for "the National Housing Bank" (w.e.f. 09-08-2019).
4. Subs. by s. 167, *ibid*., for section 35B (w.e.f. 09-08-2019).

36. Chapter V to override other laws.—The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

[1][**36A. Power to order repayment of deposit.—**(*1*) Every deposit accepted by a housing finance institution which is a company unless renewed, shall be repaid in accordance with the terms and conditions of such deposit.

(*2*) Where a housing finance institution which is a company has failed to repay any deposit or part thereof in accordance with the terms and conditions of such deposit, such officer of the National Housing Bank, as may be authorised by the Central Government for the purpose of this section (hereinafter referred to as the "authorised officer") may, if he is satisfied, either on his own motion or on any application of the depositor, that it is necessary so to do to safeguard the interests of the housing finance institution, the depositors or in the public interest, direct, by order, such housing finance institution to make repayment of such deposit or part thereof forthwith or within such time and subject to such conditions as may be specified in the order:

Provided that the authorised officer may, before making any order under this sub-section, give a reasonable opportunity of being heard to the housing finance institution and the other persons interested in the matter.

36B. Nomination by depositors.—(*1*) Where a deposit is held by a housing finance institution to the credit of one or more persons, the depositor or, as the case may be, all the depositors together may nominate, in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949 (10 of 1949) one person to whom in the event of the death of the sole depositor or the death of all the depositors, the amount of deposit may be returned by the housing finance institution.

(*2*) Notwithstanding anything contained in any other law for the time being in force, or in any deposition, whether testamentary or otherwise, in respect of such deposit, where a nomination made purports to confer on any person the right to receive the amount of deposit from the housing finance institution, the nominee shall, on the death of the sole depositor or, as the case may be, on the death of all the depositors, become entitled to all the rights of the sole depositor or, as the case may be, of the depositors, in relation to such deposit to the exclusion of all other persons, unless the nomination is varied or cancelled in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949 (10 of 1949).

(*3*) Where the nominee is a minor, it shall be lawful for the depositor making the nomination to appoint, in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949 (10 of 1949), any person to receive the amount of deposit in the event of his death during the minority of the nominee.

(*4*) Payment by a housing finance institution in accordance with the provisions of this section shall constitute a full discharge to the housing finance institution of its liability in respect of the deposit:

Provided that nothing contained in this sub-section shall affect the right or claim which any person may have against the person to whom any payment is made under this section.

(*5*) No notice of the claim of any person, other than the person or persons in whose name a deposit is held by the housing finance institution, shall be receivable by the housing finance institution, nor shall the housing finance institution be bound by any such notice even though expressly given to it:

1. Ins. by Act 15 of 2000, s. 19 (w.e.f. 12-6-2000).

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such deposit is produced before a housing finance institution, the housing finance institution shall take due note of such decree, order, certificate or other authority.]

[1][CHAPTER VA

OTHER PROVISIONS RELATING TO HOUSING FINANCE INSTITUTIONS

36C. Definitions.—In this Chapter, unless the context otherwise requires,**—**

(*a*) "Appellate Tribunal" means the Appellate Tribunal established under section 36-I;

(*b*) "approved institution" means—

(*i*) a housing finance institution which has been granted a certificate of registration under sub-section (*5*) of section 29A;

(*ii*) a scheduled bank;

(*iii*) National Housing Bank acting as trustee or otherwise in a transaction of securitisation of housing mortgages undertaken by the National Housing Bank;

(*iv*) such other institutions as the Central Government may, on the recommendation of the National Housing Bank, by notification, specify;

(*c*) "assistance" means any direct or indirect financial assistance granted, by an approved institution during the course of any housing finance activity undertaken by it;

(*d*) "borrower" means any person to whom any assistance has been given by an approved institution for the purposes of purchase, construction, repairs, extension or renovation of a residential house;

(*e*) "dues" means any liability which is claimed as due from any person by an approved institution and includes interest, costs, charges and other amount payable in relation thereto;

(*f*) "recovery officer" means an officer appointed under section 36D.

36D. Appointment of recovery officer.—(*1*) The Central Government may, in consultation with the National Housing Bank, by notification appoint such persons being the officers of the approved institution, as it may deem fit, to be recovery officers for the purpose of this Chapter who shall have such qualifications as the Central Government may by rules made under this Act specify.

(*2*) The local limits within which the recovery officer shall exercise the powers conferred and perform the duties imposed on by or under this Chapter shall be such as may be specified by the Central Government by notification.

36E. Application to the recovery officer.—(*1*) Where any borrower, who is under a liability to an approved institution under an agreement, makes any default in repayment of any assistance or any instalment thereof or otherwise fails to comply with the terms of said agreement, then, without prejudice to the provisions of section 69 of the Transfer of Property Act, 1882 (4 of 1882), the approved institution may apply, to the recovery officer within the limits of whose jurisdiction the borrower actually and voluntarily resides, or carries on business, or personally works for gain, or the cause of action wholly or in part arises, for the sale of the property pledged, mortgaged, hypothecated or assigned to the approved institution as security for the dues.

1. Ins. by Act 15 of 2000, s. 20 (w.e.f. 12-6-2000).

(*2*) Where an approved institution, which has to recover its dues from any borrower, has filed an application to the recovery officer under sub-section (*1*) and the same property is also pledged, mortgaged, hypothecated or assigned to another approved institution or person, the other approved institution or person may join the approved institution at any stage of the proceedings, before the final order is passed, by making an application to that recovery officer.

(*3*) In the application under sub-section (*1*) or sub-section (*2*), the nature and extent of the liability of the borrower to the approved institution or person, the grounds on which it is made shall be stated and it be in such form and be accompanied by such documents or other evidence as may be prescribed.

36F. Procedure in respect of application under section 36E.—(*1*) On receipt of an application under section 36E, if the recovery officer is of opinion that the borrower is under a liability to an approved institution under an agreement, or has made default in repayment of the assistance or any instalment thereof or has otherwise failed to comply with the terms of said agreement, he shall cause a written notice of demand in such form as may be prescribed to be served on the borrower, calling upon him to pay the amount specified in the notice within a period of ninety days from the date of service thereof or to show cause as to why the relief prayed for should not be granted.

(*2*) The recovery officer may after giving the applicant and the borrower an opportunity of being heard, pass such interim or final order, including the order for payment of interest from the date on or before which payment of the amount is found due up to the date of realisation or actual payment, on the application as it thinks fit to meet the ends of justice.

(*3*) The recovery officer may also consider and if satisfied, allow any claim of set-off or counter-claim set up by the borrower against the approved institution or person.

(*4*) The recovery officer shall supply a copy of every order passed by it to the approved institution and the borrower.

(*5*) The recovery officer may make an interim order (whether by way of injunction or stay or attachment) against the borrower to debar him from transferring, alienating or otherwise dealing with or disposing of, any property which is pledged, mortgaged, hypothecated or assigned to the approved institution as security for the dues.

(*6*) The application made to the recovery officer under section 36E shall be dealt with by him as expeditiously as possible and endeavour shall be made by him to dispose of the application finally within six months from the date of receipt of the application.

36G. Enforcement of order of recovery officer.—(*1*) Where the borrower refuses or fails to comply with the order within the time specified therein the recovery officer may, take possession of any property pledged, mortgaged, hypothecated or assigned to the approved institution as security for any assistance in respect of which default has been made and transfer by way of sale, lease or otherwise such property.

(*2*) Any transfer by way of sale, lease or otherwise under this section shall be conducted in such manner as may be prescribed.

(*3*) Any transfer of property made by the recovery officer, in exercise of its powers under sub-section (*1*), shall vest in the transferee all rights in or to the property transferred, as if the transfer has been made by the owner of the property.

(*4*) Where any action has been taken against the borrower under the provisions of sub-section (*1*), all costs, charges, expenses which in the opinion of the recovery officer have been properly incurred by him as incidental thereto, shall be recoverable from the borrower and the money which is received by it shall, in the absence of any contract to the contrary, be held by it in trust to be applied firstly, in payment of such costs, charges and expenses and secondly, in discharge of debt, due to the approved institution, and the residue of the money so received shall be paid to the person entitled thereto.

(*5*) If the dues of the approved institution, together with all costs, charges and expenses incurred by the recovery officer, are tendered to the approved institution or to the recovery officer at any time before the date fixed for sale or transfer, the property shall not be sold or transferred, and no further steps shall be taken for transfer or sale of that property.

36H. Chief Metropolitan Magistrate and District Magistrate to assist recovery officer in taking charge of property.—(*1*) Where any property is sold or leased in pursuance of any power conferred by section 36E, the recovery officer may, for the purpose of taking into custody or under control any such property, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such property or other documents relating thereto may be situated or found to take possession thereof, and the Chief Metropolitan Magistrate or as the case may be, the District Magistrate shall, on such request being made to him,—

(*a*) take possession of such property and documents relating thereto; and

(*b*) forward them to the recovery officer.

(*2*) For the purpose of securing compliance with the provisions of sub-section (*1*), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use, or cause to be used, such force, as may, in his opinion, be necessary.

(*3*) No act of the Chief Metropolitan Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.

36-I. Establishment of Appellate Tribunal.—(*1*) The Central Government shall, by notification, establish one or more Appellate Tribunals, to be known as the Housing Finance Institutions Debt Recovery Appellate Tribunals, to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

(*2*) The Central Government shall also specify in the notification referred to in sub-section (*1*), the areas in relation to which the Appellate Tribunal may exercise jurisdiction.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), the Central Government may authorise the Presiding Officer of an Appellate Tribunal to discharge also the functions of the Presiding Officer of other Appellate Tribunal.

36J. Composition of Appellate Tribunal.—An Appellate Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer of the Appellate Tribunal) to be appointed, by notification, by the Central Government.

36K. Qualifications for appointment as Presiding Officer of Appellate Tribunal.—A person shall not be qualified for appointment as the Presiding Officer of an Appellate Tribunal, unless he—

(*a*) is, or has been, or is qualified to be a District Judge;

(*b*) has been a Member of the Indian Legal Service and has held a post in Grade II of that Service for at least three years.

36L. Term of office.—The Presiding Officer of an Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

36M. Staff of Appellate Tribunal.—(*1*) The Central Government shall provide the Appellate Tribunal with such officers and other employees as that Government may think fit.

(*2*) The officers and other employees of the Appellate Tribunal shall discharge their functions under the general superintendence of the Presiding Officer.

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(*3*) The salaries and allowances and other conditions of service of the officers and other employees of the Appellate Tribunal shall be such as the Central Government may by rules made under this Act specify.

36N. Salaries and allowances and other terms and conditions of service of Presiding Officers.—The salary and allowances payable to and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Presiding Officer of an Appellate Tribunal shall be such as the Central Government may by rules made under this Act specify:

Provided that neither the salary and allowances nor the other terms and conditions of a Presiding Officer shall be varied to his disadvantage after appointment.

36-O. Filling up of vacancies.—If, for any reason other than temporary absence, any vacancy occurs in the office of the Presiding Officer of an Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

36P. Resignation and removal.—(*1*) The Presiding Officer of an Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the said Presiding Officer shall, unless he is permitted by the Central Government, to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earliest.

(*2*) The Presiding Officer of an Appellate Tribunal shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after enquiry made by a Judge of a High Court in which the Presiding Officer concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of the charges.

(*3*) The Central Government may, by rules made under this Act, regulate the procedure for the investigation of misbehaviour or incapacity of the aforesaid Presiding Officer.

36Q. Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.—No order of the Central Government appointing any person as the Presiding Officer of an Appellate Tribunal shall be called in question in any manner, and no act or proceeding before an Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the establishment of an Appellate Tribunal.

36R. Jurisdiction, powers and authority of Appellate Tribunal.—An Appellate Tribunal shall exercise the jurisdiction, powers and authority to entertain appeals against any order made or deemed to have been made by the recovery officer under this Act.

36S. Appeal to the Appellate Tribunal.—(*1*) Any person aggrieved by an order made or deemed to have been made by the recovery officer under this Chapter, may prefer an appeal to an Appellate Tribunal having jurisdiction in the matter.

(*2*) Every appeal under sub-section (*1*) shall be filed within a period of forty-five days from the date on which a copy of the order made or deemed to have been made by the recovery officer is received by him and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five 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 Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(*4*) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned recovery officer.

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(*5*) The appeal filed before the Appellate Tribunal under sub-section (*1*) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of the receipt of the appeal.

36T. Deposit of amount due, on filing appeal.—Where an appeal is preferred by a borrower, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal seventy-five per cent. of the amount due from him as determined by the recovery officer:

Provided that the Appellate Tribunal may, for the reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.

36U. Procedure and powers of recovery officer and Appellate Tribunal.—(*1*) The recovery officer and the Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any regulations, the recovery officer and the Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(*2*) The recovery officer and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

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

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

(*c*) receiving evidence on affidavits;

(*d*) issuing commissions for the examination of witnesses or documents;

(*e*) reviewing its decisions;

(*f*) dismissing an application for default or deciding it *ex parte*;

(*g*) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and

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

(*3*) Any proceeding before the recovery officer or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and the recovery officer or the Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

36V. Limitation.—The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an application made to recovery officer.

36W. Presiding Officer, recovery officer, other officers and employees to be public servant.—The Presiding Officer, other officers and employees of an Appellate Tribunal and the recovery officer shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

36X. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against the Central Government or against the Presiding Officer of an Appellate Tribunal or against the recovery officer for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule or regulation or order made thereunder.

36Y. Bar of jurisdiction.—No Court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to the matters specified in this Chapter.

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36Z. Transitional provisions.—Notwithstanding anything contained in this Act, till the establishment of the Appellate Tribunal under section 36-I for any area, the Appellate Tribunal established under section 8 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and which is functioning in that area shall exercise the jurisdiction, powers and authority conferred on the Appellate Tribunal under this Act.]

CHAPTER VI

FUNDS, ACCOUNTS AND AUDIT

37. General Fund and other funds.—(*1*) With effect from such date as [1][the Central Government] may specify, the National Housing Bank shall establish a fund to be called the General Fund and all payments by the National Housing Bank shall be made out of the said General Fund.

(*2*) The Board may, and shall, if so directed by [1][the Central Government], create a special fund or a reserve fund or such other funds as may be prescribed.

38. Preparation of balance sheet, etc., of National Housing Bank.—(*1*) The balance sheet and accounts of the National Housing Bank shall be prepared and maintained in such form and manner as may be prescribed.

(*2*) The Board shall cause the books and accounts of the National Housing Bank to be balanced and closed as on the thirtieth day of June, each year.

39. Disposal of surplus.—After making provision for bad and doubtful debts, depreciation of assets and all other matters for which provision is necessary or expedient or which is usually provided for by bankers, the National Housing Bank shall transfer—

(*i*) for a period of fifteen years, following the accounting year during which the National Housing Bank is established, the amount remaining (hereafter in this section referred to as surplus) such of the funds referred to in section 37 as the Reserve Bank may specify; and

(*ii*) after the expiry of the said period of fifteen years, the National Housing Bank shall, after making provision for the funds referred to in section 37, transfer the balance of surplus to [2][the Central Government].

40. Audit.—(*1*) The accounts of the National Housing Bank shall be audited by auditors duly qualified to act as auditors under [3][sub-section (*1*) of section 141 of the Companies Act, 2013 (18 of 2013)], who shall be appointed by the Reserve Bank, for such term and on such remuneration as the Reserve Bank may fix.

(*2*) The auditors shall be supplied with a copy of the annual balance sheet of the National Housing Bank and it shall be their duty to examine it together with the accounts and vouchers relating thereto and they shall have a list delivered to them of all books kept by the National Housing Bank and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the National Housing Bank.

(*3*) The auditors may, in relation to the accounts of the National Housing Bank, examine any director of the Board or any officer or other employee of the National Housing Bank and shall be entitled to require from the Board or officers or other employees of the National Housing Bank such information and explanation as they may think necessary for the performance of their duties.

(*4*) The auditors shall make a report to the National Housing Bank upon the annual balance sheet and accounts examined by them and in every such report, they shall state whether in their opinion the balance sheet is a full and fair balance sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the National Housing Bank and in case they had called for any explanation or information from the Board or any officer or other employee of the National Housing Bank, whether it was given and whether it was satisfactory.

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1. Subs. by Act 13 of 2018, s. 172, for "the Reserve Bank" (w.e.f. 1-6-2018).
2. Subs. by s. 173, *ibid.*, for "the Reserve Bank" (w.e.f. 1-6-2018).
3. Subs. by s. 174, *ibid*., for "sub-section (*1*) of section 226 of the Companies Act, 1956 (1 of 1956)" (w.e.f. 1-6-2018).

(*5*) The National Housing Bank shall furnish to the Central Government and the Reserve Bank within [1][four months] from the date on which the annual accounts of the National Housing Bank are closed and balanced, a copy of its balance sheet as on the close of the relevant year together with a copy of the profit and loss account for the year and a copy of the auditors' report and a report of the working of the National Housing Bank during that year, and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

(*6*) Without prejudice to anything contained in the preceding sub-sections, the Central Government may, at any time, appoint the Comptroller and Auditor-General of India to examine and report upon the accounts of the National Housing Bank and any expenditure incurred by him in connection with such examination and report shall be payable by the National Housing Bank to the Comptroller and Auditor-General of India.

41. Returns.—The National Housing Bank shall furnish, from time to time, to the Reserve Bank such information and returns as the Reserve Bank may require.

42. Annual report on housing.—The National Housing Bank shall make an annual report to the Central Government and the Reserve Bank on the trend and progress of housing in the country and in that report may make such suggestions as it may think necessary or expedient for the development of housing and the Central Government shall, as soon as may be after the report is received by it, cause the same to be laid before each House of Parliament.

CHAPTER VII

MISCELLANEOUS

43. Staff of National Housing Bank.—(*1*) The National Housing Bank may appoint such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and determine the terms and conditions of their appointment and service.

(*2*) The duties and conduct, terms and conditions of service and the establishment and maintenance of provident fund or any other fund for the benefit of the officers and other members of staff of the National Housing Bank shall be such as may be prescribed.

(*3*) The National Housing Bank may depute any officer or any member of its staff for such period and on such terms and conditions as it may determine, to any institution including a housing finance institution.

(*4*) Nothing contained in this section shall empower the National Housing Bank to depute any officer or member of its staff to any institution on any salary, emoluments or other terms and conditions which is or are less favourable to him than that or those to which he is entitled to immediately before such deputation.

(*5*) The National Housing Bank may [2]*** receive or take on deputation any officer or other employee from any institution including a housing finance institution for such period and on such terms and conditions as it may think necessary in the interest of the National Housing Bank.

[3]**[43A. Delegation of powers.—**The Board may, by general or special order, delegate to an officer or officers of the National Housing Bank, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.]

44. Obligation as to fidelity and secrecy.—(*1*) The [4][National Housing Bank or the Reserve Bank, as the case may be,] shall not, except as otherwise required by this Act or any other law, divulge any information relating to, or to the affairs of, its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for the [4][National Housing Bank or the Reserve Bank, as the case may be,] to divulge such information.

1. Subs. by Act 15 of 2000, s. 21, for "three months" (w.e.f. 12-6-2000).
2. The words, figures and letters ", without prejudice to the provisions of section 54AA of the Reserve Bank of India Act, 1934 (2 of 1934)," Omitted by Act 13 of 2018, s. 175 (w.e.f. 1-6-2018).
3. Ins. by Act 15 of 2000. s. 22 (w.e.f. 12-6-2000).
4. Subs. by Act 23 of 2019, s. 168, for "National Housing Bank" (w.e.f. 9-8-2019).

(*2*) Every director, member of a committee, auditor, adviser, officer or other employee of the National Housing Bank or of the Reserve Bank, whose services are utilised by the National Housing Bank under the provisions of this Act, shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule to this Act.

[1][(*3*) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.]

45. Defects in appointment not to invalidate acts, etc.—(*1*) No act or proceeding of the Board or of any committee of the National Housing Bank shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board or the committee, as the case may be.

(*2*) No act done by any person acting in good faith as a director of the Board or as a member of a committee of the National Housing Bank shall become invalid merely on the ground that he was disqualified to be a director or that there was any other defect in his appointment.

[2][**45A. Arrangement with National Housing Bank on appointment of directors to prevail.—**(*1*) Where any arrangement entered into by the National Housing Bank with a housing finance institution which is a company provides for the appointment by the National Housing Bank of one or more directors of such housing finance institution, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the [3][Companies Act, 2013 (18 of 2013)] or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to that housing finance institution, or any provision regarding share qualification, age limit, number of director-ships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the National Housing Bank in pursuance of the arrangement as aforesaid.

(*2*) Any director appointed as aforesaid shall—

(*a*) hold office during the pleasure of the National Housing Bank and may be removed or substituted by any person by order in writing of the National Housing Bank;

(*b*) not incur any obligation or liability by reasons only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(*c*) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.]

46. Protection of action taken under the Act.—No suit or other legal proceeding shall lie against [4][the National Housing Bank or the Reserve Bank] or any director or any officer or other employee of [4][the National Housing Bank or the Reserve Bank] or any other person authorised by [4][the National Housing Bank or the Reserve Bank] to discharge any functions under this Act for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or of any other law or provision having the force of law.

47. Indemnity of directors.—(*1*) Every director shall be indemnified by the national Housing Bank against all losses and expenses incurred by him in, or in relation to, the discharge of his duties, except such as are caused by his own wilful act or default.

(*2*) A director shall not be responsible for any other director or for any officer or other employee of the National Housing Bank or for any loss or expenses resulting to the National Housing Bank from the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of the National Housing Bank or the insolvency or wrongful act of any debtor or any person under obligation to the National Housing Bank or of anything done in good faith in the execution of the duties of his office in relation thereto.

1. Ins. by Act 30 of 2005, s. 34 and Schedule (w.e.f. 14-12-2006).
2. Ins. by Act 15 of 2000, s. 23 (w.e.f. 12-6-2000).
3. Subs. by Act 13 of 2018, s. 176, for "Companies Act, 1956 (1 of 1956)" (w.e.f. 1-6-2018).
4. Subs. by Act 23 of 2019, s. 169, for "the National Housing Bank" (w.e.f. 9-8-2019).

[1][**47A. Nomination in respect of deposits, bonds, etc.**—(*1*) Notwithstanding anything contained in any other law for the lime being in force, where a nomination in respect of any deposit, bonds or other securities is made with the National Housing Bank in the prescribed manner, the amount due on such deposits, bonds or securities shall, on the death of the depositor or holder thereof, vest in, and be payable to, the nominee subject to any right, title or interest of any other person to such deposits, bonds or securities.

(*2*) Any payment made by the National Housing Bank in accordance with the provisions of sub-section (*1*) shall be a full discharge of its liability in respect of such deposits, bonds or securities.]

48. [*Explanation from tax on income*.]—*Omitted by the Finance Act*, 2001 (14 *of* 2001), *s*. 141 (*w.e.f.* 1-4-2002).

49. Penalties.—(*1*) Whoever in any return, balance sheet, or other document or in any information required or furnished by or under or for the purposes of any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

[2]* * * * *

[3][(*2A*) If any person contravenes the provisions of sub-section (*1*) of section 29A, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

[2]* * * * *

(*2C*) Whoever fails to comply with [4][any order made by the National Company Law Tribunal] under sub-section (*2*) of section 36A, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine of not less than rupees fifty for every day during which such non-compliance continues;]

(*3*) If any person [1][other than an auditor]—

(*a*) receives any deposit in contravention of any direction given or order made under Chapter V; or

[5]* * * * *

(*b*) issues any prospectus or advertisement otherwise than in accordance with section 35 or any order made under section 30, as the case may be;

he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend,—

(*i*) in the case of a contravention falling under clause (*a*), to twice the amount of the deposit received; and

(*ii*) in the case of a contravention falling under clause (*b*), to twice the amount of the deposit called for by the prospectus or advertisement.

[6]* * * * *

50. Offences by companies.—(*1*) Where an offence has been committed by a company, every person who, at the time the offence was 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:

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1. Ins. by Act 15 of 2000, s. 24 (w.e.f. 12-6-2000).
2. Sub-sections (*2*) and (*2B*) omitted by Act 18 of 2023, s. 2 and Schedule (w.e.f. 22-01-2024).
3. Ins. by s. 25, *ibid*. (w.e.f. 12-6-2000).
4. Subs. by s. 170, *ibid*., for "any order made by the authorised officer" (w.e.f. 9-8-2019).
5. Clause (*aa*) omitted by Act 18 of 2023, s. 2 and Schedule (w.e.f. 22-1-2024).
6. Sub-section (*4*) omitted by s. 2 and Schedule, *ibid*., (w.e.f. 22-1-2024).

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 had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), 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, 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 any 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.

51. Cognizance of offences.—(*1*) No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by an officer of [1][the National Housing Bank or the Reserve Bank] generally or specially authorised in writing in this behalf by [1][the National Housing Bank or the Reserve Bank] and no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or a court superior thereto shall try any such offence.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), a Magistrate may, if he sees reason so to do, dispense with the personal attendance of the officer of [1][the National Housing Bank or the Reserve Bank] filing the complaint but the Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant.

[2]**[52. Application of fine**.—A court imposing fine under the Act may direct that the fine, if realised shall be applied—

(*a*) firstly in, or towards payment of, the cost of the proceedings, and

(*b*) secondly for repayment of the deposit to the person to whom repayment of the deposit was to be made, and on such payment, the liability of the housing finance institution to make repayment of the deposit shall, to the extent of the amount paid by the Court, stand discharged.

[3]**[52A. Power of National Housing Bank and Reserve Bank to impose [4][penalty]**.—(*1*) Notwithstanding anything contained in section 49, if the contravention or default of the nature referred to in the said section is committed by a housing finance institution which is a company, the National Housing Bank or the Reserve Bank, as the case may be, may impose on such company—

(*a*) a penalty not exceeding [5][twenty-five thousand]; or

(*b*) where the contravention or default is under sub-section (*2A*) or clause (*a*) [6]*** of sub-section (*3*) of that section, a penalty not exceeding [7][ten lakh] rupees or twice the amount involved in such contravention or default, where the amount is quantifiable, whichever is more; and where such contravention or default is a continuing one, further penalty which may extend to [8][one lakh] rupees for every day, after the first, during which the contravention or default continues.

[9][(*1A*) If any person or housing finance institution which is a company fails to produce any book, account or other document, or to furnish any statement or information, which, under the provisions of this Act, is the duty of such person or housing finance institution to produce or furnish, the National Housing

1. Subs. by Act 23 of 2019, s. 171, for "the National Housing Bank," (w.e.f. 9-8-2019).
2. Subs. by Act 15 of 2000, s. 26, for section 52 (w.e.f. 12-6-2000).
3. Subs. by Act 23 of 2019, s. 172, for section 52A (w.e.f. 9-8-2019).
4. Subs. by Act 18 of 2023, s. 2 and Schedule, for "fine" (w.e.f. 22-1-2024).
5. Subs. by s. 2 and Schedule, *ibid*., for "five thousand" (w.e.f. 22-1-2024).
6. The word, brackets and letters "or clause (*aa*)" omitted by s. 2 and Schedule, *ibid.,* (w.e.f. 22-1-2024).
7. Subs. by s. 2 and Schedule, *ibid*., for "five lakh" (w.e.f. 22-1-2024).
8. Subs. by s. 2 and Schedule, *ibid*., for "twenty-five thousand" (w.e.f. 22-1-2024).
9. Ins. by s. 2 and Schedule, *ibid*., (w.e.f. 22-1-2024).

Bank or the Reserve Bank, as the case may be, may impose on such person or housing finance institution, a penalty not exceeding one lakh fifty thousand rupees in respect of each contravention or default and where such contravention or default is a continuing one, further penalty which may extend to seven thousand five hundred rupees for every day, after the first, during which the contravention or default continues.

(*1B*) If any auditor fails to comply with any direction given or order made by the National Housing Bank or the Reserve Bank under section 33, the National Housing Bank or the Reserve Bank, as the case may be, may impose on such person a penalty not exceeding ten lakh rupees.

(*1C*) If any person (other than an auditor) or housing finance institution which is a company fails to comply with any direction given or order made by the National Housing Bank or the Reserve Bank under any of the provisions of Chapter V, the National Housing Bank or the Reserve Bank, as the case may be, may impose on such person or housing finance institution, a penalty not exceeding ten lakh rupees or twice the amount involved in such contravention or default, where the amount is quantifiable, whichever is more; and where such contravention or default is a continuing one, further penalty which may extend to one lakh rupees for every day, after the first, during which the contravention or default continues.

(*1D*) If any other provision of this Act is contravened or if any default is made in complying with any other requirement of this Act, or of any order, regulation or direction made or given or condition imposed thereunder, the National Housing Bank or the Reserve Bank, as the case may be, may impose on any person or housing finance institution which is a company, guilty of such contravention or default, a penalty not exceeding one lakh rupees in respect of each contravention or default and where such contravention or default is a continuing one, further penalty which may extend to ten thousand rupees for every day, after the first, during which the contravention or default continues.]

(*2*) For the purpose of imposing penalty under [1][this section], the National Housing Bank or the Reserve Bank, as the case may be, shall serve a notice on the [2][person or housing finance institution] which is a company requiring it to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall also be given to such [2][person or housing finance institution.]

(*3*) Any penalty imposed by the National Housing Bank or the Reserve Bank, as the case may be, under this section shall be payable within a period of thirty days from the date on which notice issued by the National Housing Bank or the Reserve Bank, as the case may be, demanding payment of the sum is [3][served on the person or housing finance institution] which is a company and, in the event of [4][failure of such person or housing finance institution] to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in [5][the area where such person ordinarily resides or, as the case may be, the registered office] or the head office of such housing finance institution is situated:

Provided that no such direction shall be made, except on an application made by an officer of the National Housing Bank or the Reserve Bank, as the case may be, authorised in this behalf, to the principal civil court.

(*4*) The court which makes a direction under sub-section (*3*), shall issue a certificate specifying the sum payable by the [6][person or] housing finance institution which is a company and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.

(*5*) No complaint shall be filed against any housing finance institution which is a company in any court of law pertaining to any contravention or default in respect of which any penalty has been imposed by the National Housing Bank or the Reserve Bank, as the case may be, under this section.

1. Subs. by Act 18 of 2023, s. 2 and Schedule, for "sub-section (*1*)" (w.e.f. 22-1-2024).
2. Subs. by s. 2 and Schedule, *ibid*., for "housing finance institution" (w.e.f. 22-1-2024).
3. Subs. by s. 2 and Schedule, *ibid*., for "served on the housing finance institution" (w.e.f. 22-1-2024).
4. Subs. by s. 2 and Schedule, *ibid*., for "failure of such housing finance institution" (w.e.f. 22-1-2024).
5. Subs. by s. 2 and Schedule, *ibid*., for "the area where the registered office" (w.e.f. 22-1-2024).
6. Ins. by s. 2 and Schedule, *ibid*., (w.e.f. 22-1-2024).

(*6*) Where any complaint has been filed against a housing finance institution which is a company in a court in respect of contravention or default of the nature referred to in section 49, no proceedings for imposition of penalty against such housing finance institution shall be taken under this section.]

53. Bankers' Books Evidence Act 18 of 1891, to apply in relation to National Housing Bank.—The Bankers' Books Evidence Act, 1891, shall apply in relation to the National Housing Bank as if it were a bank as defined in section 2 of that Act.

54. Liquidation of National Housing Bank.—No provision of law relating to the winding up of companies shall apply to the National Housing Bank and the National Housing Bank shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

[1]**[54A. Power to make rules.—**(*1*) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(*2*) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) qualifications for appointment as a recovery officer under sub-section (*1*) of section 36D;

(*b*) the salaries and allowances and other terms and conditions of service of the officers and other employees of the Appellate Tribunal under sub-section (*3*) of section 36M;

(*c*) the salaries and allowances and other terms and conditions of service of the Presiding Officers of the Appellate Tribunal under section 36N; and

(*d*) the procedure for the investigation of misbehaviour or incapacity of the Presiding Officers of the Appellate Tribunals under sub-section (*3*) of section 36P.]

55. Power of the Board to make regulations.—(*1*) The Board may, with the previous approval of [2]*** the Central Government, by notification, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the fees and allowances that may be paid to the directors for attending the meetings of the Board or its committees under sub-section (*5*) of section 7;

[3][(*aa*) the manner in which directors shall be elected under clause (*ca*) of sub-section (*1*) of section 6;]

(*b*) the times and places at which the Board may meet, and the rules of procedure that may be followed in regard to the transaction of business under sub-section (*1*) of section 11;

(*c*) the number of members that the Executive Committee may consist, the functions that it may discharge and times and places at which it shall meet and the rules of procedure that it may follow in the transaction of business under section 12;

(*d*) the manner and terms of issue and redemption of bonds and debentures under clause (*a*) of sub-section (*1*) of section 15;

(*e*) the manner in which and the conditions subject to which the National Housing Bank may borrow in foreign currency under sub-section (*1*) of section 16;

(*f*) the form in which the statements, information, etc., is to be furnished under section 32;

[3][(*fa*) the form of application to be made under section 36E and the documents to be annexed to such application;

(*fb*) the form in which notice of demand is required to be served on the borrower under sub-section (*1*) of section 36F;

(*fc*) the manner in which the property shall be transferred under sub-section (*2*) of section 36G;

1. Ins. by Act 15 of 2000, s. 27 (w.e.f. 12-6-2000).
2. The words "the Reserve Bank and in consultation with" omitted by Act 13 of 2018, s. 177 (w.e.f. 1-6-2018).
3. Ins. by Act 15 of 2000, s. 28 (w.e.f. 12-6-2000).

(*fd*) the form in which the appeal can be filed with the Appellate Tribunal under section 36S and the amount of fee required to be deposited with such appeal;]

(*g*) the special fund, reserve fund and other funds to be created under sub-section (*2*) of section 37;

(*h*) the form and manner in which the balance-sheet and accounts shall be prepared and maintained under sub-section (*1*) of section 38;

(*i*) the duties and conduct, salaries, allowances and conditions of service of the officers and other members of staff of the National Housing Bank under section 43;

(*j*) the establishment and maintenance of provident fund and any other fund for the benefit of officers and other members of staff of the National Housing Bank under section 43; and

[1][(*ja*) the manner in which nomination may be made under sub-section (*1*) of section 47A;]

(*k*) any other matter which is to be, or may be, prescribed.

(*3*) Any regulation which may be made by the Board under this Act may be made [2]*** in consultation with the Central Government, before the expiry of three months from the date of establishment of the National Housing Bank, and any regulation so made may be altered and rescinded by the Board in the exercise of its powers under this Act.

(*4*) The power to make regulations conferred by this section shall include the power to give retrospective effect to the regulations or any of them from a date not earlier than the date of commencement of this Act, but no retrospective effect shall be given to any regulation so as to prejudicially affect the interests of any person to whom such regulation may be applicable.

(*5*) The Central Government shall cause every [3][rules, regulation or scheme] made under this Act to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the [3][rules, regulation or scheme] or both Houses agree that the [3][rules, regulation or scheme] should not be made, the [3][rules, regulation or scheme] shall thereafter 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 under that [3][rules, regulation or scheme.]

56. [*Amendment of certain enactments.*]—*Rep. by Repealing and Amending Act* 2001, (30 *of* 2001), *s.* 2 *and the First Schedule* (*w.e.f.* 3-9-2001).

57. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the commencement of this Act.

1. Ins. by Act 15 of 2000, s. 28 (w.e.f. 12-6-2000).
2. The words "by the Reserve Bank," omitted by Act 13 of 2018, s. 177 (w.e.f. 1-6-2018).
3. Subs. by Act 15 of 2000, s. 28, for "regulation or scheme" (w.e.f. 12-6-2000).

THE FIRST SCHEDULE

[*See* section 44(*2*)]

DECLARATION OF FIDELITY AND SECRECY

I, ... do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as director, member of the..... committee, auditor, advisor, officer or other employee (as the case may be) of the National Housing Bank and which properly relate to the office or position held by me in or in relation to the said National Housing Bank.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the National Housing Bank nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the National Housing Bank and relating to the business of the said National Housing Bank or the business of any person having any dealing with the said National Housing Bank.

Signed before me. (*Signature*)

———

Verified RealEstate™

[*The Second Schedule*.] —*Rep. by the Repealing and Amending Act*, 2001 (30 *of* 2001), *s*. 2 *and the First Schedule* (*w.e.f*. 3-9-2001).

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[1][THE THIRD SCHEDULE

(*See* section 16A)

DECLARATION REFERRED TO IN SECTION 16A OF THE NATIONAL HOUSING BANK ACT, 1987

Place

Date:

I/we _____ hereby declare that in consideration of the assistance sanctioned by the National Housing Bank to me/us at my/our request, as specified in the Annexure hereto, I/we agree that the immovable property specified in the said Annexure shall constitute security for the said assistance and I/we further agree that the dues relating to the assistance mentioned above, shall, on and from the date of these presents, be a charge on the said immovable property.

1. Signed and delivered by

……..

(Borrower)

2. Signed and delivered by

.....

(Surety)

ANNEXURE

I. Details of assistance.

II. Particulars of immovable property.]

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1. Added by Act 15 of 2000, s. 29 (w.e.f. 12-6-2000).