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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 24th May, 2000/Jyaistha 3, 1922 (Saka)

The following Act of Parliament received the assent of the President on the 24th May, 2000, and is hereby published for general information:—

THE NATIONAL HOUSING BANK (AMENDMENT) ACT, 2000

No. 15 OF 2000

[*24th May*, 2000.]

An Act further to amend the National Housing Bank Act, 1987.

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

Short title and commencement.

1. (*1*) This Act may be called the National Housing Bank (Amendment) Act, 2000.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In section 2 of the National Housing Bank Act, 1987 (hereinafter referred to as the principal Act), in clause (*d*), for the words "its principal object", the words "one of its principal objects" shall be substituted. 53 of 1987.

Substitution of new section for section 4.

3. For section 4 of the principal Act, the following section shall be substituted, namely:—

Capital.

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

Provided that the Central Government may, in consultation with the Reserve Bank, by notification, increase the authorised capital up to two thousand crores of rupees.

(*2*) The Board may, on such terms and conditions, as determined by it from time to time, issue the increased authorised capital to the Reserve Bank, 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 the Reserve Bank, 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.".

Amendment of section 5.

4. In section 5 of the principal Act, in sub-section (*3*), for clauses (*a*) and (*b*), the following clauses shall be substituted, namely:—

"(*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 a whole-time director, or if the Chairman being a whole-time director, is absent,".

Amendment of section 6.

5. In section 6 of the principal Act,—

(*a*) in sub-section *(1)*,—

(*i*) in clause *(b)*, for the words "three directors", the words "two directors" shall be substituted;

(*ii*) for clause *(c)*, the following clauses shall be substituted, namely:—

"*(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 the Reserve Bank, the Central Government and other institutions owned or controlled by the Central Government;";

(b) in sub-section *(2)*, for the words, brackets and letter "excluding the directors referred to in clause *(d)*", the words, brackets and letters "excluding the directors referred to in clauses *(ca)* and *(d)*" shall be substituted.

Amendment of section 7.

6. In section 7 of the principal Act, in sub-section *(2)*, for the words, brackets and letters "clauses *(b)* and *(c)*", the words, brackets and letters "clauses *(b)*, *(c)* and *(ca)*" shall be substituted.

Amendment of section 14.

7. In section 14 of the principal Act,—

(i) for clause *(b)*, the following clauses shall be substituted, namely:—

"*(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;";

(ii) after clause *(e)*, the following clauses shall be inserted, namely:—

"*(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;";

(iii) for clause *(f)*, the following clause shall be substituted, namely:—

"*(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;".

Amendment of sectio. 5.

8. In section 15 of the principal Act, in sub-section *(1)*,—

(a) in clause *(b)*, for the words "the Central Government", the words "the Central Government, scheduled banks, financial institutions, mutual funds" shall be substituted;

(b) in clause *(c)*, for the words "a period which shall not be less than twelve months from the date of the making of the deposit", the words "such period and" shall be substituted;

(c) in clause *(d)*, for sub-clause *(i)*, the following sub-clause shall be substituted, namely:—

"(*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;".

Insertion of new sections 16A and 16B.

9. After section 16 of the principal Act, the following sections shall be inserted, namely:—

Assistance to borrower when to operate or a charge in the property offered as security.

"16A. (*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 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 and no such declaration shall have effect unless it is so registered. 16 of 1908.

Amount and security to be held in trust.

16B. *(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.".

Amendment of section 18.

10. In section 18 of the principal Act, for the words "housing finance institution", the word "institution" shall be substituted.

Insertion of new sections 18A and 18B.

11. After section 18 of the principal Act, the following sections shall be inserted, namely:—

Exemption from registration.

"18A. 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.

Recovery of dues as arrears of land revenue.

18B. 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.".

Amendment of sections 19 to 25.

12. In sections 19 to 25 of the principal Act, for the words "housing finance institutions", wherever they occur, the word "institutions" shall be substituted.

Insertion of new sections 29A to 29C.

13. After section 29 of the principal Act, the following sections shall be inserted, namely:—

Requirement of registration and net owned fund.

"29A. *(1)* Notwithstanding anything contained in this Chapter or in any other law for the time being in force, no housing finance institution which is a company shall commence or carry on the business of a housing finance institution without—

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

(b) having the net owned fund of twenty-five lakh rupees or such other higher amount, as the National Housing Bank may, by notification, specify.

(2) Every such housing finance institution shall make an application for registration to the National Housing Bank in such form as may be specified by the National Housing Bank:

Provided that a housing finance institution which is a company in existence on the commencement of the National Housing Bank (Amendment) Act, 2000, shall make an application for registration to the National Housing Bank before the expiry of six months from such commencement and notwithstanding anything contained in sub-section *(1)*, may continue to carry on the business of housing finance institution until a certificate of registration is issued to it or rejection of application for registration is communicated to it.

(3) Notwithstanding anything contained in sub-section *(1)*, a housing finance institution which is a company in existence on the commencement of the National Housing Bank (Amendment) Act, 2000, and having a net owned fund of less than twenty-five lakh rupees, may, for the purpose of enabling such institution to fulfil the requirement of the net owned fund, continue to carry on the business of a housing finance institution—

(i) for a period of three years from such commencement; or

(ii) for such further period as the National Housing Bank may, after recording the reasons in writing for so doing, extend,

subject to the conditions that such institution shall, within three months of fulfilling the requirement of the net owned fund, inform the National Housing Bank about such fulfilment:

Provided that the period allowed to continue business under this sub-section shall in no case exceed six years in the aggregate.

(4) The National Housing 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 National Housing 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.

(5) The National Housing 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 National Housing 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

(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 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 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 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 housing finance institution 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 National Housing 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 housing finance institution, shall give an opportunity to such institution on such terms as the National Housing 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 National Housing 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;

(iii) all other housing finance institutions which are 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

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

(II) "subsidiaries" and "companies in the same group" shall have the same meanings assigned to them in the Companies Act, 1956. 1 of 1956.

Maintenance of percentage of assets.

29B. *(1)* Every housing finance institution 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 National Housing 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 such higher percentage not exceeding twenty-five per cent., as the National Housing 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 National Housing 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 National Housing 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;

(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.

Reserve fund.

29C. *(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, may take into account any sum transferred by it for the year to such special reserve for the purposes of this sub-section. 43 of 1961.

(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 specified by the National Housing Bank from time to time and every such appropriation shall be reported to the National Housing Bank within twenty-one days from the date of such withdrawal:

Provided that the National Housing 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 the National Housing 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.".

Insertion of new section 30A.

14. After section 30 of the principal Act, the following section shall be inserted, namely:—

Power of National Housing Bank to determine policy and issue directions.

"30A. (*1*) If the National Housing 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 being conducted in a manner detrimental to the interest of the depositors or in a manner prejudicial to the interest of the housing finance institutions, it is necessary or expedient so to do, it may subject to the provisions of sub-section (*5*) of section 5, determine the policy and give directions to all or any of the housing finance institution 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 or a group of housing finance institutions or housing finance institutions generally, as the 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 National Housing Bank may give directions to housing finance institutions generally or to a group of housing finance institutions or to any housing finance institution in particular as to—

(*a*) the purpose for which advances or other fund-based or non-fund-based 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.".

Amendment of section 31.

15. In section 31 of the principal Act, in sub-section (*3*), after the word "including", the words "credit rating of the housing finance institution accepting deposits," shall be inserted.

Amendment of section 33.

16. In section 33 of the principal Act,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The National Housing 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.";

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*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, it may at any time 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.".

Insertion of new sections 33A and 33B.

17. After section 33 of the principal Act, the following sections shall be inserted, namely:—

Power of National Housing Bank to prohibit acceptance of deposit and alienation of assets.

"33A. (*1*) If any housing finance institution violates the provisions of any section or fails to comply with any direction or order given by the National Housing Bank under any of the provisions of this Chapter, the National Housing Bank may prohibit the 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 National Housing 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 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.

Power of National Housing Bank to file winding up petition.

33B. (*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 the National Housing 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 Companies Act, 1956. 1 of 1956.

(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 the Registrar of Companies.

1 of 1956.

(*4*) All the provisions of the Companies Act, 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.".

Insertion of new sections 35A and 35B.

18. After section 35 of the principal Act, the following sections shall be inserted, namely:—

Disclosure of information.

"35A. (*1*) Any information relating to a housing finance institution,—

(*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 the National Housing Bank,

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 housing finance institution, with the previous permission of the National Housing Bank, of any information furnished to the National Housing Bank under sub-section (*1*);

(*b*) the publication by the National Housing Bank, 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 housing finance institution or its borrowers;

(*c*) the disclosure by the housing finance institution or by the National Housing Bank of any such information to any other housing finance institution 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 housing finance institution 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, the National Housing Bank, if it is satisfied that, in the public interest or in the interest of the depositors or the housing finance institution or to prevent the affairs of any housing finance institution 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 housing finance institution 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 the National Housing Bank to produce or to give inspection of any statement or other material obtained by the National Housing Bank under any provision of this Chapter.

Power of National Housing Bank to exempt any housing finance institution.

35B. The National Housing Bank on being satisfied that it is necessary so to do, may, declare by notification that any or all the provisions of this Chapter shall not apply to a housing finance institution or a group of 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.".

Insertion of new sections 36A and 36B.

19. After section 36 of the principal Act, the following sections shall be inserted, namely:—

Power to order repayment of deposit.

"36A. *(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.

Nomination by depositors.

36B. *(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 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. 10 of 1949.

(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, any person to receive the amount of deposit in the event of his death during the minority of the nominee. 10 of 1949.

(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:

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.".

20. After Chapter V of the principal Act, the following Chapter shall be inserted, namely:— Insertion of new Chapter VA.

'CHAPTER VA

OTHER PROVISIONS RELATING TO HOUSING FINANCE INSTITUTIONS

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

(*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. (*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. Appointment of recovery officer.

(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. (*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, 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. Application to the recovery officer.

4 of 1882.

(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.

Procedure in respect of application under section 36E.

36F. (*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.

Enforcement of order of recovery officer.

36G. (*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.

Chief Metropolitan Magistrate and District Magistrate to assist recovery officer in taking charge of property.

36H. (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.

Establishment of Appellate Tribunal.

36-I. (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.

Composition of Appellate Tribunal.

36J. 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.

Qualifications for appointment as Presiding Officer of Appellate Tribunal.

36K. 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.

Term of office.

36L. 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.

Staff of Appellate Tribunal.

36M. (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.

(*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.

Salaries and allowances and other terms and conditions of service of Presiding Officers.

36N. 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.

Filling up of vacancies.

36O. 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.

Resignation and removal.

36P. (*1*) The Presiding Officer of an Appellate Tribunal may, by notice in writing under his hand addressed to the Centrtal 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.

Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.

36Q. 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.

Jurisdiction, powers and authority of Appellate Tribunal.

36R. 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.

Appeal to the Appellate Tribunal.

36S. (*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.

(5) The appeal filed before the Appellate Tribunal under sub-seciton *(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.

Deposit of amount due, on filing appeal.

36T. 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.

Procedure and powers of recovery officer and Appellate Tribunal.

5 of 1908.

36U. *(1)* The recovery officer and the Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil procedure, 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.

5 of 1908.

(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, 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.

45 of 1860.

2 of 1974.

(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, 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.

36 of 1963.

Limitation.

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

Presiding Officer, recovery officer, other officers and employees to be public servant.

45 of 1860.

36W. 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.

Protection of action taken in good faith.

36X. 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.

Bar of jurisdiction.

36Y. 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.

Transitional provisions.

36Z. 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 and which is functioning in that area shall exercise the jurisdiction, powers and authority conferred on the Appellate Tribunal under this Act.'. 51 of 1993.

Amendment of section 40.

21. In section 40 of the principal Act, in sub-section *(5)*, for the words "three months", the words "four months" shall be substituted.

Insertion of new section 43A.

22. After section 43 of the principal Act, the following section shall be inserted, namely:—

Delegation of powers.

"43A. 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.".

Insertion of new section 45A.

23. After section 45 of the principal Act, the following section shall be inserted, namely:—

Arrangement with National Housing Bank on appointment of directors to prevail.

"45A. *(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 Companies Act, 1956 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. 1 of 1956.

(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.".

24. After section 47 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 47A.

"47A. (*1*) Notwithstanding anything contained in any other law for the time 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. Nomination in respect of deposits, bonds, etc.

(*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.".

25. In section 49 of the principal Act,—

(*a*) after sub-section (*2*), the following sub-sections shall be inserted, namely:— Amendment of section 49.

"(*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.

(*2B*) If any auditor fails to comply with any direction given or order made by the National Housing Bank under section 33, he shall be punishable with fine which may extend to five thousand rupees.

(*2C*) Whoever fails to comply with any order made by the authorised officer 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;

(*b*) in sub-section (*3*),—

(*i*) after the words "If any person", the words "other than an auditor" shall be inserted;

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

"(*aa*) fails to comply with any direction given or order made by the National Housing Bank under any of the provisions of Chapter V; or".

26. For section 52 of the principal Act, the following sections shall be substituted, namely:— Substitution of new sections for section 52.

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

(*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.

52A. (*1*) Notwithstanding anything contained in section 49, if the contravention or default of the nature referred to in section 49 is committed by a housing finance institution which is a company, the National Housing Bank may impose on such institution— Power of National Housing Bank to impose fine.

(*a*) a penalty not exceeding five thousand rupees; or

(*b*) where the contravention or default is under sub-section (*2A*) or clause (*a*) or clause (*aa*) of sub-section (*3*) of section 49, a penalty not exceeding five 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 continuning one, further penalty which may extend to twenty-five thousand rupees for every day, after the first, during which the contravention or default continues.

(2) For the purpose of imposing penalty under sub-section (1), the National Housing Bank shall serve a notice on the housing finance institution 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 housing finance institution.

(3) Any penalty imposed by the National Housing Bank under this section shall be payable within a period of thirty days from the date on which notice issued by the National Housing Bank demanding payment of the sum is served on the housing finance institution and, in the event of failure of the 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 the area where the registered office or the head office of the 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 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 housing finance institution 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 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 under this section.

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

Insertion of new section 54A.

27. After section 54 of the principal Act, the following section shall be inserted, namely:—

Power to make rules.

"54A. (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.".

Amendment of section 55.

28. In section 55 of the principal Act,—

(A) in sub-section (2),—

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

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

(ii) after clause (f), the following clauses shall be inserted, namely:—

"(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;

(*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;";

(*iii*) after clause (*j*), the following clause shall be inserted, namely:—

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

(*B*) in sub-section (*5*), for the words "regulation or scheme", wherever they occur, the words "rules, regulation or scheme" shall be substituted.

Addition of new Schedule.

29. After the Second Schedule to the principal Act, the following Schedule shall be added at the end, namely:—

"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.".

SUBHASH C. JAIN,
Secy. to the Govt. of India

MGIP(PLU)MRND—1261GI—26.5.2000.

IndiaCode