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THE DELHI APARTMENT OWNERSHIP ACT, 1986

ACT NO. 58 OF 1986

[23*rd December*, 1986.]

An Act to provide for the ownership of an individual apartment in a multi-storeyed building and of an undivided interest in the common areas and facilities appurtenant to such apartment and to make such apartment and interest heritable and transferable and for matters connected therewith or incidental thereto.

WHEREAS with a view to securing that the ownership and control of the material resources of the community are so distributed as to sub-serve the common good, it is expedient to provide for the ownership of an individual apartment in a multi-storeyed building and of an undivided interest in the common areas and facilities appurtenant to such apartment, and to make such apartment and interest heritable and transferable and to provide for matters connected therewith or incidental thereto;

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

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(*1*) This Act may be called the Delhi Apartment Ownership Act, 1986.

(*2*) It extends to the whole of the Union territory of Delhi.

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

2. Application.—The provisions of this Act shall apply to every apartment in a multi-storeyed building which was constructed mainly for residential or commercial or such other purposes as may be prescribed, by—

(*a*) any group housing co-operative society; or

(*b*) any other person or authority,

before or after the commencement of this Act and on a free hold land, or a lease hold land, if the lease for such land is for a period of thirty years or more:

Provided that, where a building constructed, whether before or after the commencement of this Act, on any land contains only two or three apartments, the owner of such building may, by a declaration duly executed and registered under the provisions of the Registration Act, 1908 (16 of 1908), indicate his intention to make the provisions of this Act applicable to such building, and on such declaration being made, such owner shall execute and register a Deed of Apartment in accordance with the provisions of this Act, as if such owner were the promoter in relation to such building.

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

(*a*) "Administrator" means the Administrator of the Union territory of Delhi appointed by the President under article 239 of the Constitution;

(*b*) "allottee", in relation to an apartment, means the person to whom such apartment has been allotted, sold or otherwise transferred by the promoter;

(*c*) "apartment" means a part of any property, intended for any type of independent use, including one or more rooms or enclosed spaces located on one or more floors or any part or parts thereof, in a multi-storeyed building to be used for residence or office or for the practice of any profession, or for the carrying on of any occupation, trade or business or for such other type of independent use as may be prescribed, and with a direct exit to a public street, road or highway, or to a common area leading to such street, road or highway, and includes any garage or room (whether or not adjacent to the multi-storeyed building in which such apartment is located) provided by the promoter for use by the

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owner of such apartment for parking any vehicle or, as the case may be, for the residence of any domestic aide employed in such apartment;

(*d*) "apartment number" means the number, letter or combination thereof, designating an apartment;

(*e*) "apartment owner" means the person or persons owning an apartment and an undivided interest in the common areas and facilities appurtenant to such apartment in the percentage specified in the Deed of Apartment;

(*f*) "Association of Apartment Owners",—

(*i*) in relation to a multi-storeyed building not falling within sub-clause (*ii*), means all the owners of the apartments therein;

(*ii*) in the case of the multi-storeyed buildings in any area, designated as a block, pocket or otherwise, means all the owners of the apartments in such block, pocket or other designated area,

acting as a group in accordance with the bye-laws;

(*g*) "authority" includes any authority constituted or established by or under any law for the time being in force;

(*h*) "Board" means the Board of Management of an Association of Apartment Owners elected by its members under the bye-laws;

(*i*) "bye-laws" means the bye-laws made under this Act;

(*j*) "common areas and facilities", in relation to a multi-storeyed building, means—

(*i*) the land on which such building is located and all easements, rights and appurtenances belonging to the land and the building;

(*ii*) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire-escapes and entrances and exits of the building;

(*iii*) the basements, cellars, yards, gardens, parking areas, shopping centers, schools and storage spaces;

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

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

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

(*vii*) such other community and commercial facilities as may be prescribed; and

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

(*k*) "common expenses" means—

(*i*) all sums lawfully assessed against the apartment owners by the Association of Apartment Owners for meeting the expenses of administration, maintenance, repair or replacement of the common areas and facilities;

(*ii*) expenses declared as common expenses by the provisions of this Act or by the bye-laws, or agreed upon by the Association of Apartment Owners;

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

(*m*) "competent authority" means,—

(*i*) a Secretary in the Delhi Administration, or

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(*ii*) the Vice-Chairman of the Delhi Development Authority, or

(*iii*) the Land and Development Officer of the Central Government,

who may be authorised by the Administrator, by notification in the Official Gazette, to perform the functions of the competent authority under this Act;

(*n*) "Deed of Apartment" means the Deed of Apartment referred to in section 13;

(*o*) "Delhi" means the Union territory of Delhi;

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

(*q*) "limited common areas and facilities" means those common areas and facilities which are designated in writing by the promoter before the allotment, sale or other transfer of any apartment as reserved for use of certain apartment or apartments to the exclusion of the other apartments;

(*r*) "Manager" means the Manager of an Association of Apartment Owners appointed under the bye-laws;

(*s*) "multi-storeyed building" means a building constructed on any land, containing four or more apartments, or two or more buildings in any area designated as a block, pocket or otherwise, each containing two or more apartments, with a total of four or more apartments in all such buildings, and includes a building containing two or three apartments in respect of which a declaration has been made under the proviso to section 2;

(*t*) "owner", in relation to an apartment, includes, for the purposes of this Act, a lessee of the land on which the building containing such apartment has been constructed, where the lease of such land is for a period of thirty years or more;

(*u*) "person" includes a firm and a joint family, and also includes a group housing co-operative society;

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

(*w*) "promoter" means the authority, person or co-operative society, as the case may be, by which, or by whom, any multi-storeyed building has been constructed;

(*x*) "property" means the land, the multi-storeyed building, all improvement and structures thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

CHAPTER II

OWNERSHIP, HERITABILITY AND TRASFERABILITY OF APARTMENTS

4. Ownership of apartments.—(*1*) Every person to whom any apartment is allotted, sold or otherwise transferred by the promoter, on or after the commencement of this Act, shall, save as otherwise provided in section 6, and subject to the other provisions of this Act, be entitled to the exclusive ownership and possession of the apartment so allotted, sold or otherwise transferred to him.

(*2*) Every person to whom any apartment was allotted, sold or otherwise transferred by the promoter before the commencement of this Act shall, save as otherwise provided under section 6 and subject to the other provisions of this Act, be entitled, on and from such commencement, to the exclusive ownership and possession of the apartment so allotted, sold or otherwise transferred to him.

(*3*) Every person who becomes entitled to the exclusive ownership and possession of an apartment under sub-section (*1*) or sub-section (*2*) shall be entitled to such percentage of undivided interest in the common areas and facilities as may be specified in the Deed of Apartment and such percentage shall be computed by taking, as a basis, the value of the apartment in relation to the value of the property.

(*4*) (*a*) The percentage of the undivided interest of each apartment owner in the common areas and facilities shall have a permanent character, and shall not be altered without the written consent of all the apartment owners.

(*b*) The percentage of the undivided interest in the common areas and facilities shall not be separated from the apartment to which it appertains and shall be deemed to be conveyed or encumbered with the apartment, even though such interest is not expressly mentioned in the conveyance or other instrument.

(*5*) The common areas and facilities shall remain undivided and no apartment owner or any other person shall bring any action for partition or division of any part thereof, and any covenant to the contrary shall be void.

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

(*7*) The necessary work relating to maintenance, repair and replacement of the common areas and facilities and the making of any additions or improvements thereto, shall be carried out only in accordance with the provisions of this Act and the bye-laws.

(*8*) The Association of Apartment Owners shall have the irrevocable right, to be exercised by the Board or Manager, to have access to each apartment from time to time during reasonable hours for the maintenance, repairs or replacement of any of the common areas or facilities therein, or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to any other apartment or apartments.

5. Apartment to be heritable and transferable.—Subject to the provisions of section 6, each apartment, together with the undivided interest in the common areas and facilities appurtenant to such apartment, shall, for all purposes constitute as a heritable and transferable immovable property within the meaning of any law for the time being in force, and accordingly, an apartment owner may transfer his apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment by way of sale, mortgage, lease, gift, exchange or in any other manner whatsoever in the same manner, to the same extent and subject to the same rights, privileges, obligations, liabilities, investigations, legal proceedings, remedy and to penalty, forfeiture or punishment as any other immovable property or make a bequest of the same under the law applicable to the transfer and succession of immovable property:

Provided that where the allotment, sale or other transfer of any apartment has been made by any group housing co-operative society in favour of any member thereof, the transferability of such apartment and all other matters shall be regulated by the law applicable to such group housing co-operative society.

6. Ownership of apartment subject to conditions.—Where any allotment, sale or other transfer of any apartment has been made, whether before or after the commencement of this Act, in pursuance of any promise of payment, or part payment, of the consideration thereof, the allottee or transferee, as the case may be, shall not become entitled to the ownership and possession of that apartment on to a percentage of undivided interest in the common areas and facilities apurtenant to such apartment, until full payment has been made of the consideration thereof together with interest, if any due thereon, and where any such allottee or transferee has been inducted into the possession of such apartment or any part thereof in pursuance of such allotment or transfer, he shall, until the full payment of the consideration has been made, continue to remain in possession thereof on the same terms and conditions on which he was so inducted into possession of such apartment of part thereof.

7. Compliance with the covenants and bye-laws.—Each apartment owner shall comply strictly with the bye-laws and with the covenants, conditions and restrictions set forth in the Deed of Apartment, and failure to comply with any of them shall be a ground for action to recover sums due for damages, or for injunctive relief, or both, by the Manager or Board on behalf of the Association of Apartment Owners, or, in a proper case, by an aggrieved apartment owner.

8. Right of re-entry.—(*1*) Where any land is given on lease by a person (hereafter in this section referred to as the lessor) to another person (hereafter in this section referred to as the lessee, which term shall include a person in whose favour a sub-lease of such land has been granted), and any multi-storeyed

building has been constructed on such lease-hold land by the lessee or by any other person authorised by him or claiming through him, such lessee shall grant in respect of the land as many sub-leases as there are apartments in such multi-storeyed building and shall execute separate deeds of sub-lease in respect of such land in favour of each apartment owner,—

(*a*) in the case of a multi-storeyed building constructed before the commencement of this Act, within three months from such commencement, or

(*b*) in the case of a multi-storeyed building constructed after the commencement of this Act, within three months from the date on which the possession of any apartment in such multi-storeyed building is delivered to him:

Provident that no sub-lease in respect of any land shall be granted except on the same terms and conditions on which the lease in respect of the land has been granted by the lessor and no additional terms and conditions shall be imposed by the lessee except with the previous approval of the lessor.

(*2*) Where the lessee has any reason to suspect that there had been any breach of the terms and conditions of the sub-lease referred to in sub-section (*1*), he may himself inspect the land on which the multi-storeyed building containing the concerned apartment has been constructed, or may authorise one or more persons to inspect such land and make a report as to whether there had been any breach of the terms and conditions of any sub-lease in respect of such land and, if so, the nature and extent of such breach, and for this purpose, it shall be lawful for the lessee or any person authorised by him to enter into, and to be in, the land in relation to which such breach has been or is suspected to have been committed.

(*3*) Where the lessee or any person authorised by him makes an inspection of the land referred to in sub-section (*1*), he shall record in writing his findings on such inspection [a true copy of which shall be furnished to the apartment owner by whom such breach of the terms and conditions of sub-lease in respect of the land appurtenant to the apartment owned by him has been committed (hereinafter referred to as the defaulting apartment owner)] and where such findings indicate that there has been any breach of the terms and conditions of the sub-lease in respect of such land, the lessee may, by a notice in writing, require the defaulting apartment owner to refrain from committing any breach of the terms and conditions of the sub-lease in respect of such land, or to pay in lieu thereof such composition fees as may be specified in the notice in accordance with such scales of composition fees as may be prescribed.

(*4*) The defaulting apartment owner who is aggrieved by any notice served on him by the lessee under sub-section (*3*) may, within thirty days from the date of service of such notice, prefer an appeal to the Court of the District Judge having jurisdiction (hereinafter referred to as the District Court), either challenging the finding of the lessee or any person authorised by him or disputing the amount of composition fees as specified in the notice, and the District Court may, after giving the parties a reasonable opportunity of being heard, confirm, alter or reverse those findings or may confirm, reduce or increase the amount of composition fees or set aside the notice.

(*5*) Where, on the breach of any terms and conditions of any sub-lease in respect of any land, any composition fees become payable, the defaulting apartment owner shall be deemed to have been guilty of such breach and in default of payment thereof it shall be lawful for the lessee to recover the amount of the composition fees from the defaulting apartment owner as an arrear of land revenue.

(*6*) Where any composition fees are paid whether in pursuance of the notice served under sub-section (*3*) or in accordance with the decision of the District Court or a higher court on appeal, no further action shall be taken by the lessee for the breach of the terms and conditions of the sub-lease in respect of the land in relation to which payment of such composition fees has been made.

(*7*) If the defaulting apartment owner omits or fails to refrain from committing any breach of the terms and conditions of the sub-lease in respect of the land or, as the case may be, omits or fails to pay the composition fees in lieu thereof—

(*i*) in accordance with the notice issued by the lessee under sub-section (*3*), or

(*ii*) where the findings of the lessee or the person authorised to inspect the land about any breach of the terms and conditions of any sub-lease in respect of the land or the amount of composition fees

specified in the notice issued by the lessee are altered by the District Court on appeal or by any higher court on further appeal, in accordance with the decision of the District Court or such higher court, as the case may be,

the lessee shall be entitled,—

(*a*) where no appeal has been preferred under sub-section (*4*), within sixty days from the date of service of the notice under sub-section (*3*), or

(*b*) where an appeal has been preferred under sub-section (*4*), within sixty days from the date on which the appeal is finally disposed of by the District Court or, where any further appeal is preferred to a higher court, by such higher court,

to exercise the right of re-entry in respect of the undivided interest of the lessee in the land appurtenant to the apartment owned by the defaulting apartment owner, and where such right of re-entry cannot be exercised except by the ejectment of the defaulting apartment owner from his apartment, such right of re-entry shall include a right to eject the defaulting apartment owner from the concerned apartment:

Provided that no such ejectment shall be made unless the defaulting apartment owner has been paid by the lessee such amount as compensation for such ejectment as may be determined in accordance with the prescribed scales of compensation.

(*8*) No appeal preferred under sub-section (*4*) shall be admitted, unless twenty-five per cent. of the composition fees specified in the notice served on the defaulting apartment owner has been deposited to the credit of the District Court in savings bank account to be opened by the District Court in any branch of an approved bank:

Provided that the District Court may, on sufficient cause being shown, either remit or reduce the amount of such deposit, and the interest accruing on such deposit, shall enure to the credit of defaulting apartment owner by whom such deposit has been made:

Provided further that the amount of such deposit together with the interest due thereon shall be distributed by the District Court in accordance with the decision in such appeal, or where any further appeal has been preferred against such decision, in accordance with the decision in such further appeal.

(*9*) The defaulting apartment owner, who is aggrieved by the amount offered to be paid to him under the proviso to sub-section (*7*) as compensation for ejectment from his apartment may, within thirty days from the date of such offer, prefer an appeal to the District Court and the District Court may, after giving the parties a reasonable opportunity of being heard, maintain increase or reduce the amount of compensation.

(*10*) On the ejectment of the defaulting apartment owner from the apartment under sub-section (*7*), the lessee by whom such ejectment has been made may a fresh allotment of the concerned apartment to any other person on such terms and conditions as he may think fit:

Provided that the consideration for such fresh allotment shall not be more than the amount which has been paid to the defaulting apartment owner as compensation.

(*11*) Where any lessee omits or fails to take any action either in accordance with the provisions of sub-section (*2*) or sub-section (*3*) or sub-section (*7*), the lessor may, in the first instance, require the lessee by a notice in writing to take action against the defaulting apartment owner under sub-section (*2*) or sub-section (*3*) or, as the case may be, under sub-section (*7*), within a period of ninety days from the date of service of such notice, and in the event of the omission or failure of the lessee to do so within such period, the lessor may himself take action as contained in sub-section (*2*) or sub-section (*3*) or sub-section (*7*), and the provisions of sub-section (*4*) to sub-section (*6*) and sub-section (*8*) to sub-section (*10*), shall, as far as may be, apply to any action taken by him as if such action had been taken by the lessee.

(*12*) For the removal of doubts, it is hereby declared that no work in any apartment by the owner thereof shall be deemed to be a breach of the terms of the sub-lease in respect of the land on which the multi-storeyed building containing such apartment has been constructed unless the work is prohibited by section 11.

Explanation.—In this section, "approved bank" means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955 (23 of 1955), or a subsidiary bank constituted under section 3 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).

9. Purchasers or persons taking lease of apartments from apartment owners to execute an undertaking.—Notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882), or in any other law for the time being in the force, any person acquiring any apartment from any apartment owner by gift, exchange, purchase or otherwise, or taking lease of an apartment from an apartment owner for a period of thirty years or more, shall,—

(*a*) in respect of the said apartment, be subject to the provisions of this Act; and

(*b*) execute and register an instrument in such form, in such manner and within such period as may be prescribed giving an undertaking to comply with the covenants, conditions and restrictions, subject to which such apartment is owned by the apartment owner aforesaid.

10. Benamidar of the apartment to be deemed to be the real owner.—If any apartment is acquired by any person, whether by allotment, sale or otherwise with the consideration thereof paid or provided by another person, the acquirer shall, notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882), or in the Indian Trusts Act, 1882 (2 of 1882) or in any other law for the time being in force, be deemed to be the real owner of such apartment, and no court shall entertain any claim of the person paying or providing such consideration for title to such apartment on the ground that the acquisition of the apartment was made on behalf of such person or on behalf of someone through whom such person claims.

11. Certain works prohibited.—No apartment owner shall do any work which would be prejudicial to the soundness or safety of the property or reduce the value thereof or impair any easement or hereditament or shall add any material structure or excavate any additional basement or cellar without first obtaining the consent of all the other apartment owners.

Explanation.—In this section, reference to apartment owners shall be construed, in relation to a multi-storeyed building in any block, pocket or other designated area, the apartment owners of the concerned multi-storeyed building in such block, pocket or other designated area.

12. Encumbrances against apartments.—(*1*) The owner of each apartment may create any encumbrance, only against the apartment owned by him and the percentage of the undivided interest in the common areas and facilities appurtenant to such apartment in the same manner and to the same extent as may be created in relation to any other separate parcel of property subject to individual ownership:

Provided that where any such encumbrance is created, the apartment in relation to which such encumbrance has been created shall not be partitioned or sub-divided.

(*2*) No labour performed or material furnished with the consent, or at the request, of an apartment owner or his agent or his contractor or sub-contractor, shall be the basis for a charge or any encumbrance under the provisions of the Transfer of Property Act, 1882 (4 of 1882), against the apartment or property of any other apartment owner not expressly consenting to, or requesting the same, except that such express consent shall be deemed to be given by the other apartment owner in the case of emergency repairs thereto.

(*3*) The labour performed and material furnished for the common areas and facilities, if duly authorised by the Association of Apartment Owners in accordance with the provisions of this Act or the bye-laws, shall be deemed to be performed or furnished with the express consent of each apartment owner and shall be the basis for a charge or encumbrance under the Act aforesaid against each of the apartments and shall be subject to the provisions of sub-section (*4*).

(*4*) In the event of a charge or any encumbrance against two or more apartments becoming effective, the apartment owners of the separate apartments may remove their apartments and the percentage of

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undivided interest in the common areas and facilities appurtenant to such apartments from the charge or encumbrance on payment of the fractional or proportional amounts attributable to each of the apartments affected and on such payment, the apartment and the percentage of undivided interest in the common areas and facilities appurtenant thereto shall be free of the charge or encumbrance so removed:

Provided that such partial payment shall not prevent the person having a charge or any of the encumbrances from proceeding to enforce the rights in relation to the amount not so paid, against any other apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment.

(*5*) On any such payment, discharge on other satisfaction, referred to in sub-section (*4*), the apartment and the percentage of undivided interest in the common areas and facilities appurtenant thereto shall be free and clear of the charge or encumbrance, so paid, satisfied or discharged.

CHAPTER III

DEED OF APARTMENT AND ITS REGISTRATION

13. Contents of Deed of Apartment.—(*1*) Whenever any allotment, sale or other transfer of any apartment is made, the promoter shall,—

(*a*) in the case of an allotment, sale or other transfer made after the commencement of this Act, within three months from the date of such allotment, sale or other transfer, or

(*b*) in the case of any allotment, sale or other transfer made before the commencement of this Act, within six months from the date of such commencement,

execute a Deed of Apartment containing the following particulars, namely:—

(*i*) the name of the allottee,

(*ii*) description of the land on which the building and the common areas and facilities are located, and whether the land is free-hold or lease-hold, and if lease-hold, the period of such lease,

(*iii*) a set of floor plans of the multi-storeyed building showing the lay-out and location, number of apartments and bearing a verified statement of an architect certifying that it is an accurate copy of the portions of the plans of the building as filed with, and approved by, the local authority within the jurisdiction of which the building is located,

(*iv*) description of the multi-storeyed building, stating the number of storeys and basements, the number of apartments in that building and the principal materials of which it is constructed,

(*v*) the apartment number, or statement of the location of the apartment, its approximate area, number and dimension of rooms, and immediate common area to which it has access, and any other data necessary for its proper identification,

(*vi*) description of the common areas and facilities and the percentage of undivided interest appertaining to the apartment in the common areas and facilities,

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

(*viii*) value of the property and of each apartment, and a statement that the apartment and such percentage of undivided interest are not encumbered in any number whatsoever on the date of execution of the Deed of Apartment,

(*ix*) statement of the purposes for which the building and each of the apartments are intended and restricted as to use,

(*x*) the name of the person to receive service of process, together with the particulars of the residence or place of business of such person,

(*xi*) provision as to the percentage of votes by the apartment owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage or destruction of all or any part of the property:

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Provided that the competent authority may, if it is satisfied that the promoter was prevented by sufficient cause from executing the Deed of Apartment in relation to any apartment within the period of three months, or six months as the case may be, permit the promoter to execute such Deed of Apartment within such further period, not exceeding six months, as it may specify.

(*2*) The promoter shall—

(*a*) file in the office of the competent authority; and

(*b*) deliver to the concerned allottee or transferee, as the case may be,

a certified copy of each Deed of Apartment as registered under section 14.

(*3*) Whenever may transfer of any apartment is made by the owner thereof, whether by sale, lease, mortgage, exchange, gift or otherwise, the transferor shall deliver to the transferee the certified copy of the Deed of Apartment delivered to him under sub-section (*2*) after making an endorsement thereon as to the name, address and other particulars of the transferee, to enable the transferee to get the endorsement on the certified copy of the Deed of Apartment registered in accordance with the provisions of section 14.

(*4*) Whenever any succession takes place to any apartment or part thereof, the successor shall, within a period of six months from the date of such succession, make an application to the competent authority for recording such succession on the certified copy of the Deed of Apartment in relation to the concerned apartment, and, if there is any dispute as to the succession to the apartment, the competent authority shall decide be same, and for this purpose, such authority shall have the powers of a civil court, while trying a suit, and its decision shall have effect of a decree and shall be appealable as if it were a decree passed by the principal civil court of original jurisdiction.

(*5*) Whenever any succession to an apartment has been recorded by the competent authority under sub-section (*4*), such authority shall send a true copy of such record, to the concerned Registrar for registration thereof in accordance with the provisions of section 14.

(*6*) For the removal of doubts, it is hereby declared that the provisions of this section shall be in addition to and not in derogation of, the provisions of any other law, for the time being in force, relating to the transfer of immovable property.

14. Registration of Deed of Apartment.—(*1*) Every Deed of Apartment and every endorsement thereon relating to the transfer of the apartment shall be deemed to be a document which is compulsorily registrable under the Registration Act, 1908 (16 of 1908) and shall be registered with the Registrar accordingly, and the words and expressions used in this section but not defined in this Act, shall have the meanings respectively assigned to them in the Registration Act, 1908.

(*2*) In all registration offices, a book called "Register of Deeds or Apartments under the Delhi Apartment Ownership Act, 1986" and an index relating thereto shall be kept in such form and shall contain such particulars as may be prescribed.

(*3*) Whenever any endorsement on a Deed of Apartment is registered, the concerned Registrar shall forward a certified copy thereof to the competent authority to enable that authority to make necessary entries in the certified copy of the concerned Deed of Apartment filed with it under sub-section (*2*) of section 13.

(*4*) Any person acquiring any apartment shall be deemed to have notice of the contents of the Deed of Apartment and the endorsement, if any, thereon as from the date of its registration under this section.

CHAPTER IV

ASSOCIATION OF APARTMENT OWNERS AND BYE-LAWS FOR THE REGULATION OF THE AFFAIRS OF SUCH ASSOCIATION

15. Association of Apartment Owners and bye-laws relating thereto.—(*1*) There shall be an Association of Apartment Owners for the administration of the affairs in relation to the apartments and the property appertaining thereto and for the management of common areas and facilities:

Provided that where any area has been demarcated for the construction of multi-storeyed buildings, whether such area is called a block or pocket or by any other name, there shall be a single Association of Apartment Owners in such demarcated area.

(*2*) The Administrator may, by notification in the Official Gazette, frame model bye-laws in accordance with which the property referred to in sub-section (*1*) shall be administered by the Association of Apartment Owners and every such Association shall, at its first meeting, make its bye-laws in accordance with the model bye-laws so framed, and in making its bye-laws the Association of Apartment Owners shall not make any departure from, variation of, addition to, or omission from, the model bye-laws aforesaid except with the prior approval of the Administrator and no such approval shall be given if, in the opinion of the Administrator, such departure, variation, addition or omission will have the effect of altering the basic structure of the model bye-laws framed by him.

(*3*) The model bye-laws framed under sub-section (*2*) shall provide for the following, among other matters, namely:—

(*a*) the manner in which the Association of Apartment Owners is to be formed;

(*b*) the election, from among apartment owners, of a Board of Management by the members of the Association of Apartment Owners;

(*c*) the number of apartment owners constituting the Board, the composition of the Board and that one-third of members of the Board shall retire annually;

(*d*) the powers and duties of the Board;

(*e*) the honorarium, if any, of the members of the Board;

(*f*) the method of removal from office of the members of the Board;

(*g*) the powers of the Board to engage the service of a Manager;

(*h*) delegation of powers and duties of the Board to such Manager;

(*i*) method of calling meetings of the Association of Apartment Owners and the number of members of such Association who shall constitute a quorum for such meetings;

(*j*) election of a President of the Association of Apartment Owners from among the apartment owners, who, shall preside over the meetings of the Board and of the Association of Apartment Owners;

(*k*) election of a Secretary to the Association of Apartment Owners from among the apartment owners, who shall be an *ex officio* member of the Board and shall keep two separate minutes books, one for the Association of Apartment Owners and the other for the Board, pages of each of which shall be consecutively numbered and authenticated by the President of the Association of Apartment Owners, and shall record, in the respective minutes books, the resolutions adopted by the Association of Apartment Owners or the Board, as the case may be;

(*l*) election of a Treasurer from among the apartment owners, who shall keep the financial records of the Association of Apartment Owners as also of the Board;

(*m*) maintenance, repair and replacement of the common areas and facilities and payment therefor;

(*n*) manner of collecting from the apartment owners or any other occupant of apartments, share of the common expenses;

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

(*p*) restrictions with regard to the use and maintenance of the apartments and the use of the common areas and facilities, as may be necessary to prevent unreasonable interference in the use of each apartment and of the common areas and facilities by the several apartment owners;

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(*q*) any matter which may be required by the Administrator to be provided for in the bye-laws for the proper or better administration of the property;

(*r*) such other matters as are required to be, or may be, provided for in the bye-laws.

(*4*) The bye-laws framed under sub-section (*2*) may also contain provisions, not inconsistent with this Act,—

(*a*) enabling the Board to retain certain areas of the building for commercial purposes and to grant lease of the areas so retained, and to apply the proceeds of such lease for the reduction of the common expenses for maintaining the building, common areas and facilities, and if any surplus is left after meeting such expenses, to distribute such surplus to the apartment owners as income;

(*b*) relating to the audit of the accounts of the Association of Apartment Owners and of the Board, and of the administration of the property;

(*c*) specifying the times at which and the manner in which annual general meetings and special general meetings of the Association of Apartment Owners shall be held and conducted;

(*d*) specifying the time at which and the manner in which, the annual report relating to the activities of the Association of Apartment Owners shall be submitted;

(*e*) specifying the manner in which the income derived and expenditure incurred by the Association of Apartment Owners shall be dealt with, or as the case may be, accounted for.

16. Insurance.—(*1*) The Board or Manager—

(*a*) shall have, if requested so to do by a mortgagee having a first mortgage covering an apartment, the authority to, and

(*b*) shall, if required so to do by the bye-laws or by a majority of the apartment owners,

obtain insurance for the property against loss or damage by fire or other hazards under such terms and for such amounts as shall be so requested or required.

(*2*) Such insurance coverage shall be written on the property in the name of such Board or Manager as trustee for each of the apartment owners in the percentages specified in the bye-laws.

(*3*) The premia payable in respect of every such insurance shall be common expenses.

(*4*) The provisions of sub-sections (*1*) to (*3*) shall be without prejudice to the right of each of the apartment owner to insure his own apartment for his benefit.

17. Disposition of property, destruction or damage.—If within sixty days of the date of damage or destruction to all, or part of any property, or within such further time as the competent authority may, having regard to the circumstances of the case, allow, the Association of Apartment Owners does not determine to repair, reconstruct or re-build such property, then, and in that event,—

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

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

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

(*d*) the property shall be subject to an action for partition at the suit of any apartment owner in which event, the net proceeds of sale together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided amongst all the apartment owners in the percentage equal to the percentage of undivided interest owned by each apartment owner in the property after paying out, all the respective shares of the apartment owners to the extent sufficient for the purpose and all charges on the undivided interest in the property owned by each apartment owner.

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18. Action.—(*1*) Without prejudice to the rights of any apartment owner, action may be brought by the Board of Manager, in either case in the discretion of the Board on behalf of two or more of the apartment owners as their respective interest may appear, with respect to any cause of action relating to the common areas and facilities or more than one apartment.

(*2*) The service of process on two or more apartment owners in any action relating to the common areas and facilities or more than one apartment may be made on the person, designated in the bye-laws to receive service of process.

CHAPTER V

COMMON PROFITS, COMMON EXPENSES AND OTHER MATTERS

19. Common profits, common expenses and other matters.—(*1*) The common profits of the property shall be distributed among, and the common expenses shall be charged to, the apartment owners according to the percentage of the undivided interest of the apartment owners in the common areas and facilities.

(*2*) Where the apartment owner is not in the occupation of the apartment owned by him, the common expenses payable by such apartment owner may be recovered from the person in the occupation of the apartment.

20. Apartment owner not to be exempt from liability for contribution by waiver of the use of the common areas and facilities.—No apartment owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use of enjoyment of any of the common areas and facilities, or by the abandonment of his apartment.

21. Common expenses to be a charge on the apartment.—All sums assessed by the Association of Apartment Owners, but unpaid for the share of the common expenses chargeable to any apartment, shall constitute a charge on such apartment prior to all other charges except only—

(*i*) the charge, if any, on the apartment for payment of Government and municipal taxes; and

(*ii*) all the sums unpaid on a first mortgage of the apartment.

22. Separate assessments.—(*1*) Notwithstanding anything to the contrary contained in any law relating to local authorities, each apartment and its percentage of undivided interest in the common areas and facilities appurtenant to such apartment (including an apartment in respect of which the provisions of this Act were applied under the proviso to section 2) shall be deemed to be separate property for the purpose of assessment of tax on lands and buildings leviable under such law and shall be assessed and taxed accordingly; and for this purpose a local authority shall make suitable regulations to carry out the provisions of this section.

(*2*) Neither the multi-storeyed building nor the property nor the common areas and facilities referred to in sub-section (*1*), shall be deemed to be separate properties for the purpose of the levy of such taxes.

23. Joint and several liability of vendor, etc., for unpaid common expenses.—(*1*) Upon the sale, bequest or other transfer of an apartment, the purchaser of the apartment or the grantee or legatee or the transferee, as the case may be, shall be jointly and severally liable with the vendor or the transferor for all unpaid assessments against the vendor or transferor for his share of the common expenses up to the time of the sale, bequest or other transfer, without prejudice to the right of the purchaser, grantee, legatee or transferee to recover from the vendor or the transferor any amount paid by the purchaser, grantee, legatee or transferee therefor.

(*2*) Any purchaser, grantee, legatee or transferee referred to in sub-section (*1*) shall be entitled to a statement from the Board or Manager setting forth the amount of the unpaid assessment against the vendor or transferor, as the case may be, and such purchaser, grantee, legatee or transferee shall not be liable for, nor shall the apartment be sold subject to a charge for any unpaid share of common expenses against such apartment accrued prior to such sale, bequest or other transfer, in excess of the amount set forth in the statement.

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CHAPTER VI

MISCELLANEOUS

24. Act to be binding on apartment owners, tenants, etc.—(*1*) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any contract, undertaking or other instrument and all apartment owners, tenants of owners, employees of owners and tenants, or any other person who may, in any manner, use the property or any part thereof to which this Act applies, shall be subject to the provisions of this Act and the bye-laws and the rules made thereunder:

Provided that nothing contained in this sub-section shall affect the right, title or interest acquired by any allottee or other person in common areas and facilities from any promoter on or before the 28th day of February, 1986.

(2) All agreements, divisions and determinations lawfully made by the Association of Apartment Owners in accordance with the provisions of this Act and the bye-laws shall be deemed to be binding on all apartment owners.

25. Power to exempt stamp duty, registration fee and court fees and power to refund.—(*1*) The Central Government may, by notification in the Official Gazette, reduce or remit, whether prospectively or retrospectively from a date not earlier than the date of commencement of this Act,—

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

(*b*) any fee payable by or on behalf of any promoter, apartment owner or Association of Apartment Owners in relation to instruments or documents referred to in clause (*a*) under any law relating to registration of documents or to court fees, for the time being in force,

and which the Central Government is competent to levy.

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

26. Removal of doubts.—For the removal of doubts, it is hereby declared that the provisions of the Transfer of Property Act, 1882 (4 of 1882), shall, in so far as they are not inconsistent with the provisions of this Act, apply to the transfer of any apartment, together with its undivided interest in the common areas and facilities appurtenant thereto, made by the owner of such apartment, whether such transfer is made by sale, lease, mortgage, exchange, gift or otherwise, as they apply to the transfer of any immovable property.

27. Power to make rules.—(*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

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

(*a*) the purposes, other than the purposes specified in section 2, for which any multi-storeyed building may be utilised;

(*b*) the type of independent uses, other than the uses specified in clause (*c*) of section 3, which may be made of an apartment;

(*c*) the community and commercial facilities which may be included in common areas and facilities under sub-clause (*vii*) of clause (*j*) of section 3;

(*d*) the scales of composition fees which may be paid under section 8 for the breach of the terms and conditions of any lease or sub-lease;

(*e*) the scales in accordance with which compensation, to be paid for the ejectment of an apartment owner from his apartment, shall be determined as required by sub-section (*7*) of section 8;

(*f*) the form and manner in which, and the period within which, an instrument referred to in clause (*b*) of section 9, shall be executed and registered;

(*g*) the form in which the Register of Deeds of Apartments under the Delhi Apartment Ownership Act, 1986 and the index relating thereto shall be kept and the particulars which such Register shall contain as required by sub-section (*2*) of section 14;

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

(*3*) Every rule made under this Act shall 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 rule, or both Houses agree that the rule should not be made, the rule 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 rule.

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