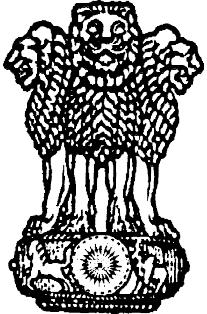


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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
Housing Department
Law & Apartment Cell
New Secretariat Buildings
1, Kiran Shankar Roy Road, Kolkata-700001

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NOTIFICATION

No.—HO-23099(14)/2/2020-APARTT CELL-Dept. of HO, dated 6th April, 2022 – In exercise of the power conferred by sub-section (1) of section 13 of the West Bengal Apartment Ownership Act, 1972 (West Ben. Act XVI of 1972) and with the prior approval of the State Government, the Competent Authority, in supersession of all Bye-laws previously made on the subject, hereby makes the following Bye-laws, namely:-

CHAPTER I

PRELIMINARY

- 1. Short title, commencement and application.**—(1) These bye-laws may be called the West Bengal Apartment Ownership Bye-laws, 2022.
 - (2) These bye-laws shall come into force on the date of their publication in the *Official Gazette*.
 - (3) These bye-laws shall apply to all the Association of Apartment Owners registered under the West Bengal Apartment Ownership Act, 1972 (West Ben. Act XVI of 1972).
- 2. Definitions.**— (1) In these bye-laws, unless the context otherwise requires,—
 - (a) “Act” means the West Bengal Apartment Ownership Act, 1972 (West Ben. Act XVI of 1972);
 - (b) “Apartment Owner” means the person owning or deemed to be owning an apartment under the Act;
 - (c) “Association” means an Association of Apartment Owners formed and registered under the Act;
 - (d) “Board” means a Board of Managers of an Association;
 - (e) “Federation” means federation formed under the Act;
 - (f) “Financial Year” means the year commencing on the first day of April;
 - (g) “Form” means a form appended to these bye-laws;
 - (h) “Member” means a member of an Association;
 - (i) “President” means the President of Board, and also of an Association;
 - (j) “Section” means section of the Act.
 - (2) Words and expressions used herein and not defined in these bye-laws but defined in the Act, shall have the same meanings as have been respectively assigned to them in the Act.

CHAPTER II

FORMATION OF ASSOCIATION OF APARTMENT OWNERS

- 3. Formation of the Association.**—(1) (a) There shall be, in respect of each property, an Association, and each apartment owner of such property is a member of such Association.
 - (b) Where an apartment owner transfers his apartment by sale, gift, lease, exchange or assignment to any other person he shall cease to be a member of the Association concerned from the date of the sale, gift, lease, exchange or assignment, as the case may be, and the transferee becomes immediately a member of the said Association in place of the transferor. The transferor and the transferee shall notify such transfer to the Board by writing a letter addressed to the President of the Association within seven days from the date of such transfer. The Board shall keep this intimation letter for its record only.
 - (c) Where more persons than one jointly own an apartment, such persons shall nominate one of themselves as a member of the Association concerned before submitting Form 1 and intimate the same to the apartment owner presiding over the meeting convened for the purpose of submitting Form 1. Thereafter such joint owners may nominate one of them as the member of the Association for the period of tenure of each new Board. Such nomination shall be intimated to the new Board within fifteen days of taking charge by the new Board.

- (2) Within forty-five days from the date of acceptance of Form A by the Competent Authority, or within such further period as the Competent Authority, on application made to it or of its own motion, may allow, the apartment owners of each property shall in a general meeting to be held on such date and at such time and place as may be decided such owners and to be presided over by an apartment owner chosen by the apartment owners present in such meeting, from an Association under some specific name and style, and the apartment owner presiding over such meeting shall immediately communicate the formation of such an Association along with the names of the members thereof, in Form 1 along with the copy of resolution and attendance sheet of the meeting to the Competent Authority who shall register the Association under a serial number and issue a registration certificate in Form 2.

Explanation. – For the purpose of this clause, a person owning more than one apartment, shall be deemed to be one apartment owner. There shall be minimum four apartment owners of minimum four apartments to form an Association.

- 4. Power and function of an Association.** –(1) The final authority of an Association shall vest in the general members who shall exercise such power through general meeting of the Association and they shall administer the property concerned in accordance with the Act and these bye-laws; and exercise general supervision over the affairs and business of the Association and, in particular, over the activities of the Board.

- (2) The functions of an Association shall be—

- (i) to raise funds for the Association as provided for in the Act and these bye-laws;
- (ii) to provide for maintenance, repair and replacement of the common areas and facilities of the property and payments thereof;
- (iii) to provide for proper maintenance of accounts;
- (iv) to provide for and do any other thing for the administration of the property in accordance with Act and these bye-laws.

- 5. Annual General Meeting of Association.** –(1) The Annual General Meeting of the Association shall be held in the month of May each year:

Provided that if the Annual General Meeting of the Association cannot be held in the month of May due to natural calamities or act of God or *force majeure* or any other disaster the Board shall forthwith take steps to pass a resolution through circulation among all the members of the Association for continuance of the Board a further period of time till such circumstance exists and shall hold the Annual General Meeting within 15 days from the date when the circumstances which prevented the Association to hold the Annual General Meeting in the Month of May. Such resolution through circulation shall be deemed to be passed when at least one-third members of the Association agree on such resolution.

- (2) A notice of an Annual General Meeting stating the place, date and hour of the meeting together with a list of businesses to be transacted thereat, shall be sent by the President to every member at least fifteen clear days before the date of the meeting and no business other than those mentioned in the said list shall be transacted at such meeting. Notice may be sent by email or any other electronic mode :

Provided that if the Annual General Meeting of the Association cannot be held physically due to natural calamities or act of God or *force majeure* or any other disaster the meeting may be conducted through online mode.

- (3) The business of the Annual General Meeting of an Association shall be—

- (a) to consider the annual report of the Board;
- (b) to consider the audit report and the audited annual financial statement of accounts;
- (c) to consider and approve the annual budget for the next financial year, including—
 - (i) determination and assessment of monthly contribution to be made in the next financial year by each apartment owner toward common expenses; and
 - (ii) retention or letting out of the common areas and facilities, as described in Form A, for shopping, commercial or other purposes.

- (d) to transact any other business that may be laid before the meeting by the Board or be considered by the Annual General Meeting to be necessary for the administration of the property.
- (4) The Annual General Meeting shall be presided over by the President or, in his absence, by a member to be chosen by the members present in such meeting.
- (5) Subject to the minimum of three, the quorum for an Annual General Meeting shall be one third of the total number of the members.
- 6. Special General Meeting of Association.**—(1) The President may convene Special General Meeting as and when the Board decides to convene such Special General Meeting.
- (2) On requisition of one-third members of an Association a Special General Meeting of such an Association may be held as often as may be necessary to consider all of or any of the subjects specified to be the business of the Annual General Meeting and any other business of general importance in the interest of the Association and within the scope of the Act and these bye-laws. After receiving the requisition, the President shall convene Special General Meeting within 15 days of receiving the same. If the President does not convene the meeting within the said period, then the persons who made the requisition shall hold the meeting within the next 15 days from the date of expiry of convening meeting by the President after giving notice of such meeting to all the members.
- (3) A notice of a Special General Meeting stating the place, date and hour of the meeting together with a list of businesses to be transacted thereat, shall be sent by the President to every member at least seven clear days before the date of the meeting and no business other than those mentioned in the said list shall be transacted at such meeting. Notice may be sent by email or any other electronic mode.
- (4) The Special General Meeting shall be presided over by the President or, in his absence, by a member to be chosen by the members present in such meeting.
- (5) Subject to the minimum of three, the quorum for a Special General Meeting shall be one third of the total number of the members.
- (6) All questions which may come up before any Annual or Special General meeting shall be decided by a majority of the members present and voting, and in the event of equality of votes, the President or, in his absence, the member presiding the meeting shall have and exercise a second or casting vote. Voting shall be made by any method the President or the member of the Association presiding over the meeting may deem fit and the majority members present agree on it. Every decision shall be taken in the form of resolution and the decision of the general meeting shall be binding on the Board and all the members of the Association :
Provided that if within half an hour from the time appointed for the meeting there is no quorum, the meeting shall stand adjourned ordinarily to the same day on the next week to be held at the same place and time and the fact of the adjournment shall be notified at the office of the Association or at or at any other conspicuous place or places within the compound of the property and shall also be informed through electronic mode to all the members.
- (7) Every Association shall cause minutes of proceeding of Annual or Special General Meeting to be recorded in a book kept for the purpose. The minutes are to be drawn up by the Secretary of the Association and shall be duly signed by the President or the person presiding over the meeting immediately on the termination of the meeting or as early thereafter as possible.
- (8) An Association shall observe such other procedure in regard to the transaction of its business in a general meeting as may be determined by its members in consistent with these bye-laws.

CHAPTER III

CONSTITUTION OF A BOARD OF MANAGERS AND ITS FUNCTIONS

- 7. Constitution of a Board and its Functions.**—(1) There shall be a Board in respect of each Association to carry on and manage the affairs and business of the Association and to exercise all such powers of the Association as are not required to be exercised by the Association in a general meeting.

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- (2) The number of Managers of a Board shall be equal to one third of the number of the apartment owners of the property concerned but in no case it shall be less than three or more than forty-eight.

Explanation:

- a. Where, in a property, a person owns more than one apartment he shall, for the purpose of this clause, be deemed to be one apartment owner.
- b. While computing, for the purpose of this clause a fraction exceeding one half shall be deemed to be one whole.

8. Election of Managers of the Board.—(1) Within fifteen days of formation of an Association under clause (2) of bye-law 3, the apartment owner presiding over the general meeting referred to in the said clause shall serve notice upon each member of such Association fixing therein the date (not before seven days from the date of issue of such notice) on which and the time and place at which a Special General Meeting shall be held for deciding the detail manner in which and the date on which the election of the Managers of the Board be held.

- (2) The election shall be held by secret ballot in accordance with the detail manner decided under clause (1) of this bye-law.
- (3) The service of the notice referred to in clause (1) shall be effected by personal service or through letter sent by registered post or through e-mail or any other electronic mode.
- (4) After the Managers of the Board are elected as aforesaid, the Board shall, within ten days of the date of election of its Managers, hold its first meeting and elect its President who shall be the Chief Executive Officer of the Association. The other office-bearers of the Association shall also be elected in that meeting. The President shall forthwith forward the names of the President and that of the other office-bearers and Managers of the Board in Form-3 to the Competent Authority for his record.
- (5) The tenure of the Board shall be three years. However, the tenure of the first Board may be less than three years and its tenure shall be till the third calendar month of May during its tenure.
- (6) All subsequent elections of the Managers of the Board shall be held in the manner as decided under clause (1) of this bye-law or in any other manner as will be decided by the Association in a subsequent general meeting. All subsequent election of Managers of the Board shall be conducted in the month of May.
- (7) The President of the subsequent Board shall forthwith forward the names of the President and that of the other office-bearers and Managers of the Board in Form-3 to the Competent Authority for his record.

9. Meeting of Board.—(1) A Board shall meet at least once a month and its meeting shall be presided over by its President and in his absence, by a Manager to be elected by the Managers present in the meeting for presiding over the meeting.

- (2) (a) A Board shall meet on such date, at such time and place and after giving such notice and shall observe such procedure in regard to the transaction of its business at its meeting as may be determined by such Board.
- (b) On the written requisition of at least one-third of Managers of the Board or at the initiative of the President, special meeting of the Board may be held after serving clear three days' written notice to each Manager, stating therein the date, place, time and purpose of the meeting. Notice may be served through electronic mode.
- (3) No business shall be transacted at a meeting of a Board unless there is present at such meeting at least one-third of its Managers, subject to a minimum of two.
- (4) All questions which come up before any meeting of a Board shall be decided by a majority of votes of the Managers present and voting, and in the event of equality of votes, the President and in his absence the Manager presiding such meeting shall have and exercise a second or casting vote.
- (5) The minutes of all the meetings of the Board shall be recorded by the Secretary and duly signed by the President or the Manager presiding over the meeting, as the case may be.
- (6) The Board may meet online also.

10. Removal of Managers. – (a) A Manager may be removed from office at any Special General Meeting of the Association, convened on the requisition of the Board, by a vote of the majority of the apartment owners present and thereupon a successor shall be elected within six weeks through a Special Election. The Manager so elected shall remain in office for the residue period of the Manager on whose removal he has been elected.

(b) Any other casual vacancy in the office of any Manager by resignation or death shall be filled up through a Special Election for this purpose. The Board shall take steps to hold Special Election for this purpose within six weeks from the date of the vacancy. The election shall be held in the manner decided in general meeting for this purpose under clause (1) or clause (6) of bye-law 8.

11. Disqualifications for being Managers. –(1) Any apartment owner, who fails to pay in any financial year any instalment of his contribution towards the common expenses which may have been assessed by the concerned Association shall not be entitled—

- (a) to vote at any election of the Managers of the Board concerned, and
- (b) to seek election for the office of the Managers of the Board concerned, till all his arrears are cleared.

12. Powers and Duties of the Board.—(1) Subject to the final authority of the Association in general meeting it shall be the duty of a Board to do all such acts and things and take all such steps as may be necessary and expedient for carrying out the purposes of the Act and these bye-laws, and, in particular, it shall be directly responsible for—

- (i) the care, up keep, maintenance, repairs and replacement of the common areas and facilities including the limited common areas and facilities of the property concerned, as referred to in sub-section (2) of section 13;
- (ii) the collection of money, including arrears, due from each apartment owner on account of monthly assessment made by the Association concerned for payment towards common expenses;
- (iii) the collection of monthly rents out of the common areas and facilities let out for shopping, commercial or other purposes;
- (iv) the proper maintenance of the funds and accounts of the Association concerned, and, if necessary, for the building up of a reserve fund out of the common profits left over after meeting the common expenses;
- (v) securing and furthering the interests of the Association concerned in every possible way.

(2) A Board, subject to any direction of the Association in general meeting, shall—

- (i) receive and disburse money, sanction working expenses, ensure regular and day-do-day maintenance of the cash book under the supervision of the Treasurer and make arrangements for daily verification of the cash balance;
- (ii) enter the accounts of the Association concerned in proper book timely and regularly, and make provisions for inspection thereof from time to time,
- (iii) maintain the accounts of the money received and expended for and on behalf of the Association concerned and the accounts of the assets and the liabilities thereof;
- (iv) prepare and place before the annual general meeting of the Association an annual budget estimate;
- (v) prepare all statements, accounts and returns and comply with all other requisitions, as may be made by the auditor for the purpose of auditing the accounts of the Association;
- (vi) remove and rectify all defects and irregularities pointed out at the audit.
- (vii) convene a Special General Meeting of the Association on requisition referred to in clause (2) of bye-law 6;
- (viii) convene Annual General Meeting of the Association in due time;
- (ix) realize and enforce realization of all dues of the Association and meet all its liabilities;
- (x) let out common areas and facilities for earning common profits, settle terms and conditions for such letting out, and revoke and alter such terms and conditions from time to time, as may be necessary;

- (xi) enter into all such agreements and make all such arrangements as may be necessary for the proper and effective maintenance, repair and replacement of the common areas and facilities and make payments therefore;
- (xii) institute, defend, or compound any legal proceedings for and against the Association or the property and for any offence of contravention or breach of any provision of the Act or these bye-laws;
- (xiii) improve the condition of general welfare of the apartment owners, within the scope of the Act and the Bye-laws;
- (xiv) maintain an up-to-date Register of members in Form 4;
- (xv) take steps to conduct election of Managers in time.
- (xvi) constitute different committees including Grievance Redressal Committee.
- (xvii) perform any other duty or discharge any other function under the Act and these bye-laws as the Association in general meeting may direct;

13. Election of Office-Bearers, and Removal of Office-Bearers. –

- (1) (a) In addition to President, there shall be the following office-bearers of an Association – a Vice-President, a Secretary, one or more Assistant Secretaries, a Treasurer, one or more Assistant Treasurers. All the office-bearers shall be elected by and from the managers of the Board,
- (b) The President shall after each election forward the names, address, phone number, e-mail address of the managers of the Association with their respective designation in form No. 3 printed on their Association letterhead to the Competent Authority for his record.
- (c) The Managers of a Board including its President, Secretary and Treasurer may be paid honorarium for attending the meetings of the Board or any other business in connection with the affairs of the Association at such rates and under conditions as the Association may determine from time to time.
- (2) *Removal of office-bearers* (a) The President, Secretary, Treasurer or any other elected office-bearer of a Board may be removed from such office by vote of not less than two-third of the Managers of the said Board in the meeting that shall be specially convened for the purpose by the President of the said Board on the requisition of at least one-third of the Managers of such Board:

Provided that the President or any other officer whose removal has been proposed shall be given an opportunity of being heard at the meeting specially convened for the purpose.

Provided further that in case of a meeting where the removal of the President will be discussed, the Secretary or any other office-bearer may convene the meeting for such purpose.

- (b) *Resignation of Office-Bearers*—The President, Secretary or any other elected officer may resign his office any time by a notice to the Board addressed to the President or the Vice-President if the President resigns. On receipt of the notice the Board shall as early as possible at a meeting consider the matter and on the resignation being accepted shall forthwith elect another officer from amongst the Managers of the Board in place of one who has resigned.

14. Appointment of Staff. – (a) A Board may appoint facility management service provider or staff to assist it in efficient discharge of its business under the Act and these bye-laws.

- (b) A Board shall, subject to the approval of the Association determine the terms and conditions of service of facility management service provider or the staff referred to in clause (a).

15. Delegation of power by a Board. – (1) The President, Secretary, Treasurer and other office-bearers appointed by a Board shall exercise such powers, perform such duties and discharge such functions as may be assigned to them by the Board from time to time.

- (2) Subject to the provisions of the Act and of these bye-laws, a Board may delegate such of its powers, duties and functions to its President, Secretary, Treasurer or other office-bearers, as it may think fit, in the interest of efficient discharge of its business for the administration of the property, provided that the President shall exercise the general control and supervision of the affairs and officers of the Association and the Board.

- 16. Constitution of Grievance Redressal Committee and other Committees.** – (1) A Board may, from time to time, constitute, if necessary, committees from amongst its managers and other apartment owners for general or specific purposes to assist it in the efficient discharge of its functions under the Act and these bye-laws.
- (2) The reports or views of the committee shall be received by the Board and consider at its meeting as early as possible for such action as may deem fit.
- (3) The Board shall constitute a Grievance Redressal Committee consisting of five members who are not managers for its tenure. The President shall intimate the names of the members of Grievance Redressal Committee to the Competent Authority immediately after its formation.
- (4) Any member aggrieved by the functions of the Board may move the Grievance Redressal Committee for redressal.
- (5) The Grievance Redressal Committee shall hear the member or members, peruse the relevant documents and thereafter submit its report within thirty days from the date of receipt of the complaint to the Board with a copy of the report to the complainant.
- (6) On receipt of the report the Board shall convene a meeting within 15 days and discuss on the report and take decisions accordingly and intimate the decision to the Grievance Redressal Committee and the complainant or complainants immediately .
- 17. Office of Board.** – A Board may, subject to the approval of the Competent Authority, set up its office at such a place or places, as it may think suitable.
- 18. Budget and supplementary estimate.** - The Board shall, before the 1st day of May each year, cause to be prepared and submitted before the Annual General Meeting of the Association a budget estimate showing in details anticipated income and expenditure of the Association under different heads in the next financial year and the Annual General Meeting of the Association shall consider and approve the budget with such additions, alterations or modifications, if any, as it may deem fit :

Provided that in the financial year in which an Association is formed and its Board is constituted, a budget estimate for the year or part of the year, showing in details the anticipated income and expenditure of the Association under different heads including the assessment that may be levied by the Association on its members for payment towards common expenses and other receipts, if any, shall be prepared and submitted by the Board, within thirty days from the date of election of the President, Secretary and Treasurer, before a Special General Meeting of the Association to consider and approve the budget with such addition, alteration and modification, if any, as it may deem fit :

Provided further that the Board may at any time during the year and part of the year for which any budget estimate has been approved, cause a supplementary budget estimate, if necessary, to be prepared and submitted to a Special General Meeting of the Association specially convened for the purpose for approval in the same manner as in the case of an original budget estimate.

CHAPTER IV

ACCOUNTS AND AUDIT

- 19. Finance, Audit and Accounts.** – (1) Each Association shall open a bank account in the name of the Association in the State Bank of India or in any Nationalized Bank, to which shall be credited-
- (a) all the dues of the Association, on account of any assessment or otherwise, collected from its members, or on account of any rent collected from tenants;
- (b) any amount by way of advance, grant, donation, loan or otherwise, received or raised by the Association; and
- (c) any other amount due, payable or made over to the Association.
- (2) Loans may be raised by an Association subject to the approval of Competent Authority on such terms and conditions as the Competent Authority impose.

- (3) The bank account shall be operated by the President and the Treasurer jointly, and the payments above rupees five thousand shall be made by cheques:
- Provided that the Treasurer may, for defraying petty expenses, retain such amount of cash in his hands as the Association from time to time decides.
- (4) The funds of the Association may be invested to any of the securities specified in section 20 of the Indian Trust Act, 1882 (2 of 1882) or in any other manner approved by the Competent Authority.
- (5) The Accounts of the aforesaid funds shall be maintained in such manner, as may be directed by the Association from time to time, and be audited within a month from the end of each financial year, by an auditor to be appointed by the Association.
- (6) A copy of the audited accounts of each Association along with the auditor's report thereon shall be expeditiously forwarded to the Competent Authority, and the Competent Authority shall have the power to issue directions to the Association or the Board from time to time with reference to such report and such directions shall be binding upon the Association and the Board.
- (7) An Association shall, as soon as may be, establish reserve fund out of the common profit, if any;
- (8) The reserve fund shall belong to the Association and be indivisible and no member shall have any claim to a share in it.
- (9) The reserve fund may be used for any purpose that may be sanctioned by the two-third majority of the members of the Association in a general meeting of the Association and after getting the approval of the Competent Authority.
- (10) The reserve fund may be invested in any of the ways referred to in clause (4) of this bye-law.

20. Pass Book of Apartment Owners. – The Board shall issue a separate statement of accounts to each member for each quarter of the financial year with respect to his or her accounts under the signature of the President and the Treasurer or the Board may use any accounting software for this purpose so that statement of accounts of each member for each quarter of the financial year is generated.

21. Publication of audited Annual Financial Statement etc. –

- (a) Each Association shall on or before 31st day of July each year publish an audited annual financial statement in respect of the preceding financial year, *inter alia*–
 - (i) the details of its profit and loss account
 - (ii) its total receipts and expenditure
 - (iii) a summary of the details of the property concerned and
 - (iv) the details of the assets and liabilities of such Association as they stand at the end of the financial year concerned;
- (b) the audited annual financial statement shall be open to inspection by any member of the Association during office hours and a copy thereof along with a complete list of members of the Association concerned as on date shall be submitted to the office of the Competent Authority not later than the 15th day of August of each year and such documents shall also be sent to the Competent Authority through e-mail;
- (c) a copy of last audited annual financial statement together with the reports of the auditors thereon shall be kept in a conspicuous place in the office of the Association and a soft copy of the same shall be shared to all members through email or any other electronic mode.
- (d) each association shall file annual income tax return within the due date of filing return under the Income Tax Act, 1961.

CHAPTER V

ASSESSMENT OF COMMON EXPENS BY ASSOCIATION AND REALIZATION THEREOF

22. Assessment of the share of common expenses. – (1) Every apartment owner of the property shall be assessed with such sum, being his share of the common expenses for the year as may be determined by the Association concerned to defray the common expenses which may include an insurance premium and any repair and reconstruction work in case of hurricane, fire, earthquake or any other kind of hazard or calamity.

- (2) The assessment in clause (1) shall be made *prorata* according to the size of the apartment unit as specified in the Declaration in pursuance of the provision of clause (g) of sub-section (1) of section 10.
- 23. Payment of Common Expenses.** – The assessed sum on account of common expenses shall be payable by each apartment owner in equal monthly or quarterly installments, as determined by the Association concerned, within fifteen days from the expiry of the month of the quarter, as the case maybe.
- 24. Manner of payment of common expenses.** – Every member shall pay to the Treasurer the sum payable by him on account of the assessment made upon him by the Association concerned within such period and in such manner as the Association may direct and the Treasurer shall, on receiving such payment, issue receipt in respect thereof or a member shall pay through electronic mode into the bank account of the Association in accordance with any electronic system approved by the Association.
- 25. Preparation and publications of list of defaulters.** – At a meeting of the Board at the end of the month or a quarter, as the case may be, the position of realization of the sum assessed on account of common expenses shall be reviewed and a list of defaulters shall be prepared and published in a conspicuous place of the office of the Board with a notice for payment of the arrears within fifteen days from the date of the notice. The list of defaulters shall also be shared to all members through electronic mode also.
- 26. Steps to be taken for realization.** – If the arrears are not paid by a member or members within the period referred to in bye-law 23 the Board will consider in its next meeting the case of the defaulters individually and will take such steps for realization, as may be considered necessary, including the prosecution of the defaulting member for non-compliance with, and breach of, the provisions of Act and these bye-laws.

CHAPTER VI

OTHER DUTIES AND OBLIGATIONS OF THE APARTMENT OWNERS

- 27. Duties and liabilities of the Apartment Owners.** – (1) Every member shall, on being directed by the Board, immediately undertake and complete all maintenance and repair work within his own apartment, which, if delayed, is likely to affect the property concerned, wholly or in part, and he shall be solely responsible for the damage that his failure to undertake such work may cause to the said property part thereof and shall also be liable on the said account for payment of damages as may be determined by the Board.
- (2) All the repairs in respect of the doors, windows, internal installations (including sanitary installations) in connection with, or in relation to water, light, gas, power sewage, televisions, air-conditioners, and all other kinds of accessories within the area of such apartment, shall be undertaken at the expenses of the owner of the apartment concerned.
- (3) The owner of an apartment shall reimburse the Association for any expenditure that may have been incurred by it for repairing or replacing anything pertaining to common areas and facilities, such repairing or replacing being required to be effected due to any damage caused by such apartment owner in respect of the common areas and facilities.
- (4) All apartments, except those specifically meant for non-residential purpose, shall be utilized for residential purpose only and no apartment owner shall utilize them, or any portion thereof for non-residential purpose.
- 28. Board to be notified when structural additions or alterations, etc. of apartment are intended.** – (a) An apartment owner intending to make any structural additions or alterations in his apartment shall notify the Board concerned giving details thereof in writing and the Board shall, after hearing the apartment owner concerned and making such enquiry as it may deem fit, either permit or refuse, within thirty days of the receipt of such additions or alteration. Where no intimation is received from the Board within the aforesaid period, the Board shall be deemed to have permitted structural additions or alterations sought to be made by the apartment owner.
- (b) An apartment owner being aggrieved by the decision of a Board refusing structural additions or alterations in his apartment may, within thirty days from the date of such refusal or within such further period as the Association concerned may permit, appeal to the concerned Association which shall expeditiously dispose of the appeal.

Provided that no order to the prejudice of an apartment owner shall be made without giving an opportunity of being heard.

- 29. Encumbrance of apartment to be notified to the Board.** – An apartment owner who mortgages his apartment or otherwise encumbers it shall immediately notify the Board concerned the name and address of his mortgages or the details of the encumbrance, as the case maybe.
- 30. Sale of Apartment to be notified to the Board.** – An apartment owner who sells or otherwise transfer his apartment shall immediately notify the Board of the fact stating the name of the purchaser or transferee and his address, phone number and email address.

Similarly, the purchaser or transferee of the apartment shall immediately, apart from executing and registering an instrument in the form as provided for in item (ii) of clause (b) of sub-section (3) of section 4, notify the Board concerned about his ownership or interest, as the case may be, of the apartment in question.

- 31. Use of common Areas and facilities.** – (a) The owner or occupier of an apartment shall not place or cause to be placed in the lobbies, vestibules, stair-ways, corridors, elevators and other common areas, both common and restricted, any furniture, package or object of any kind, and such areas shall be used for no other purpose than for normal transit through them. No owner or occupier of an apartment shall use any common facility for any purpose other than it is intended for such use.
- 32. Right of entry into an apartment.** – (a) The owner or occupier of an apartment and, in his absence, the oldest member of his family present in the apartment shall, in case of any emergency originating in or threatening such apartment, grant the right of entry into such apartment to any officer, Manager of the Board concerned or resident of the property concerned to enable him to take immediate suitable steps in the interest of safety, preservation or maintenance of the particular apartment, the neighbouring apartments or the entire property concerned. If the apartment is under lock and key the Board shall request the owner or occupier through any mode of communication to open the lock and allow any Manager of the Board concerned to enter into the apartment for such purpose. If such owner or occupier is not readily available to open the lock and if the situation so demands the Board may break open the lock after informing the local police station and in presence of at least two independent witnesses.
- (b) The owner or occupier of an apartment shall grant right of entry in the apartment to the owner of any other apartment of the property concerned or his representative for the purpose of installations, alterations or repairs of the common mechanical or electrical services of the property concerned.
- (i) in ordinary cases, with sufficient notice and reasonable time, and
- (ii) in an emergent case, immediately.

- 33. Restriction on certain acts.** – No resident of any apartment of the property shall–
- (a) post any advertisement or poster of any kind in or on the building comprised in such property without permission of the Board concerned.
- (b) make any noise or use or play musical instrument, radio, television or amplifier in such high pitch, or do any work or thing, or act or conduct himself in such way, that may reasonably cause irritation, annoyance or disturbance to any other resident or residents;
- (c) keep any domestic animal within the property without abiding by the relevant municipal law;
- (d) hang cloths and garments from windows or balconies of his apartment causing inconvenience or irritation or any annoyance to any other resident or residents;
- (e) throw garbage or refuse outside the dustbins provided within the common service area;
- (f) take up wiring for electrical and telephone installation, television antennae, machines or air-conditioning units on the exterior of the property concerned that products through the walls or roof of that building except as authorized by the Board; and
- (g) arrange any public function in any part of the property, except with the permission of the Board.

CHAPTER VII

FEDERATION

34. **Formation of Federation.** – After acceptance of Form F of the West Bengal Apartment Ownership Rules 1974 the Competent Authority shall issue a registration certificate in Form 5 to the first declarant. The federation formed under the Act shall maintain and manage common areas and facilities which are declared and submitted before the Competent Authority and it shall follow the provisions regarding Associations, *mutatis mutandis*, in managing the affairs of the federation.
35. **Members of Federation.** – President and Treasurer of each constituent Association shall be members of the Federation.
36. **Chairman of Federation.** – The President of each constituent Association shall be the Chairman of the Federation in turn. Chairman shall be the Chief Executive Officer of the Federation. The term of Chairman of federation shall be one year from the date of his taking charge..

CHAPTER VII

MISCELLANEOUS

37. **Bye-laws are mandatory.** – These bye-laws are mandatory and breach of any of the provision of these bye-laws by any apartment owner or the Association or the Board of Managers or any manager is an offence punishable under sub-section (1) of section 16A.
38. **Seal of the Association.** – The Association shall have a common seal in its name and style which shall remain in the custody of the Secretary and shall be used only under the authority of the Association or the Board concerned.
39. **Power to remove difficulties.** – (1) If any difficulty arises in giving effect to the provisions of these bye-laws, the Competent Authority may, by guideline, make such provisions not inconsistent with the provisions of these bye-laws as may appear to the Competent Authority necessary for removing the difficulty.

FORM 1

[See bye-law 3(2)]

To

The Competent Authority

under The West Bengal Apartment Ownership Act, 1972

Sir,

I hereby communicate that in a general meeting duly held on..... presided over by the undersigned, the Association of the apartment owners under the name and style of..... Association of Apartment Owners having its postal address..... for our property situated at....., has been formed under the bye-laws framed under the said Act with following persons as members thereof:

Serial No.	Name of the member	Apartment Number(s)

Date :

Place :

Yours faithfully

*(Signature of the apartment owner
presiding over the general meeting)*

Name :-

Apartment Number :-

email id :-

Mobile No:-

FORM 2

[See bye-law 3(2)]

Certificate of Registration of Association of Apartment Owners
under the West Bengal Act XVI of 1972

Registration No. of 20...

I hereby certify that **ASSOCIATION OF APARTMENT OWNERS** having postal address was formed on-20.. in accordance with clause (2) of bye-law 3 of the West Bengal Apartment Ownership Bye-laws, 2022 and the said Association has this day been registered under the West Bengal Apartment Ownership Act, 1972.

Given under my hand at Kolkata, this .. day of, Two thousand

Competent Authority
under the West Bengal Apartment Ownership Act, 1972

FORM 3

[See bye-law 5(5)]

To

The Competent Authority

under The West Bengal Apartment Ownership Act, 1972

.....
.....

Sir,

In the first meeting of the Board of Managers of (name of the Association) held today, I have been duly elected President of the said Board and the Association of the Apartment Owners namely having Registration No. I do hereby forward to you the names of all the other Office-Bearers and Managers of the Board along with their portfolios as follows : –

- | | | |
|-------------|-------|-----------|
| 1. Mr./Mrs. | | President |
| 2. Mr./Mrs. | | |
| 3. Mr./Mrs. | | |
| 4. Mr./Mrs. | | |

Date :

Yours faithfully

Signature of the President

Name:–

Phone Number:–

Email id:–

Enclosure : A copy of report of the officer/committee conducting the election and a copy of charge hand over and taken over report of the Board of Managers.

Note : Form 3 shall be printed on the letter head of the Association.

FORM 4

[See bye-law 12(2) (xiv)]

SI. No.	Name of the Member	Apartment No(s).	Membership No.	Remarks

[If a member transfers his/her apartment in favour of another person pen- through his name and narrate the fact in the remarks column. Incoming member shall be allotted a fresh membership no. and narrate the fact in the remarks column]

Note : Form 4 shall be maintained in a Register of the Association.

FORM 5

[See bye-law 34]

**Certificate of Registration of Federation
under the West Bengal Act XVI of 1972**

Registration No. of 20.....

I hereby certify that **FEDERATION** having postal address was formed on.....-.....20..... in accordance with clause (2) of rule 7 of the West Bengal Apartment Ownership Rules, 1974 and the said Association has this day been registered under the West Bengal Apartment Ownership Act, 1972.

Given under my hand at Kolkata, this day of Two thousand.....

*Competent Authority
under the West Bengal Apartment Ownership Act, 1972*

By Order

DEBASIS GHOSH, W.B.L.S.

*Competent Authority
under the West Bengal Apartment Ownership Act, 1972*