

The M.P. Adhosanrachna Vinidhan Nidhi Board Adhiniyam, 2000

MADHYA PRADESH

India

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Act 6 of 2000

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The M.P. Adhosanrachna Vinidhan Nidhi Board Adhiniyam, 2000 No. 6 of 2000 Received the assent of the Governor on the 4th March, 2000 assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)" dated the 7th March, 2000. An act to provide for the constitution of a fund for investment in the infrastructure projects in the State and for matters connected therewith or incidental thereto. Be it enacted by the Madhya Pradesh Legislature in the Fifty First Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1) This Act may be called The Madhya Pradesh Adhosanrachna Vinidhan Nidhi Board Adhiniyam, 2000. (2) It extends to the whole of the State of Madhya Pradesh. (3) It shall be deemed to have come into force on the 19th day of January, 2000.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "Board" means the Madhya Pradesh Infrastructure Investment Fund Board constituted under Section 3; (b) "financial assistance" means the types of assistance specified in the Scheme; (c) "fund" means the Madhya Pradesh Infrastructure Investment Fund established under Section 15; (d) "Fund Manager" means the Fund Manager of the Board; (e) "Infrastructure Projects" include projects in the sector of roads irrigation, water supply, solid waste management and drainage or a multipurpose project in any one or more of these areas; (f) "Local Self Government" means a Panchayat at any level constituted under the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994), or a Municipality or a Nagar Panchayat constituted under the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961) or a Municipal Corporation constituted under the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956); (g) "Other Undertakings" means Public companies established in the State under the

Companies Act, 1956 (Central Act 1 of 1956) in joint sector, where the investment of the Government is not less than forty per cent of the total paid up share capital or societies established under the Societies Registration Act, 1860 (Central Act 21 of 1860) and where Government, local self Governments or any Public Sector undertaking, as the case may be, have not less than fifty per cent of the interest in its assets, ownership and management;(h)"Public Sector Undertaking" means any Government company established in the State under the Companies Act, 1956 (Central Act 1 of 1956) or a co-operative Society registered or deemed to have been registered under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961) where the Government holds not less than fifty per cent of the share capital, and substantial control over its management and includes public undertakings established under statute;(i)"Schedule" means the scheme framed under this Act;(j)"Undertaking" means the public sector undertakings or other undertakings;(k)"Year" means the financial year.

3. Constitution of Board.

(1)The State Government may by notification, constitute with effect from such date as may be specified therein, a Board to be called "the Madhya Pradesh Infrastructure Investment Fund Board" for the administration of the fund and to supervise or carry out the activities financed from the fund.(2)The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal and shall by the said name sue and be sued.(3)The Board shall consist of the following members, namely :-(a)the Chief Secretary to Government of Madhya Pradesh;(b)the Principal Secretary/Secretary to Government of Madhya Pradesh, Finance Department;(c)the Principal Secretary/Secretary to Government of Madhya Pradesh, Water Resources Department;(d)the Principal Secretary/Secretary to Government of Madhya Pradesh, Revenue Department;(e)the Principal Secretary/Secretary to Government of Madhya Pradesh, Public Works Department;(f)the Principal Secretary/Secretary to Government of Madhya Pradesh, Planning Department;(g)the Secretary to Government of Madhya Pradesh, Finance Department (Institutional Finance);(h)two persons who have proven experience in development banking nominated by the State Government.(4)The Chief Secretary shall be the Chairman of the Board.(5)The Secretary (Institutional Finance) shall be the Fund Manager of the Board.(6)The Board shall administer the fund vested in it in such manner as may be specified in the scheme.(7)The Board may, with the previous approval of the State Government, delegate to the Fund Manager such of its powers and functions under this Act or the scheme, as it may consider necessary for the efficient administration of the fund, subject to such restrictions and conditions, if any, as it may specify.

4. Term of office of members.

(1)A member appointed under Clause (h) of sub-section (3) of Section 3 shall hold office during the pleasure of the State Government.(2)Any member appointed under Clause (b) of sub-section (3) of Section 3 may resign his membership by giving notice in writing to the State Government but shall continue in office until his resignation is accepted by the State Government.

5. Powers and functions of Board.

- Subject to the provisions of this Act, the Board shall have the following powers and functions, namely :-(a)to mobilize resources for the utilization of the fund;(b)to sanction financial assistance to the undertakings as per the scheme;(c)to recover the amounts due to the Board from the assisted undertakings as per the recovery schedule;(d)to modify, revise or reschedule the recoveries from any of the assisted undertakings as may be considered appropriate;(e)to opt for revenue recovery procedures, if found necessary and appropriate against any of the assisted undertakings in the interest of the Board;(f)to distribute all expenses relating to the administration of the fund including travel interest on borrowings, fees, professional charges and other expenses;(g)to invest any surplus fund of the Board as may be available from time to time in such manner as may be specified in the scheme and also to realize such investments;(h)to review the performance of any undertakings receiving any assistance or loan from the fund on a periodic basis;(i)to enter into memorandum of understanding or performance contract with any undertakings under the purview of this Act, on behalf of the State Government;(j)to enter into contract on behalf of the Board;(k)to exercise such of the powers and functions as may be specified in the scheme;(l)to exercise such other powers and perform such other functions as may be conferred on or entrusted to it by the State Government for carrying out the purpose of this Act;(m)to do all acts necessary for, and incidental to, carrying out of the functions entrusted or delegated to it.

6. Power of Board to borrow and lend.

(1)The Board may, from time to time, with the previous sanction of the State Government and subject to such conditions as the State Government may, by general or special order determine, borrow any sum required for the purposes of this Act whether, by the issue of bonds or debentures or otherwise or by making arrangements with Banks or Institutions approved by the State Government in that behalf.(2)Bonds or debentures issued by the Board under this section shall be issued, transferred, dealt with or redeemed in such manner as the State Government, may by general or special order, direct.(3)Subject to the provisions of this Act and such conditions and limitations as may be specified in the scheme, the Board may, out of its funds, grant loans and advances for infrastructure projects to any public sector undertakings or other undertakings for the time being in existence in the State.

7. Guarantee by Government of loans.

- The State Government may guarantee, in such manner as it may deem fit, the payment of the principal and interest of any loan proposed to be raised by the Board under Section 6 :Provided that the total guarantee issued by the State Government under this Act shall not exceed a sum of Rupees one thousand crores.

8. Mode of recovery of money due to Board.

- All sums payable by any person to the Board or recoverable by it under this Act or the scheme and

all charges or expenses incurred in connection therewith shall, without prejudice to any other mode of recovery, be recoverable on behalf of the Board as arrear of land revenue.

9. Members and staff of Board to be public servants.

- Every member of the Board, the Fund Manager and staff of the Board shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

10. Protection for acts done in good faith.

- No suit or other legal proceedings shall lie against any member of the Board or any other person in respect of anything, which is in good faith done or intended to be done under this Act or under the scheme.

11. Power of State Government to issue directions.

(1)Notwithstanding anything contained in this Act it shall be lawful for the State Government to issue directions to the Board in matters relating to State and National Policies and such directions shall be binding on the Board.(2)The State Government may, after consultation with the Board, give to the Board general directions to be followed by the Board.(3)In the exercise of the powers and performance of its duties under this Act, the Board shall not depart from any general direction issued under sub-section (2) except with the previous permission of State Government.

12. Accounts and Audit.

(1)The Board shall maintain such books of accounts and other books in relation to its accounts and prepare an annual statement of accounts and balance sheet in such form and in such manner as may be specified in the scheme.(2)The accounts of the Board shall be audited by such auditor, in such manner and at such time as the State Government may, by general or special order, direct and the auditor so appointed shall have such powers of requiring the production of documents and the furnishing of information in respect of such matters.(3)The Accounts of the Board as certified by the auditor together with the audit report thereon shall be forwarded annually to the State Government within six months from closure of accounting year and the State Government may issue such directions to the Board as they may deem fit and the Board shall comply with such directions.

13. Annual report and audited statement of accounts.

(1)The annual report of the Board shall be prepared under the direction of the Board and after approval by the Board, a copy of the report shall be submitted to State Government before the end of July every year.(2)The State Government shall, as soon as the annual report is received, cause the same together with the audited statement of accounts to be laid on the table of the Legislative Assembly.

14. Dissolution of Board.

(1) If the State Government for any reason are of opinion that it is not necessary to continue the Board it may, by notification in the Gazette, dissolve the Board from such date as may be specified therein. (2) Upon the publication of a notification under sub-section (1) dissolving the Board, - (a) the Chairman and all the other members of the Board shall, as from the date of dissolution, vacate their offices as such; (b) all the powers and functions which are, by or under the provisions of this Act, exercised and performed by or on behalf of the Board and the Chairman shall, as from the date of dissolution, be exercised and performed by the State Government or such authority or person as it may appoint in this behalf; (c) all funds and other property vested in the Board shall vest in the State Government; and (d) all liabilities legally subsisting and enforceable against the Board shall be enforceable against the State Government to the extent of the funds and properties vested in it. (3) Nothing in this section shall affect the liability of the State Government in respect of bonds or debentures guaranteed by the State Government.

15. Madhya Pradesh Infrastructure Investment Fund Scheme.

(1) The State Government may, by notification frame a scheme to be called the 'Madhya Pradesh Infrastructure Investment Fund Scheme' for the establishment of a fund under this Act for investment in the infrastructure projects of the State and there shall be established, as soon as may be after the framing of the scheme, a fund in accordance with the provisions of this Act. (2) There shall be credited to the fund, - (a) the contributions specified in Section 16; (b) the amount borrowed by the Board under Section 6; (c) grants or loans or advances made by the State Government or any institution; (d) any amount raised by the Board from other sources to augment the resources of the Board; (e) any other amount which, under the provisions of the scheme, shall be credited to the fund; (3) The fund shall vest in, and be administered by, the Board. (4) The fund may be utilized for all or any of the following purposes, namely : - (a) to finance investments in infrastructure projects in the State; and (b) to redeem the bonds and debentures used to raise resources for the fund. (5) All money specified in sub-section (2) shall be deposited with the approval of the State Government in a Scheduled Bank and the account shall be operated by the Fund Manager. (6) Subject to the provisions of this Act, the Scheme framed under sub-section (1) may provide for all or any of the matters specified in sub-section (4) and in the Schedule.

16. Contribution to fund.

- The State Government may, after due appropriation by law of the State Legislature, from time to time make such grants, advances and loans to the fund for the purposes of this Act on such terms and conditions as may be determined.

17. Modification of Scheme.

- The State Government may by notification, add to, amend or vary the scheme framed under Section 15.

18. Bar of Jurisdiction of Civil Courts.

- No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act or scheme required to be settled decided to dealt with or to be determined by the State Government or the Board or any officer authorised by the State Government or the Board.

19. Removal of difficulties.

- If any difficulty arises in giving effect to the provisions of this Act the State Government may, as occasion may require, by order, do anything not inconsistent with this Act or the scheme made thereunder, which appear to it to be necessary or expedient for the purpose of removing the difficulty.

20. Power to make rules.

(1)The State Government may, by notification, make rules for carrying out of the provisions of this Act.(2)All rules made under this section shall be laid on the table of the Legislative Assembly.

21. Repeal.

- The Madhya Pradesh Adhoshanrachna Vinidhan Nidhi Board Adhyadesh, 2000 (No. 1 of 2000) is hereby repealed.The Schedule[See Section 15(6)]Master for which provisions may be made in the Scheme.

1. Eligibility of undertakings for assistance.

2. The purposes for which the assistance may be given.

3. Modes of assistance.

4. Interest and penal charges.

5. Security for the assistance.

6. Appraisal and sanction procedure.

7. Disbursement procedure.

- 8. Guidelines for memorandum of under-standing/performance contract.**
- 9. Recovery procedure.**
- 10. Monitoring system.**
- 11. Investment of surplus funds.**
- 12. Board meetings quorum, fees and allowances to members of the Board.**
- 13. The manner in which accounts shall to kept, the preparation of the budget, the audit of Accounts and the submission of reports to the Government.**
- 14. The procedure for defraying the expenditure incurred in the administration of the fund.**
- 15. Any other matter which is to be provided for in the Scheme or which may be necessary or proper for the purpose of implementing the scheme.**
- 16. The method of appointment, salary, allowances, discipline and conditions of service of the staff of the Board.**

Notifications(i)[No. F 1-33-99-P.M.U.-305, dated 17th February, 2000] [Published in M.P. Rajpatra (Asadharan) dated 17-2-2000 page 181.]. - In exercise of the powers conferred by sub-section (1) of Section 3 of the Madhya Pradesh Adhosanrachna Vinidhan Nidhi Board Adhyadesh, 2000 (No. 1 of 2000) the State Government hereby constitute the Madhya Pradesh Infrastructure Investment Fund Board with effect from 17th February, 2000.(ii)[No. F 1-33-99-P.M.U.-307, dated 17th February, 2000.] [Published in M.P. Rajpatra (Asadharan) dated 17-2-2000 page 182.] - In exercise of the powers conferred by clause (h) of sub-section (3) of Section 3 of the Madhya Pradesh Adhosanrachna Vinidhan Nidhi Board Adhyadesh, 2000 (No. 1 of 2000) the State Government hereby nominate Shri Vishwapati Trivedi, Managing Director, Madhya Pradesh Financial Corporation and Shri R, Gopal Krishnan, Secretary, Infrastructure Development Board as member of Madhya Pradesh Infrastructure Investment Fund Board.