

**24. Fixation of Scale of Rates (SoR) and
Revision of Rent/Compensation for the
1.10.2022 to 30.9.2027 for MbPA lands
effective from 1.6.2023.**

1. Background:

1.1. The SoR, 2017-2022 was applicable till 30.9.2022. Pending revision of SoR for the period 2022-2027, the applicability of SoR 2017-2022 was extended initially for six months pursuant to Board's approval by BR No. 119 dated 25.8.2022 and further extended for two months by BR No.278 dated 6.3.2023 and also notified in the State Government Gazette No.126 dated 14.9.2022 and 26 dated 21.3.2023. The same was also communicated to MoPS&W by letter No. EM/ASG/F-391/6641 dated 20.3.2023.

1.2. By BR No. 296 dated 27.3.2023, the Board accorded approval to the following, based on the Land Allotment/SoR Committee report dated 16.3.2023 for revision of SoR 2022-2027:

(i) LAC/SoR Committee's recommendations for revision of SoR for the period from 1.10.2022 to 30.9.2027 (effective from 1.6.2023) as per Annexure XII (of BR No.296 of 2023).

(ii) The rates as summarized in Annexure 'VII' as recommended by Valuer Shri Avinash Pendse and adopted by LAC/SoR Committee as per the provisions of PGLM 2015 guidelines.

(iii) Para 18 of the note:

(a) SoR applicable for land owned by Mumbai Port Authority for the period from 1.10.2022 to 30.9.2027 effective from 1.6.2023 to 30.9.2027 as proposed in para 9 of note preceding BR No. 296 of 2023.

(b) SoR applicable for buildings and structures owned by Mumbai Port Authority for the period from 1.10.2022 to 30.9.2027 effective from 1.6.2023 to 30.9.2027 as proposed in para 10 of the note preceding BR No.296 of 2023.

(c) The factors for fixation of Reserve Price for Fresh allotment based on usage would be as proposed in para 11 of the note preceding BR No.296 of 2023.

- (d) SoR applicable for special way leave for the period from 1.10.2022 to 30.9.2027 effective from 1.6.2023 to 30.9.2027 as proposed in para 12 of the note preceding BR No.296 of 2023.
- (e) The Service charges of Rs.2 per sq.mtr. per month would be applicable for the period from 1.10.2022 to 30.9.2027 effective from 1.6.2023 as proposed in para 13 of the note preceding BR No.296 of 2023.
- (f) SoR applicable for storage and Temporary Use of land/building for the period from 1.10.2022 to 30.9.2027 effective from 1.6.2023 onwards as proposed in para 14 of the note preceding BR No.296 of 2023.
- (g) SoR may be reviewed by the Board, if there is any change in Policy Guidelines issued by MoS from time to time.
- (h) Due care has been taken to cover all aspects. In case however, if any issue remains to be covered or has remained to be dealt with under this report, the Board would have the power to issue clarification within the framework of PGLM and MPA Act, 2021.

(iv) Para 19 of the Note:

The proposed SoR 2022-2027 as recommended by Land Allotment/SoR committee after approval of the Board would be published and circulated for comments of the stakeholders and the process involved would be as follows:

- (i) Notice will be published on MbPA website and in local newspapers, emailed to available lessees and associations and circulated through relevant WhatsApp groups.
- (ii) The stakeholders will be requested to provide comments and observations via a Google form and QR code as per the draft within 15 days of publication.
- (iii) Thereafter a Video Conference will be conducted for gathering comments and observations from MbPA Stakeholders.

- (iv) The reply / justification after stakeholder meeting will be again published on the website with the approval of Land Allotment/SoR committee.
- (v) If there is any change proposed pursuant to stakeholders' comments, such change will be placed before the Board for its approval. If there is no change in the SoR or such amended SoR as would be approved by the Board after stakeholders meeting, will be notified in the State Gazette and after 30 days implemented w.e.f. 1.6.2023.

2. The FA&CAO has informed that in accordance with the Board's approval, the proposed SoR (***Annexure-A**) and BR No.296 dated 27.3.2023 were published on the MbPA website on 29.3.2023 and comments were invited from tenants/lessees/stakeholders by publication in 5 major newspapers namely, Hindustan Times, Navbharat, Mumbai Samachar, Saamana and Navakal published on 29.3.2023 (***Annexure-B**) and also via mails and whatsapp messages to tenants/lessees/associations and granting them 15 days' time till 12.4.2023 for submitting their comments. 284 number of comments were received through google forms, 71 Nos. through emails and 52 Nos. of comments through offline mode.

3. The joint hearing with the tenants/lessees/stakeholders was held on 13.4.2023 from 3.00 p.m. onwards through video conferencing on Zoom, in which 197 numbers of tenants/lessees/stakeholders participated including Advocates and Office bearers representing some of the Associations such as Darukhana Iron & Steel Merchants Association, Bombay Charcoal Merchants Association, Lakri Bunder Timber Merchants Association and a group of tenants/lessees including Indian Hotels Co. Ltd, Tata Power Co., Scindia Steam Navigation Co., Kamani Tubes Ltd, Godrej Industries Ltd., occupants of Nav Vyapar Bhavan, Bahri Buildings, LIC Building, etc, besides individual tenants/lessees/occupants. The issues raised during the VC meeting were in substance the issues covered in the comments received from the tenants/ lessees/stakeholders. There were also requests for extension of time for furnishing comments after uploading of all documents/valuation report, etc. and also for grant of opportunity to submit rejoinder to the response of MbPA on stakeholder's comments. Having uploaded Board Resolution No.296 of 2023 giving the modalities and procedure followed in formulating the SoR, no further documents need to be furnished considering the commercial interest and neither extension of time is required to be granted nor is there a necessity to allow the parties to submit rejoinders as this would delay the process of revision. None of the parties have made any substantial submission on the issue of the

rates being exorbitant or arbitrary except making vague and unsubstantiated comments without facts, figures or documents.

4. The comments received and response to the same are shown in the statement at ***Annexure-C**. The issues raised during the joint hearing held on 13.4.2023 are shown in ***Annexure-D**. The comments which are common in nature alongwith the distinct comments, encompassing all comments received and response to the same are separately shown in ***Annexure-E**.

5. The FA&CAO has stated that one of the contention raised by the stakeholders is that the rates of rent under compromise proposals” (as upheld under Wadia case) - are valid till 31st March 2024 is a fallacious contention. Nowhere in the Compromise Proposals was it contemplated by the Mumbai Port that the rent under the said proposal would be valid till 31.3.2024 or such a proposition upheld by any judicial pronouncement. By such a contention the stakeholders are trying to bind the Port for a period of four decades which would be against the principle enunciated in para 18 of the Supreme Court Judgement wherein it is clearly stated that **“The State and its instrumentalities, as the landlords, have the liberty of revising the rates of rent so as to compensate themselves against loss caused by inflationary tendencies. They can – and rather must- also save themselves from negative balances caused by the cost of maintenance, and payment of taxes and costs of administration. The State, as landlord, need not necessarily be a benevolent and good Samaritan. The felt need for expanding or stimulating its own activities in the public interest having once arisen the State need not hold its hand from seeking eviction of its lessees. However, the State cannot be seen to be indulging in rack-renting, profiteering and indulging in whimsical or unreasonable evictions or bargains.”** The MbPA during the last decade has been facing operational deficit in about 8 financial years and operational profit for only two financial years. Many of the works of maintenance have been held back on account of lack of funds, there is shortfall in pension fund, unpaid arrears on account of wage revision of staff and officers effected from 2017, many of the projects have been held up on account of lack of funds. The proposed SoR has sought to strike a balance between the mandatory provisions of PGLM 2015 and the principles laid down in the Supreme Court under the Wadia Judgement and is thus fair and reasonable. The issue of validity of rates under the Supreme Court Judgement as upheld under the Wadia Judgement was also referred to Attorney General for opinion, who vide his opinion dated 29.7.2016 confirmed that the rates are valid till 30.9.2012 and the revision can be effected in the letting rate with effect from 1.10.2012.

* Not printed

6. Taking into account the comments received from the Tenants/Lesseees/Stakeholder and the response as formulated, the Land Allotment Committee/SoR Committee has recommended the adoption of the SoR rates as earlier approved by the Board under BR No.296 dated 27.3.2023 with the modification in the description of locations pertaining to RR Zone 90/419D and RR Zone 96/436E.

7. The LAC/SoR Committee has also accorded approval to the publication of the tenants/lesseees/stakeholders comments and MbPA's response to the same on MbPA website in accordance with the Board's decision under BR No.296 of 27.3.2023.

8. The LAC/SoR Committee's final recommendation with Chairman's approval to place the matter the Board is at ***Annexure-H**.

9. The FA&CAO has stated that it can be seen from the comments and the response to the comments that the only modification in the SoR would be limited to the correction required in the RR Zone pertaining to Pir Pau area which gets covered under RR Zone 90/419D of Mahul and not the RR Zone 96/436E. RR Zone 96/436E would cover only a small portion of the MbPA pipeline road. To that extent the SoR Table would stand modified as shown in ***Annexure-F**. No other variations are envisaged in the proposed SoR as recommended by the Land Allotment Committee/SoR Committee and approved by the Board by BR No.296 of 27.3.2023, as the proposed SoR have pegged the rate of return @ 6% per annum on land value and the annual escalation has been pegged @ 2% which is the minimum mandated under the PGLM 2015 and is in consonance with the Compromise Proposals upheld by the Supreme Court under the "Wadia Judgement" which granted a return of 10% per annum on the land value though with effect from 1.4.1994 and an annual escalation of 4%.

10. The FA&CAO has stated that the draft speaking order/notification in terms of the above recommendation is at ***Annexure-G** for the approval of the Board. After approval of the Board, the notification will be published in the State Government Gazette and after 30 days will be implemented from 1.6.2023.

11. In view of the above, the FA&CAO has requested the Board's approval to draft speaking order/notification as per Annexure 'G'.

12. The Board's approval is requested to FA&CAO's proposal at para 11 of the note.

Note of discussions at the Board meeting held on 25th April 2023

FA&CAO and Estate Manager explained the proposal in brief.

Estate Manager stated that proper hearing was given to stakeholders and 400 comments have been received and there was a very good response to the VC conducted. He further stated that there was a demand from the tenants/lessees for further rationalisation of the SoR.

Shri P.K. Roy stated that the SoR has already been reduced and fair and cannot be reduced further.

After some discussions, the Board accorded approval to FA&CAO's proposal at para 11 of the note.

Resolution No.24

25.4.2023

Board approved FA&CAO's
proposal at para 11 of the note.

137.24/Pro 25 April 2021/Revision of SoR