

CHAPTER 295

THE NATIONAL HOUSING CORPORATION ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

Section

Title

PART I

PRELIMINARY PROVISIONS

1. Short title.
2. Interpretation.

PART II

THE NATIONAL HOUSING CORPORATION

3. Continued establishment of the Corporation.
4. Functions of the Corporation.
5. The Board.
6. Minister may direct Corporation.
7. Orders and directions of the Corporation.

PART III

OPERATIONS, POWERS AND PROCEDURES OF CORPORATION

8. Housing inquiries by the Corporation.
9. Power to contract, etc.
10. Access to valuation roll.
11. Determination of rent.
12. Manner of effecting payment of rent.
13. Additional rent by way of penalty for delayed rent.
14. Rents and penalties recoverable as debts.
15. Secrecy.
16. False statements.
17. Powers of entry and inspection.

PART IV

ADMINISTRATIVE PROVISIONS

18. Appointment of employees.
19. Transfer of employees of the Corporation.
20. Remuneration of members.
21. Superannuation benefits.
22. Power of Board to delegate.

PART V

FINANCIAL PROVISIONS

- 23. Funds and resources of the Corporation.
- 24. Power to raise and guarantee loans.
- 25. Guarantees Reserve Fund.
- 26. General Reserve Fund.
- 27. Investment.
- 28. Annual and supplementary budget.
- 29. Accounts and audit.
- 30. Annual report.

PART VI

GENERAL PROVISIONS

- 31. Protection of members, etc.
- 32. General penalty.
- 33. Forfeiture.
- 34. Where offence committed by body corporate.
- 35. Liability of employer or principal.
- 36. Notification of orders and directions.
- 37. Burden of proof.
- 38. Exemption.
- 39. Regulations.

PART VII

DISSOLUTION OF REGISTRAR OF BUILDINGS

40. Dissolution and transfer of assets and liabilities of Registrar.
41. Provisions regarding Registrar of Buildings employees.
42. [Repeal of R.L. Cap. 481 and Act No. 13 of 1971.]
43. Savings.
44. Transitional provisions.

SCHEDULE

CHAPTER 295

THE NATIONAL HOUSING CORPORATION ACT

An Act to dissolve the Registrar of Buildings, to reconstitute the National Housing Corporation and to provide for related or consequential matters.

[1st August, 1990]

[G.N. No. 251 of 1990]

Act No. 2 of 1990

PART I

PRELIMINARY PROVISIONS (ss 1-2)

[PCh295s1]1. Short title

(1) This Act may be cited as the National Housing Corporation Act.

(2) [Omitted.]

[PCh295s2]2. Interpretation

(1) In this Act, unless the context requires otherwise—

"approved" means approved by the Corporation;

"assets" in relation to the Registrar includes every building in respect of which a right of occupancy passed to the Registrar by virtue of acquisition of the building and is vested in him on the effective date;

"Board" means the Board of Directors of the Corporation established by section 5;

"building" means any building, whether used for residential, commercial, industrial or other purposes of any kind and includes outhouses, sheds and other structures on the land comprised in the right of occupancy in respect of the land on which the building is situated;

"construct" in relation to a house or other building includes the process of modification, alteration and repair;

"Corporation" means the National Housing Corporation whose establishment and continued existence are referred to in section 3;

"Director-General" means the Director-General of the Corporation appointed under section 18;

"effective date" means the date of commencement of this Act;

"house" includes any part of a house;

"housing scheme" means a proposal for the construction of houses including such other proposals as may be necessary or desirable, by way of the provision of roads, drains or open spaces or otherwise howsoever, to implement the scheme;

"landlord" shall have the meaning assigned to that expression by the Rent Restriction Act *;

"local government authority" means a district authority established under the Local Government (District Authorities) Act *, or the Local Government (Urban Authorities) Act *;

"Member" means a member of the Board;

"Minister" means the Minister responsible for housing;

"owner" in relation to any building or house, means the person who is for the time being the holder of the right of occupancy in respect of the land upon which the building or house is situated and includes, where relevant, the Registrar in respect of any right of occupancy which had passed to him by virtue of acquisition of any building under the repealed Act;

"Registrar" means the Registrar of Buildings in the capacity of a corporation sole established by section 3 of the repealed Act;

"rent" includes, where the person occupying any premises occupies the premises as a licence, any fee or other consideration given by him for such occupation;

"repealed Act" means the National Housing Act *, or the Acquisition of Buildings Act *;

"right of occupancy" in relation to any building or house, means the right of occupancy granted or deemed by any written law to have been granted under the Land Act * in respect of the land upon which the building is situated;

"Standard rent" in relation to any premises means the standard rent assessed and determined under the provisions of the Rent Restriction Act *, and where such premises are situated in an area to which that Act does not apply, standard rent in relation to such premises shall be the rent which in the opinion of the Board is the reasonable rent for such premises;

"tenant" shall have the meaning assigned to that expression by the Rent Restriction Act *, and shall include a licensee.

(2) A person shall, for the purposes of this Act, be deemed to be in occupation of any building or a portion of a building or house only if he is in actual occupation of it, and a person shall be deemed to be in actual occupation of a building or house notwithstanding that some other person also enjoys occupation of such building or house or portion as his guest, dependant or domestic servant.

PART II

THE NATIONAL HOUSING CORPORATION (ss 3-7)

[PCh295s3]3. Continued establishment of the Corporation

(1) There shall continue in existence the National Housing Corporation established by the repealed National Housing Corporation Act *, and which shall with effect from the effective date be deemed to have been established under this Act.

(2) The Corporation shall be a body corporate and shall—

- (a) have perpetual succession and an official seal;
- (b) in its corporate name be capable of suing and being sued;
- (c) subject to this Act, be capable of holding, purchasing or acquiring in any other way, and of disposing of, any movable or, immovable property for the purposes of carrying out the functions conferred upon it by or under this Act or any other written law.

[PCh295s4]4. Functions of the Corporation

(1) The functions of the Corporation shall be to provide or facilitate the provision of houses and other buildings in Tanzania for use by members of the public for residential, business, industrial or other purposes on such terms as the Corporation may in each case determine.

(2) In particular, but without prejudice to the generality of subsection (1), and subject to any general or specific directions of the Minister, the Corporation may engage in—

- (a) the construction of houses or other buildings for sale to such persons on such terms as the Board may determine;
- (b) the construction of buildings as part of approved housing schemes;
- (c) the provisions of facilitating the provision of building materials, components, concrete articles and other related articles, whether through the establishment of factories or subsidiary companies or in any other way;
- (d) the business of building contractors, planners or consultants;
- (e) the business of estate managers in respect of properties owned by the Corporation and of any others on approved terms.

(3) The Corporation shall, with effect from the effective date, take over and continue the management of the affairs, properties and operations of the Registrar as at that date.

(4) The Corporation shall carry out any other activities related or incidental to the construction of houses or other buildings, the administration of estates, and the management of the affairs related to buildings and houses built or acquired by the Corporation or otherwise transferred to it by or under this Act.

[PCh295s5]5. The Board

(1) There shall be a Board of Directors of the Corporation which shall, subject to this Act, carry out of the functions and manage the business and affairs of the Corporation.

(2) The provisions of the Schedule to this Act shall have effect as to the constitution and proceedings of the Board and otherwise in relation to the Board.

(3) The Minister may, by order published in the Gazette, amend, vary or replace all or any of the provisions of the Schedule.

[PCh295s6]6. Minister may direct Corporation

(1) The Minister may give to the Board directions of a general or specific character regarding the performance by the Corporation of any of its functions under this Act, and the Board shall give effect to such every direction given to it.

(2) The Corporation shall, within six months after each end of its financial year, make a full report to the Minister on the conduct of the business of the Corporation during the past year.

(3) The report for a year shall set out every direction given by the Minister under this section and under any other provision of this Act during that year, and indicate the stage and results of implementation.

[PCh295s7]7. Orders and directions of the Corporation

(1) When any order is made or any directions are given by the Corporation under this Act, the Board shall convey or cause to be conveyed the contents of the order or directions to the persons concerned in such manner as the Board may determine.

(2) Notwithstanding subsection (1), all persons shall be deemed to have notice of the contents of every order and of all directions published in the Gazette.

(3) Any person who contravenes or fails to comply with any order or directions made or given by the Corporation, in relation to any matter which concerns him such that he ought to carry out or comply with the order or directions, commits an offence.

PART III

OPERATIONS, POWERS AND PROCEDURES OF CORPORATION (ss 8-17)

[PCh295s8]8. Housing inquiries by the Corporation

(1) The Corporation may, and shall when so required by the Minister, inquire into and report to the Minister on the necessity or otherwise of the provision of houses in any part of Tanzania.

(2) The Corporation shall advise and assist in the preparation of proposals for houses, buildings and housing schemes.

[PCh295s9]9. Power to contract, etc.

(1) All deeds, instruments, contracts, and other documents shall be deemed to be duly executed by or on behalf of the Corporation—

(a) if sealed with the official seal of the Corporation and signed by the Director-General and any member of the staff of the Corporation appointed in that behalf by the Director-General; or

(b) if executed in that behalf by one member of the Board appointed by the Board for such purpose and the Director-General or any member of the staff of the Corporation acting in that office.

(2) Notwithstanding subsection (1), tenancy agreements between the Corporation and any person or body of persons may be executed in that behalf by any two members of the staff of the Corporation appointed for the purpose by the Director-General.

(3) A deed, instrument, contract or other document executed in accordance with this section shall, subject to any exception that may be taken to it on any ground other than that of the competence of the party executing the same on behalf of the Corporation, be effectual in law and shall bind the Corporation and its successors and all other parties to it.

(4) A deed, instrument, contract or other document made in accordance with this section may be varied or discharged in the like manner in which it is authorised by this section to be executed.

[PCh295s10]10. Access to valuation roll

Notwithstanding any other written law providing the contrary, the Corporation shall have access without fee or charge to the valuation roll of any local government

authority and it shall be the duty of officers of every such authority to supply without fee or charge to the Corporation, upon application, particulars as to any valuation of rateable property in respect of which such local government authority has the power to levy rates.

[PCh295s11]11. Determination of rent

Rent payable in respect of the occupation or use of a building or house the right of occupancy in respect of which is held by the Corporation shall be determined by the Corporation subject to the provisions of this Act and of the Rent Restriction Act *.

[PCh295s12]12. Manner of effecting payment of rent

Rent payable in respect of the Corporation's premises shall be effected in the following manner—

(a) in the case of a private tenant, each tenant shall remit as from the date of commencement of tenancy, the economic rent payable to the Corporation in respect of the premises and before the end of the month to which the rent relates;

(b) in the case of a tenant enjoying rent assistance facilities from his employer, each employer of any tenant of the Corporation shall deduct the rent from his employee's salary according to the rent policy obtaining, and shall remit to the Corporation each month the economic rent being charged for the premises occupied by the employee, and within fifteen days from the end of the month to which the rent relates.

[PCh295s13]13. Additional rent by way of penalty for delayed rent

(1) Where a tenant or an employer, as the case may be, fails to remit to the Corporation the whole or part of the rent due from him within the time required, such

tenant or employer shall pay, in addition to the rent payable, a penalty specified in subsection (2).

(2) The penalty payable in respect of delayed payment of rent shall be an additional rent—

(a) in the case of rent required to be paid by a tenant under paragraph (a) of section 12, if it is not paid within the time prescribed by that paragraph, or a sum arrived at by applying the bank interest rate on the unpaid amount of rent;

(b) in the case of rent required to be paid by an employer for his employee under paragraph (b) of section 12; if it is not paid within the time prescribed by that paragraph, of a sum arrived at by applying the official bank interest rate on the amount which the tenant has failed to remit.

[PCh295s14]14. Rents and penalties recoverable as debts

Any rent, or additional rent due as penalty, payable under this Act shall be a debt due to the Corporation and shall be recoverable accordingly.

[PCh295s15]15. Secrecy

(1) Any person employed in the administration of the business of the Corporation shall regard and deal with all documents, information, returns or forms relating to the activities of the Corporation as secret.

(2) Any such person who, having possession of or control over any documents, information, returns or forms relating to any of the matters referred to in subsection (1), communicates or attempts to communicate such information or anything contained in such documents returns or forms to any person—

(a) other than the person to whom he is authorised by the Corporation to communicate it; or

(b) otherwise than for the purposes of the business of the Corporation; or

(c) otherwise than by or in accordance with the directions of any court,

commits an offence and is liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months or to both.

[PCh295s16]16. False statements

Any applicant to the Corporation for a loan, guarantee, tenancy agreement or other financial assistance or benefit, who wilfully fails to disclose any material information within his knowledge, or who wilfully makes any statement which he knows to be false or does not believe to be true, commits an offence and on conviction is liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both, and shall further be liable to have any advance or other assistance or offer made to him by the Corporation cancelled forthwith, and to repay to the Corporation all sums advanced to him by the Corporation.

[PCh295s17]17. Powers of entry and inspection

(1) Any member or officer of the Corporation authorised in that behalf by the Board, any police officer of or above the rank of sub-inspector and any other person authorised in that behalf in writing by the Corporation may, at any reasonable time during day time, enter upon any land or building in respect of which any function of the Corporation is being carried out or for which a grant or loan has been made, undertaken to be made or applied for by or to the Corporation, for the purposes of inspecting and

reporting on the same or for the purposes of furthering the carrying out of any function of the Corporation under this Act.

(2) Any person who resists or obstructs any police officer, member or other authorised person in the exercise of his powers under this section commits an offence and on conviction is liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

PART IV

ADMINISTRATIVE PROVISIONS (ss 18-22)

[PCh295s18]18. Appointment of employees

(1) The Minister shall, upon the advice of the Board, appoint a Director-General of the Corporation who shall be the chief executive officer of the Corporation on such terms and conditions as shall be specified in the instrument of his appointment.

(2) Subject to this Act, the Board may appoint such number of other staff of the Corporation, at such salaries and upon such terms and conditions as it may deem necessary for the proper and efficient conduct of the business and the activities of the Corporation.

[PCh295s19]19. Transfer of employees of the Corporation

(1) The Board may transfer any employee of the Corporation to the employment of a subsidiary of the Corporation or may transfer any employee of a subsidiary company of the Corporation or to the employment of the Corporation or to the employment of another subsidiary company of the Corporation.

(2) Where an employee is transferred under this section—

(a) he shall, as from the date of his transfer, be deemed to be an employee of the subsidiary company or of the Corporation or, as the case may be, of the other subsidiary company, to which he is transferred;

(b) the terms and conditions of service applicable to him after the transfer shall not be less favourable than those which were applicable to him immediately before the transfer and for the purposes of determining any right to gratuity or any other superannuation benefit, his service with the Corporation or, as the case may be, the subsidiary company to which he is transferred, shall be regarded as continuous with his service immediately preceding the transfer; and

(c) his employment immediately prior to his transfer and his employment after the transfer shall be deemed to be continuous employment by one employer within the meaning of section 9 of the Severance Allowance Act *, and that Act shall apply to the parties in the same manner as it applies to the cases set out in subsection (1) of that section.

[PCh295s20]20. Remuneration of members

(1) Subject to subsection (2), the members shall be entitled to such remuneration fees or allowances for expenses as the Minister may, upon the recommendation of the Board, prescribe.

(2) No remuneration, fees or allowances, except such allowances for expenses as may be expressly authorised by the Minister, shall be paid to any member who is a public officer.

[PCh295s21]21. Superannuation benefits

The Board may—

- (a) grant gratuities or other retirement allowances or benefits to the employees of the Corporation;
- (b) establish and contribute to a superannuation fund or a medical benefits fund for the employees of the Corporation;
- (c) require any employee of the Corporation to contribute to the superannuation fund or medical benefits fund and fix the amounts and method of payment of the contributions.

[PCh295s22]22. Power of Board to delegate

(1) Subject to subsection (4), the Board may, by instrument in writing under the seal of the Corporation, delegate to any committee of the Board or to any employee of the Corporation any of its functions or powers under this Act, so that the delegated functions or powers may be exercised by the delegate in accordance with the terms of the instrument of delegation.

(2) A delegation under this section may be made to the holder of an office under the Corporation specifying the office but without naming the holder, and in that case each successive holder of the office in question and each person who occupies or performs the duties of that office may, without any further authority, exercise the delegated function or power in accordance with the delegation made.

(3) The Board may at any time revoke a delegation made under this section and no delegation made under this section shall prevent the Board from itself exercising the function or power delegated.

(4) The Board shall not delegate—

(a) its power to delegate; or

(b) the power to approve the annual budget or any supplementary budget, the annual balance sheet or any statement of account.

PART V

FINANCIAL PROVISIONS (ss 23-30)

[PCh295s23]23. Funds and resources of the Corporation

(1) The funds and resources of the Corporation shall consist of—

(a) such sums as may be provided by Parliament for the purposes of the Corporation;

(b) such sums as the Corporation may, borrow in accordance with this Act;

(c) any sums or property which may become payable to the Corporation under this Act or any other written law or which may vest in the Corporation in any manner in the performance of its functions.

(2) Where any moneys are paid to the Corporation as part of its funds out of moneys provided for that purpose by Parliament, the Minister may, with the concurrence of the Minister responsible for finance require the Corporation to pay interest on it to the government; and where the Minister so requires, the Corporation shall pay interest at such times and rates as the Minister, with the concurrence referred to, may determine when such moneys are paid to the Corporation, save that the Minister may, with the said concurrence, waive the payment of interest under this subsection for any period which he thinks fit.

(3) The Government may raise moneys either within or outside Mainland Tanzania, specifically for the purposes of the Corporation; and all moneys so raised shall be charged on and issued out of the Consolidated Fund, and when paid to the Corporation shall form part of its funds.

(4) The Minister shall, with the concurrence of the Minister for finance, determine the manner and time of repayment of any moneys paid to the Corporation under subsection (3), and the times and rate at which interest shall be paid on it, and the Corporation shall make repayment and pay interest in accordance with it.

(5) All sums received from the Corporation under this section shall be paid into the Consolidated Fund.

[PCh295s24]24. Power to raise and guarantee loans

(1) With the prior approval of the Minister for finance, the Board may, obtain loans and other credit facilities from any person for the purposes of the Corporation upon such terms and conditions relating to the repayment of the principal and the payment of interest as, subject to any directions by the minister, it may deem fit.

(2) The Board may, if it is of the opinion that the public interest so requires, and subject to the approval of the Minister, guarantee the repayment of a loan and the payment of interest on a loan made to any person engaged in the construction of houses or renting the buildings owned by the Corporation.

(3) Every loan made by the Corporation under this Act shall bear interest at such rate as the Corporation shall specify and shall be subject to such other terms as may be prescribed or as the Corporation may impose.

(4) In considering the propriety of making a loan or guaranteeing a loan made to any person or body of persons, the Corporation shall have regard to the financial position of the person or body of persons and the sufficiency of the security for the repayment of the loan.

(5) A person giving a loan or other credit facility to the Corporation or, as the case may be, giving a loan to any person the repayment of which is guaranteed by the Corporation shall not be bound to enquire whether the Board has obtained the approval of the Minister for the purposes of that loan or other credit facility or the guarantee.

[PCh295s25]25. Guarantees Reserve Fund

(1) The Corporation shall establish a Guarantees Reserve Fund into which shall be paid such sums as will maintain the credit balance of the Fund at an account not less than one quarter of the total of the moneys which the Corporation is liable for the time being to be called upon to pay under guarantees given by the Corporation.

(2) Subject to subsection (3), the moneys in the Guarantees Reserve Fund shall be applied solely to meet the obligations incurred by the Corporation under any guarantee.

(3) Nothing in subsection (2) shall prevent the Corporation from transferring from the Guarantees Reserve Fund to any other of its funds the sum by which the credit balance of the Fund exceeds the amount of which the Fund is required for the time being to be maintained under subsection (1).

[PCh295s26]26. General Reserve Fund

(1) In addition to the Guarantees Reserve Fund, the Corporation shall establish and maintain a General Reserve Fund and shall, subject to any directions given by the Minister under subsection (3), pay into such Fund any net profit earned by the Corporation.

(2) The General Reserve Fund shall be applied by the Corporation in making good any loss or deficiency which may occur in any of the transactions of the Corporation, other than those for which the Guarantees Reserve Fund is available.

(3) The Minister may, with the concurrence of the Minister responsible for finance, give directions to the Corporation as to the balance to be maintained in the General Reserve Fund and, where such directions are given, the Corporation shall not be required to pay any of its net profits into the Fund whereby its balance would exceed the amount directed by the Minister.

[PCh295s27]27. Investment

The Board may, with the prior approval of the Minister, invest any part of the moneys available in any fund of the Corporation and which is not for the time being required for the purposes of the business of the Corporation as are authorised investments in such investments in relation to investment of funds by a trustee under the Trustees Investments Act *.

[PCh295s28]28. Annual and supplementary budget

(1) Subject to subsection (2), "financial year" in this Act means any period not exceeding twelve consecutive months designated by the Board as the accounting period of the Corporation.

(2) The first financial year of the Corporation shall commence on the effective date and may be of a period longer or shorter than twelve months.

(3) Not less than two months before the beginning of every financial year (other than the first financial year) the Board shall, at a meeting, pass a detailed budget (in this Act called the "annual budget") of the amounts respectively—

(a) expected to be received; and

(b) expected to be disbursed,

by the Corporation during that financial year, and whenever circumstances so require, the Board may pass a supplementary budget in any financial year.

(4) The annual budget and every supplementary budget shall be in such form and include such details as the Minister may approve.

(5) The Minister may, through general or specific instructions given to the Board, direct the Corporation as to the form and details approved by him for the annual or supplementary budget.

(6) Forthwith upon passing any annual or supplementary budget, the Chairman of the Board shall submit directly to the Minister the annual budget or, as the case may be, the supplementary budget, for information and also for the purposes of facilitating the discharge by the Minister of his functions under this Act.

[PCh295s29]29. Accounts and audit

(1) The Board shall cause to be provided and kept proper books of accounts and records with respect to—

(a) the receipt and expenditure of moneys and other financial transactions of the Corporation;

(b) the assets and liabilities of the Corporation,

and shall cause to be made out for every financial year a balance sheet showing the details of the income and expenditure of the Corporation and all its assets and liabilities.

(2) The accounts of the Corporation shall be audited annually by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act *, in accordance with the provisions of law relevant to the audit of accounts of parastatal organisations.

(3) As soon as the accounts of the Corporation have been audited, and in any case not later than six months after the close of the financial year, the Board shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report, if any, on the statement made by the auditors.

[PCh295s30]30. Annual report

(1) The Corporation shall cause to be prepared and submitted to the Minister within six months after the close of the financial year an annual report dealing generally with the activities and operations of the Corporation during that year. The report shall be accompanied by—

(a) a copy of the audited accounts of the Corporation, together with the auditors' report, if any, on the accounts;

(b) a statement of all directions given by the Minister to the Corporation under this Act during that year;

(c) such other information as the Minister may direct.

(2) The Corporation shall also submit to the Minister such other reports on its financial affairs as the Minister may by writing reasonably request.

(3) The Minister shall, as soon as practicable after receiving them, lay before the National Assembly the audited accounts of the Corporation together with the auditors' report, if any, on the accounts and the annual report of the Corporation.

PART VI

GENERAL PROVISIONS (ss 31-39)

[PCh295s31]31. Protection of members, etc.

Without prejudice to the provisions of section 284A of the Penal Code * or of Public Officers (Recovery of Debts) Act *, no act or thing done or omitted to be done by any member or any employee of the Corporation shall, if done or omitted bona fide in the execution or purported execution of his duties as a member of the Board or an employee of the Corporation, subject him to any action, liability or demand of any kind.

[PCh295s32]32. General penalty

Any person who commits any offence under this Act or under any subsidiary legislation made under it and in respect of which no specific penalty is provided, shall on conviction be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both.

[PCh295s33]33. Forfeiture

(1) Where any court convicts any person of an offence under this Act, it may, in addition to any penalty, order that any house, building or other interest in respect of which the offence has been committed be forfeited to the Corporation.

(2) Any property forfeited under this section shall be delivered to the Corporation and shall vest in the Corporation free of any mortgage, charge, lien or other encumbrance of any kind.

[PCh295s34]34. Where offence committed by body corporate

Where any offence under this Act is committed by a body corporate then, as well as the body corporate, any person who, at the time of the commission of the offence, was concerned as a director or officer, with the management of the affairs of the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves to the satisfaction of the court that he had no knowledge, and could not by the exercise of reasonable diligence have had knowledge, of the commission of the offence.

[PCh295s35]35. Liability of employer or principal

Where an offence under this Act is committed by a person as an agent or employee then, as well as the agent or employee, the principal or employer shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves to the satisfaction of the court that he had no knowledge, and could not by the exercise of reasonable diligence have had knowledge, of the commission of the offence.

[PCh295s36]36. Notification of orders and directions

(1) Subject to subsection (2), where any order or direction made or given by the Minister, the Board or the Corporation under this Act is not required to be published in the Gazette, the order or direction shall be brought to the notice of persons affected or

likely to be affected by it in any manner determined by the Minister, the Board or the Corporation, as the case may be.

(2) If the order or direction in question is published in the Gazette, all persons shall be deemed to have notice of it.

[PCh295s37]37. Burden of proof

In any proceedings for an offence under this Act the burden to prove that the order, direction or requirement the contravention of which constitutes the offence with which the accused is charged, does not apply to the accused or, in the case of an order, direction or requirement not published in the Gazette, that he had no notice of the contents of the order, direction or, as the case may be, requirement, shall lie on the accused.

[PCh295s38]38. Exemption

The or the Board, with the approval of the Minister, may exempt any person or category of persons or any house, building or class of houses, buildings or building schemes from the application of all or any of the provisions of any regulation, order, direction or requirement made, given or issued under this Act in the exercise of their respective powers.

[PCh295s39]39. Regulations

The Minister may make regulations for the better carrying out of the purposes of provisions of this Act, for prescribing terms and conditions of financial assistance, for fees, and for prescribing anything which is to be or may be prescribed.

PART VII

DISSOLUTION OF REGISTRAR OF BUILDINGS (ss 40-44)

[PCh295s40]40. Dissolution and transfer of assets and liabilities of Registrar

(1) With effect from the effective date, the Registrar shall be and be deemed to have been dissolved.

(2) With effect from the effective date, all the assets and liabilities of the Registrar shall, by virtue of this section and without further assurance, be transferred and vest in the Corporation.

(3) Every person who, immediately before the effective date, was managing the affairs and business of the Registrar shall, upon and after the effective date do all things that are necessary or desirable for the effectual vesting in accordance with this Act of the assets and liabilities of the Registrar subsisting immediately before the effective date.

(4) Where before the effective date any person who was responsible for the management of the affairs and business of the Registrar does, or purports to do, any lawful act in relation to the assets and liabilities of the Registrar which if done after the effective date would be necessary or desirable for the more effectual vesting of the assets and liabilities of the Registrar in the Corporation, such lawful act shall be deemed to have been done under this Act, and its performance by that person shall not be called into question in any court by reason only of that act having been done before the effective date.

(5) Notwithstanding the preceding provisions, no person shall, after the enactment of this Act but before the effective date, transfer or enter into any transaction which might result in the transfer of any of the assets of the Registrar to any person other than the Corporation.

(6) Any person who fails or refuses to comply with the provisions of this section commits an offence under this Act.

[PCh295s41]41. Provisions regarding Registrar of Buildings employees

(1) Subject to this Act, the Board shall, within not more than three months from the effective date, and with the approval of the Minister, determine which of the employees of the Registrar shall be employed by the Corporation and those whose services shall not be required by the Corporation.

(2) Until the provisions of subsection (1) have been complied with in relation to him, and subject to the other provisions of this Act, each employee of the Registrar shall, after the enactment of this Act, continue in office for the purposes only of facilitating the smooth assumption by the Corporation of the functions of the Registrar.

(3) A person formerly employed by the Registrar, and in respect of whom the Board determines that his services shall not be required by the Corporation, shall have his services terminated from such date as the Board shall determine, his service with the Registrar shall be deemed to have continued up to that date notwithstanding that it is after the effective date, and the Corporation shall pay to such person all payments due to him on account of the termination of his employment.

(4) Where it is decided in respect of a person previously employed by the Registrar that his services shall be required by the Corporation he shall be given the option to decide, within thirty days from the date he is informed of the decision of the Board in relation to him, whether his employment with the Registrar and his employment with the Corporation shall be continuous or his employment with the Registrar should be deemed

to have terminated immediately before the effective date and he shall enter employment with the Corporation as a new employee on new terms.

(5) Where a person opts to enter employment with the Corporation as a new employee, his gratuity or other superannuation benefits due to him from his service with the Registrar shall be paid to him in accordance with such procedure as the Minister shall determine and prescribe under section 44, and he shall as from the effective date be deemed to have been employed by the Corporation on such terms and conditions as, subject to law, shall be determined by the Corporation.

(6) For the purposes of deciding whether or not the Corporation requires the services of any person previously employed by the Registrar, the Board shall take into account—

- (a) the organisational set up and the scope for growth of the Corporation;
- (b) the actual and projected requirements of the Corporation for skilled and non-skilled manpower;
- (c) the qualifications, skills and experience of the person in question;
- (d) the suitability for employment in a new organisation, in view of the previous confidential and other reports of that person pertaining to his discipline and zeal at work;
- (e) any other factors which the Minister may direct that they be taken into account in order to secure a just, fair and impartial determination of the employment of the employees of the Registrar.

(7) Where a person chooses, pursuant to subsection (4), to have his employment with the Registrar be continuous with his employment with the Corporation, then the terms and conditions of service applicable to him in his employment with the Corporation shall, except where the Minister directs otherwise, be not less favourable than those which were applicable to him immediately before his transfer to the service of the Corporation and he shall be deemed to have been appointed to the service of the Corporation in such office as the Board shall determine, and for the purpose of determining any right to gratuity or other superannuation benefit, his service with the Corporation shall be regarded as continuous with his service with the Registrar immediately before the effective date.

(8) When a person becomes an employee of the Corporation on the terms set out in subsection (7), his employment immediately before the effective date and his employment by the Corporation shall be deemed to be continuous employment by one employer within the meaning of section 9 of the Severance Allowance Act *, and that Act shall apply to the same extent and in the same manner as it applies to the cases set out in subsection (1) of that section.

(9) Every instrument specified in subsection (10) as one to which that subsection applies shall, by virtue of this section continue in full force and effect and the Corporation shall—

- (a) be substituted for the Registrar, as a party to the instrument;
- (b) be entitled to receive, and enforce payment of, any money payable under the instrument;

(c) be entitled to obtain transfer, conveyance or assignment of, and enforce possession of any property which is to be transferred, conveyed or assigned under the instrument;

(d) be liable to make payment of any money, payable under the instrument;

(e) be liable to transfer, convey or assign any property which is to be transferred, conveyed or assigned under the instrument,
as the case may be.

(10) This subsection applies to instruments (including contracts, guarantees, agreements, bonds, authorities, mortgages, charges, bills of exchange, promissory notes, bank drafts, bank cheques, letters of credit and securities)–

(a) to which the Registrar is a party;

(b) under which any money is or may become payable or any other property is to be, or may become, liable to be transferred, conveyed or assigned, by the Registrar,
which are subsisting at the effective date or come into existence after that date.

(11) Every reference in any written law to the Registrar shall be construed as a reference to the Corporation.

[PCh295s42]42. Repeal of R.L. Cap. 481 and Act No. 13 of 1971

[Repeals the National Housing Act * and the Acquisition of Buildings Act *.]

[PCh295s43]43. Savings

Notwithstanding the repeal of the repealed Acts–

(a) all directions given and all rules made under the repealed Acts in relation to the Registrar or to the Corporation and which are in force on the effective date shall be deemed to be directions given or, as the case may be, rules made under this Act by the relevant authority, and shall remain in force until revoked by directions given or regulations made under this Act;

(b) any proceedings pending immediately before the effective date to which the Registrar or its representative was a party on account of any matter relating to any of the houses, buildings or other assets or liabilities transferred by this Act to the Corporation shall be continued as if the Corporation were a party to it instead of the Registrar or its representative, as the case may be;

(c) where anything has been commenced by or under the lawful authority of the Registrar immediately before the effective date and such thing is within the powers of the Corporation or was done in relation to any of the houses, buildings or other assets or liabilities referred to in this Act, such thing may be carried on and completed by the Corporation.

[PCh295s44]44. Transitional provisions

(1) Notwithstanding any provision contained in this Act to the contrary, the Minister may, on the recommendation of the Board and upon being satisfied that special circumstances exist which make it just and equitable to do so, permit any person who was employed, permitted, or who was a tenant of the Registrar, to deal in any manner, after the effective date with the house, work or other things involved, upon such conditions as the Minister may prescribe.

(2) [Omitted.]

SCHEDULE

(Section 5(2))

1. Composition of the Board

(1) The Board shall consist of—

(a) a Chairman, who shall be appointed by the President;

(b) not less than five nor more than seven other members, who shall be appointed by the Minister.

(2) In appointing members account shall be taken of a persons' knowledge, experience and outlook in matters relating to the business of housing, building contractors and otherwise.

(3) The Board may appoint any member of the Board or any employee of the Corporation to be the Secretary of the Board.

2. Vice-Chairman

The members shall elect one of their number to be the Vice-Chairman of the Board, and any member elected as Vice-Chairman shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election, and shall be eligible for re-election.

3. Disqualification

(1) No person shall be appointed a member—

(a) if he is of unsound mind; or

(b) if he has been convicted of an offence involving or necessarily implying fraud or dishonesty and has suffered a substantive sentence of imprisonment for it.

(2) A member shall become disqualified to retain and shall, ipso facto cease to hold his office as such member if he shall become subject to any of the disabilities set out in subparagraph (1) or if he is absent from the United Republic for a period exceeding twelve months.

4. Tenure of office

(1) A member shall, unless his appointment is sooner terminated by the appointing authority, or he ceases in any other way to be a member, hold office for the period specified by the appointing authority in the instrument of his appointment or, if no period is so specified for a period of three years from the date of his appointment, and shall be eligible for re-appointment.

(2) Any member may at any time resign his office by giving notice in writing addressed to the appointing authority, and from the date specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the appointing authority, he shall cease to be a member.

5. Casual vacancies

Where any member ceases to be a member before the normal expiration of his term of office, the Minister may appoint another person in his place to hold office until the time when such first-named person's term of office would have expired had he not so ceased to be a member.

6. Meetings

(1) The Board shall ordinarily meet for the transaction of business at the times and at the places decided upon the Board, but shall meet at least once every three months.

(2) The Chairman, or in his absence the Vice-Chairman, may at any time call a special meeting of the Board, and shall call a special meeting upon a written request by a majority of the members in office.

(3) The Chairman, or in his absence the Vice-Chairman, shall preside at every meeting of the Board; and in the absence of both the Chairman and the Vice-Chairman the members present shall appoint one of their number to preside over the meeting.

7. Quorum, procedure and decision of the Board

(1) The quorum at any meeting of the Board shall be five.

(2) Questions proposed at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes the person presiding shall have a second or casting vote.

(3) Notwithstanding subparagraph (2), a decision may be made by the Board without a meeting by circulation of relevant papers among the members, and the expression of the views of the majority of the members in writing, but any member shall be entitled to require that the decision be deferred and the subject matter be considered at a meeting of the Board.

8. Minutes of meetings

(1) The Board shall cause to be recorded and kept minutes of all proceedings of its meetings, and the minutes of each meeting shall be confirmed by the Board at the next meeting and signed by the chairman of the meeting.

(2) When confirmed pursuant to subparagraph (1), the minutes shall be prima facie evidence in any court or inquiry that the proceedings as recorded in the minutes were the proceedings and decision of that meeting.

9. Vacancies, etc., not to invalidate proceedings

(1) Subject to paragraph 7(1) as to quorum, the Board may act notwithstanding any vacancy in the membership.

(2) The validity of any act or other proceeding of the Board shall not be affected by any vacancy among its members, or by any defect in the appointment of any of them.

10. Board may regulate its own procedure

Subject to the provisions of this Schedule and to any directions given by the Minister, the Board may regulate its own procedure.