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Human Settlements Authority Act, 1988

Act 2 of 1988

Legislation as at 1 December 1998

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Human Settlements Authority Act, 1988

Act 2 of 1988

Commenced on 1 March 1988

[This is the version of this document at 1 December 1998.]

An Act to establish the Human Settlements Authority.

1. Short title and commencement

This Act may be cited as the Human Settlements Authority Act, 1988 and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Authority**” means the Human Settlements Authority established under [section 4](#);

“**human settlement**” means the grouping of people, shelter, services and working places both in urban and rural areas comprising land, infrastructure, shelter, social and economic facilities and it also means housing or private housing schemes and private townships;

[Amended A.13/1992]

“**housing scheme**” means an undertaking comprising the provision of land, houses and infrastructure related thereto, for residential purposes;

“**Minister**” means the Minister responsible for human settlements;

“**private housing scheme**” means a housing scheme established by a developer other than the Authority or its agents;

“**plot**” means an identified piece of land which is represented as an independent entity on a general plan and registered as erf, lot or stand in the Deeds Registry.

[Added A.13/1992]

3. Application

This Act shall apply to such human settlements, housing schemes and private housing schemes in such areas as the Minister may, by notice in the *Gazette*, declare to be subject to the provisions of this Act but shall not, without the written approval of the King, either generally or in any particular case, apply to any land vested in the Ngwenyama in trust for the Swazi Nation or to a Swazi area as defined in the Safeguarding of Swazi Areas Act, 1910 and the Definition of Swazi Areas Act, 1917.

4. Establishment of Authority

- (1) There is hereby established the Human Settlements Authority which shall consist of—
 - (a) six members, not being public officers appointed by the Minister, one of whom shall be the Chairman;
 - (b) five public officers appointed by the Minister who shall not have a right to vote.
- (2) There shall be appointed in the public service a secretary who shall be responsible for the administration of the Authority and such other matters as may be specified in his appointment.

5. Objects and functions

The Authority shall—

- (a) assist the Government in formulating policy relating to human settlements and uphold and give effect to such policy;
- (b) ensure the orderly development of existing and future urban and rural settlements;
- (c) establish a finance mechanism for ensuring the supply and maintenance of improved shelter and infrastructure throughout Swaziland, which shall include a system of revenue recovery;
- (d) prepare appropriate standards for the provision of land, shelter and infrastructure by both private and public developers;
- (e) regulate real estate transactions including the standardisation of lease agreements, rent control and sale of land and buildings;
- (f) encourage and support research in appropriate methods of providing affordable shelter and infrastructure; and
- (g) perform all other acts or things as are required by this Act.

6. Tenure of office

A member of the Authority appointed under [section 4\(1\)\(a\)](#) shall, subject to [section 7](#), hold office for a period not exceeding three years and on such other terms and conditions as the Minister may determine.

7. Vacation of office of members of the Authority

A member of the Authority appointed under [section 4\(1\)\(a\)](#) may—

- (a) resign his office by giving to the Minister three months' notice in writing;
- (b) be removed from Office by the Minister in writing if—
 - (i) he is absent from four consecutive meetings of the Authority without the permission of the Chairman;
 - (ii) he is incapacitated by prolonged physical or mental illness;
 - (iii) he is otherwise unable or unfit to discharge his functions under this Act.

8. Meetings of the Authority

- (1) The proceedings of the Authority and other matters relating thereto, shall be as set out in the Schedule hereto.
- (2) The Minister may, by notice in the *Gazette*, amend the Schedule.

9. Powers of the Minister

The Minister may give directives of a general nature under this Act to the Authority and the Authority shall comply therewith.

10. Establishment of human settlements, etc.

- (1) No person shall after the coming into operation of this Act, establish a human settlement, housing scheme or private housing scheme without the written permission of the Authority.

- (2) A person desiring to establish a human settlement, housing scheme or private housing scheme shall submit an application in writing to the Authority which shall publish the application twice in a newspaper circulating in Swaziland.
- (3) A person may, either individually or jointly with others, object in writing to the granting of permission by the Authority under this Act.

11. Granting of permission, etc.

- (1) The Authority may either grant or refuse an application for permission to establish a human settlement or to amend the general plan or diagram of an approved human settlement within eight weeks from the date the application is received.

[Amended A.13/1992]

- (2) If the Authority refuses an application, it shall, upon being requested by the applicant in writing, provide him with reasons for such refusal.
 - (3) If the Authority approves the application for human settlement or for the amendment of the general plan or diagram of an approved human settlement it shall specify the plans or diagrams approved and the conditions, if any, subject to which the approval is granted.
- [Amended A.13/1992]*
- (4) If an application is granted, the Authority shall notify the applicant and such other person as it may think proper in writing.

11A. Submission of plans to Surveyor-General

- (1) The applicant shall, within a period of six months from the date of the notification under [section 11\(4\)](#) or the determination of an appeal under [section 13](#) or within such further period as the Authority may determine, lodge for approval of the Surveyor-General under the Land Survey Act, [No. 46 of 1961](#) such plans and diagrams as may be necessary for the establishment of the human settlement or for the amendment of the general plan or diagram of an approved human settlement.
- (2) Upon the approval of the plans and diagrams or the amended general plan or diagram under subsection (1) the Surveyor-General shall in writing notify the applicant and the Authority of such approval.
- (3) Where the applicant fails to lodge such plans and diagrams or amended general plan or diagram with the Surveyor-General as required under subsection (1) the application granted by the Authority shall be deemed to have been cancelled unless the Minister otherwise determines.

[Added A.13/1992]

11B. Declaration of an approved human settlement and alteration of layout of approved human settlement

- (1) After the Surveyor-General has notified the applicant and the Authority under [section 11A\(2\)](#) of his approval, the Authority shall cause to be carried out inspection of the human settlement or the amended general plan or diagram of the approved human settlement in order to ensure that all the conditions of approval have been fulfilled.
- (2) When the Authority is satisfied that all the conditions of approval have been fulfilled it shall by notice in the *Gazette* declare the human settlement to be an approved human settlement or the amended general plan or diagram of the approved human settlement to be an approved general plan or diagram.

[Added A.13/1992]

11C. Submission of deeds and plans to Registrar of Deeds

- (1) Within six months from the date of publication of the notice under [section 11B\(2\)](#) or such further period as the Authority may determine, the applicant shall lodge with the Registrar of Deeds the plans and diagrams or the amended general plan or diagram together with the relative title deeds for registration or endorsement, as the case may be, under the provisions of the Deeds Registry Act, [No. 37 of 1968](#).
- (2) If the applicant fails to lodge such plans, diagrams or amended general plan or diagram together with the title deeds as required under subsection (1), the Authority may by notice in the *Gazette* revoke the notice issued under [section 11B\(2\)](#).
- (3) If the whole of the land held under such title deeds is comprised in the human settlement or in the amended general plan or diagram, the Registrar of Deeds shall make on each title deed and on the duplicate originals thereof filed of record, an endorsement that the land has been laid out as a human settlement.
- (4) If a portion only of the land held under such title deeds is comprised in the human settlement or in the amended general plan or diagram the applicant shall cause to be taken out a certificate of registered title of the portion so comprised, which shall be endorsed on the original title deeds to the effect that such portion of the land has been laid out as a human settlement.

[Added A.13/1992]

11D. Transfer of land to government

- (1) After publication of the notice referred to in [section 11B\(2\)](#) the applicant shall at his own cost, transfer to the Government:
 - (a) any land or plots which have been reserved for Government purposes in relation to the human settlement;
 - (b) any land or plots which are to be transferred to Government by way of endowment in relation to the human settlement; and
 - (c) any land or plots which have been reserved as public places for the general use and benefit of the inhabitants of the human settlement under the conditions upon which the application for the establishment of the human settlement was granted.
- (2) Until such land or plots in the human settlement have been transferred as provided for in subsection (1) no transfer of any other land or plots in the human settlement shall be registered in the Deeds Registry except with the written permission of the Authority.
- (3) If any land or plots which have been transferred under subsection (1)(a) or (b) are no longer required for Government purposes, the Minister may:
 - (a) sell the land or plots, in which case the proceeds thereof (less any expenditure incurred by Government thereon) shall be used for benefit of the approved human settlement;
 - (b) in consultation with Cabinet donate the land or plots to any person or corporate body for beneficial use for the approved human settlement;
 - (c) exchange the land or plots for another piece of land or plots for Government use within the approved human settlement.

[Added A.13/1992]

12. Authority may require compliance

- (1) If a person carries out any work in contravention of any provision of this Act and receives notice in writing from the Authority requiring him to demolish or alter such work so as to bring it into

conformity with the provisions of this Act, he shall within such period as shall be specified in the notice, comply with the requirements thereof, and in the meantime the Authority may, notwithstanding any other law, request any person, board or authority empowered in that regard to discontinue the provision of any services or to cancel or withhold licences or benefits granted in respect of the human settlement.

- (2) If after the expiration of the notice referred to in subsection (1) such person has not complied with the requirements of the notice the Authority shall give him a second notice requiring him within 14 days of the notice to comply with the first notice and if he fails to do so within the 14 days the Authority shall cause such demolition, alteration or modification to be effected in accordance with the requirements of the first notice and any expenses reasonably incurred by the Authority shall be recovered as a civil debt from him.

[Amended A.13/1992]

13. Appeals

- (1) Any person aggrieved by a decision of the Authority or notice issued under [section 12](#) may, within twenty-one days of such decision or receipt of the notice, as the case may be, appeal to the Minister whose decision thereon shall be final.
- (2) Any person aggrieved by any of the conditions of approval of a human settlement may appeal to the Minister in writing for a waiver or alteration in whole or in part of any such condition of approval and a decision taken on the matter by the Minister in consultation with the Authority shall be final.

[Added A.13/1992]

14. Human settlement development plans

- (1) The Minister may by notice in the *Gazette*—
 - (a) order a development plan to be prepared for any area specified in the notice;
 - (b) change the area of a development plan in such manner as he may think proper.
- (2) A development plan shall consist of technical and summary reports, together with maps and proposals indicating the manner in which it is proposed that land in a specified area may be used, and the stages by which any development may be carried out.
- (3) When a development plan is submitted to the Authority, the Authority shall publish twice a notice in a newspaper circulating in Swaziland that the plan is open for inspection at such place as shall be specified in the notice.
- (4) The notice referred to in subsection (3) shall call upon any interested person who desires to make any representation in connection with the development plan to the Minister to make such representation within a period of twenty-eight days after the date of the first publication of the notice.
- (5) Upon receipt of any representation or objection the Minister shall with or without modifications, approve a development plan submitted to him, or reject it and, by notice in the *Gazette*, order a new development plan to be prepared and submitted.
- (6) The Authority shall place an approved development plan on public display during the normal hours of official business and shall cause copies of the approved development plan to be published for sale to the public.

15. Revocation or modification of approved development plans

- (1) At least once every five years, after the date on which a development plan for any area is approved by the Minister, the Authority shall prepare an up-to-date development plan in accordance with the procedure in [section 14](#).

- (2) Notwithstanding the provisions of subsection (1), the Authority may, where necessary, submit to the Minister proposals for modification of an approved development plan.
- (3) Where an approved development plan is revoked or modified under the provisions of this section, the Authority shall, within twenty-eight days of the date of such revocation or modification, give notice thereof in the manner provided under [section 14\(3\)](#).

16. Regulations

The Minister may make regulations—

- (a) prescribing the form of application to be made under this Act;
- (b) prescribing the form of granting or refusing an application under this Act;
- (c) prescribing the standards of existing human settlements in order to bring them into conformity with Government policy;
- (d) prescribing the fees payable under this Act and remuneration or allowances payable to the members of the Authority;

[Added A.13/1992]

- (e) generally for the better carrying out of the provisions of this Act.

17 Pending applications, etc.

- (1) Any applications which are pending on the date of the coming into operation of this Act before any Board shall be considered by the Authority as if they had been made to the Authority under this Act.
- (2) Any private townships, established under the Private Townships Act, [No. 17 of 1961](#) prior to the commencement of this Act shall be deemed to have been established, approved, proclaimed or otherwise recognised as such under this Act.

[Amended A.13/1992]

18. Repeal of Act [No. 17 of 1961](#)

The Private Township Act, 1961 is hereby repealed.

Schedule (Section 8)

Meetings and rules of procedure of the Authority

1. The Chairman of the Authority shall convene and preside at all meetings of the Authority.
2. In the absence of the Chairman, but subject to the quorum, the members present may nominate one of their number, not being a public officer, to be the Acting Chairman and preside at such meeting.
3. Five members, three of whom shall be members appointed under section 4(1)(a) shall constitute a quorum.
4. The decision of the majority of the members present and voting shall be the decision of the Authority and where there is an equality of votes, the Chairman, or in his absence, the Acting Chairman shall have a casting vote in addition to his deliberative vote.
5. Subject to the Act and this Schedule, the Authority may regulate its own proceedings.