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## National Housing Board Act, 1988

Act 3 of 1988

Legislation as at 1 December 1998

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# National Housing Board Act, 1988

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# National Housing Board Act, 1988

## Act 3 of 1988

Commenced on 1 March 1988

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

**An Act to establish the National Housing Board.**

### 1. Short title and commencement

- (1) This Act may be cited as the National Housing Board Act, 1988 and shall come into operation on a date to be appointed by the Minister by Notice in the *Gazette*.
- (2) 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.

### 2. Interpretation

In this Act, unless the context otherwise requires—

"**Authority**" means the Human Settlements Authority;

"**Board**" means the National Housing Board established under [section 3](#);

"**Financial year**" means the period from the 1st of April in one year to the 31st of March in the following year and in respect of the first accounting period it shall be the period, whether shorter or longer than twelve months, as the Board may determine;

"**General Manager**" means the General Manager of the Board appointed under [section 9](#);

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

"**Minister**" means the Minister responsible for Housing and Urban Development.

### 3. Establishment of the Board

- (1) There is hereby established the National Housing Board for the purpose of carrying out the objects and functions set out in [section 4](#).
- (2) The Board shall be a body corporate and—
  - (a) shall have perpetual succession;
  - (b) may have a common seal;
  - (c) shall be capable of suing and being sued in its corporate name;
  - (d) may, subject to this Act, by purchase or other means acquire, and by sale, mortgage or lease dispose of, any movable or immovable property;
  - (e) shall, subject to the approval of the Authority, have power from time to time to borrow such sums as it may require for its purposes and to that end mortgage, pledge or otherwise hypothecate any property as security for any such loans; and

- (f) be capable of performing all such acts as are necessary for or incidental to the carrying out of its objects and the performance of its functions under this Act.

#### **4. Objects and functions of the Board**

- (1) The Board shall subject to the provisions of the Human Settlements Act, 1987 and the provisions of this Act provide affordable housing generally in Swaziland and take over such housing schemes as the Government may determine.
- (2) The Board shall in the exercise of the powers conferred under this Act give effect to any directive on matters of policy which may from time to time be given to it by the Authority and without derogating from the generality of the foregoing may—
  - (a) act either by itself or in association or partnership with any other persons;
  - (b) with the approval of the Minister after consultation with the Minister for Finance raise or borrow money on such terms and conditions as may be agreed;
  - (c) acquire property, construct housing and carry out housing schemes approved by the Board;
  - (d) subject to this Act make loans to any person for the purpose of enabling such person to acquire property and construct thereon approved housing or housing schemes;
  - (e) ensure that taking one year with another, the income of the Board exceeds its expenditure; and
  - (f) do all or any of the things it is empowered to do under this Act.

#### **5. Constitution of the Board**

- (1) The Board shall consist of nine members, including a Chairman, appointed by the Minister for a period not exceeding three years where such members are not public officers, and in accordance with such terms and conditions, including remuneration, fees and allowances as may be specified in their instruments of appointment.
- (2) The Board members shall manage and control the affairs of the Board and may, subject to this Act and any Regulations made thereunder, exercise all powers and perform all the duties of the Board.

#### **6. Vacation of office of member of the Board**

A person shall be disqualified from being appointed or remaining a member of the Board if—

- (a) he becomes insolvent under any law relating to insolvency or bankruptcy;
- (b) he becomes incapacitated by prolonged physical or mental illness;
- (c) he is absent from four consecutive meetings of the Board without leave of the Chairman of the Board;
- (d) if he is convicted of any offence.

#### **7. Vacancies not to invalidate proceedings**

- (1) The Board members may, subject to the quorum, act notwithstanding any vacancy in the membership thereof.
- (2) No act or other proceedings of the Board members shall be invalid by reason only that there was some defect in the appointment of any person as a member of the Board.

## 8. Disclosure of interest

- (1) Any member of the Board who is directly or indirectly financially interested in any contract or arrangement proposed to be entered into by or on behalf of the Board with any other person, shall forthwith disclose such interest to the Board members, and shall not take any part in discussions of the Board relating to such proposed contract or vote in respect thereof.
- (2) Any person contravening subsection (1) shall be guilty of an offence and liable on conviction to a fine of five hundred emalangeni or imprisonment for one year and in addition the Minister may without any notice revoke his appointment as a member of the Board.

## 9. General Manager

- (1) The Board members may, after consultation with the Minister, appoint a General Manager on such terms and conditions as the Board members may determine.
- (2) The General Manager shall be the chief executive of the Board and shall be responsible for the conduct of the business of the Board.

## 10. Procedure of the Board

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

## 11. Powers of the Minister

- (1) The Minister may issue to the Board members such directions as he may deem fit in terms of this Act.
- (2) The Minister may summarily terminate the appointment of the Chairman or any other member of the Board who has become disqualified on any of the grounds set out in [section 6](#), or for misconduct, inefficiency in carrying out of, or the failure to carry out his duties.

## 12. Funds of the Board

The funds of the Board shall consist of—

- (a) all monies appropriated by Parliament for purposes of the Board;
- (b) all monies donated or lent to the Board or the Government for purposes of the Board by any person;
- (c) all monies accruing to the Board as the result of the investment by it of any of its funds;
- (d) all monies paid to the Board by way of rental, interest or repayment of any money lent or advanced by it.

## 13. Rental charges

Subject to this Act, the rental to be charged by the Board for housing units supplied by it shall be so structured as to comply with the provisions of [section 4\(e\)](#).

## 14. Borrowing powers of the Board

The Board may with the approval of the Minister and with the consent of the Minister for Finance, and subject to such terms and conditions as the Minister may determine, borrow such money as it may require for the exercise of its functions under this Act.

## 15. General reserve fund

- (1) The Board shall establish and maintain a general reserve fund into which shall be paid any net profit earned by the Board.
- (2) The general reserve fund shall be applied by the Board in making good any loss or deficiency which may occur in any of the transactions of the Board.

## 16. Investment

- (1) The Board may with the approval of the Minister and the Minister for Finance, and subject to such conditions as may be determined, invest such part of its funds as are not required for the purpose of its business, and the monies forming part of its reserve funds.
- (2) The powers of the Minister under this section shall extend to the amount which may be invested, the nature of the investment and conditions thereof and his approval may be either general or limited to a specific investment.

## 17. Accounts and audit

- (1) The Board shall keep proper accounts and other records in relation thereto and shall in respect of each financial year prepare a statement of accounts in such form as the Minister may direct.
- (2) The accounts of the Board shall be examined, audited and reported on annually by auditors appointed by the Board.
- (3) Not later than three months after the accounts of the Board for any financial year have been audited, the Board shall submit a copy of the statement of accounts prepared in respect of such year, to the Minister for Finance, together with a copy of any report made by the auditors on the accounts.
- (4) The Minister shall, within a period of six months after the end of the financial year to which the accounts relate, lay a copy of every statement and report before Parliament.

## 18. Transfer and vesting of assets and liabilities

- (1) On a day to be appointed by the Minister by Notice in the *Gazette*, hereinafter referred to as "the appointed day", there shall be transferred to, and vested in, the Board by virtue of this section and without further assurance such assets and liabilities of the Industrial Housing Company (Pty) Limited (hereinafter referred to as "the Company") and from that date the Board shall, in respect of the assets and liabilities so transferred and vested, have all the rights and be subject to all the liabilities which the Company has or is subject to, immediately before that day.
- (2) In the case of property deemed to have been transferred to and vested in the Board pursuant to this Act, in respect of the transfer of which any law provides for registration, it shall be the duty of the proper officer of the appropriate registration authority, upon written request made by or on behalf of the Board, to make such entries in the appropriate register as are required by law, to give effect to such transfer and, where appropriate, to issue to the Board a certificate of title in respect of such property or to make the necessary amendments to the register, as the case may be, and to make any consequential endorsements on the deeds relating to the title, right or obligation concerned.
- (3) On or after the appointed day, every contract entered into by or on behalf of the Company (whether in writing or not and whether or not of such a nature that rights and liabilities thereunder can be assigned by the Board) shall, as the Minister may determine and notify to the other party or parties thereto, have effect as if made by or on behalf of the Board as if for references therein to the Company or any officer or authority there substituted, in relation to anything falling to be done on or after the appointed day, references to the Board and to the corresponding officer or authority of the Board.

## 19. Pending proceedings

Any legal proceedings by or against the Company which are pending on the appointed day shall be continued by or against the Board and a certificate of the Minister that the Board is, for the purpose of such proceedings, the proper body to continue such proceedings or to defend them, shall in any proceedings before any court be conclusive to that effect.

## 20. Staff

- (1) Subject to this Act, the General Manager may, under general directions of the Board, appoint such employee as may be necessary on such terms and conditions, including conditions relating to discipline and dismissal, as he may think fit.
- (2) With effect from the appointed day, every person in the employment of the Company, shall forthwith become an employee of the Board and shall hold substantially the same office and on terms and conditions not less favourable than those applicable to him. immediately before that date.

## 21. Exemption from duties and taxation

- (1) The Board shall be exempted from payment of stamp and transfer duties.
- (2) The Board shall be exempted from payment of any taxes and trading licence fees which may be imposed by any law.

## 22. Protection from personal liability

No matter or thing done or omitted to be done by any member of the Board, shall, if the matter or thing is done or omitted to be done *bona fide* in the course of the operations of the Board, render such person, or any person acting under his directions, personally liable to any action, claim or demand.

## 23. Regulations

- (1) The Minister may make such Regulations not inconsistent with this Act for—
  - (a) the forms to be used in respect of applications to the Board for loans;
  - (b) the remuneration, fees and allowances payable to members of the Board;
  - (c) any other matter for giving effect to the purposes of this Act.
- (2) Any person who contravenes any Regulations made by the Minister under subsection (1) or who gives false information in any form prescribed shall be guilty of an offence and liable on conviction to a fine of five hundred emalangenis or imprisonment for twelve months or both.

## Schedule (Section 10)

### Rules of procedure of the Board members

1. The Board members shall meet at least once every three months for the despatch of the business of the Board.
2. The Chairman of the Board shall convene and preside at all meetings of the Board.
3. In the absence of the Chairman but subject to the quorum, the members of the Board shall nominate one of their number as Acting Chairman to preside at such meeting.
4. Three members of the Board shall constitute a quorum.

5. All decisions of the Board shall be taken by a majority of votes of the members present and voting and in the event of an equality of votes, the Chairman or in his absence, the Acting Chairman, shall have a casting vote in addition to his deliberative vote.
6. Subject to the Act and this Schedule, the Board may regulate its own proceedings.