



SWAZILAND

GOVERNMENT GAZETTE

EXTRAORDINARY

VOL. XXVI]

MBABANE, Wednesday, March 2nd., 1988

[No. 581

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SUPPLEMENT TO

THE

SWAZILAND GOVERNMENT

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THE HUMAN SETTLEMENTS AUTHORITY ACT, 1988

(Act No. 2 of 1988)



I ASSENT

NTOMBI

NDLOVUKAZI AND REGENT
OF SWAZILAND

4th June, 1986

AN ACT

entitled

An Act to establish the Human Settlements Authority.

ENACTED by the Regent and the Parliament of Swaziland.

Short title and commencement.

1. 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.

Interpretation.

2. 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;

“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.

Application.

3. 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 Safequarding of Swazi Areas Act, 1910 and the Definition of Swazi Areas Act, 1917.

Establishment of Authority.

4. (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.

Objects and functions.

5. 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 standardization 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.

Tenure of office.

6. 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.

Vacation of office of members of the Authority.

7. 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;
- (ii) he is otherwise unable or unfit to discharge his functions under this Act.

Meetings of the Authority.

8. (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.

Powers of the Minister.

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

Establishment of human settlements etc.

10. (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.

Granting of permission etc.

11. (1) The Authority may either grant or refuse an application for permission to establish a settlement within eight weeks from the date the application is received.

(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 scheme, it shall specify the plans approved and the conditions, if any, subject to which approval is granted.

(4) If an application is granted, the Authority shall notify the applicant and such other person as it may think proper in writing.

Authority may require compliance.

12. (1) If a person carries out work in contravention of any provision of this Act and receives notice in writing from the Authority requiring him to demolish or alter the 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.

(2) If the person fails to comply with the notice within the period specified, the Authority may request, notwithstanding any other law, any person, board or authority empowered in that regard to withhold, cancel or discontinue the provision of any services, licences or any other benefits to a scheme which has been established in contravention of this Act until the provisions of the notice have been complied with.

Appeals.

13. 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.

Human settlement development plans.

14. (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 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.

Revocation or modification of approved development plans.

15. (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).

Regulations.

16. 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) generally for the better carrying out of the provisions of this Act.

Pending applications.

17. Any applications which are pending on the date of 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.

Repeal of Act No. 17 of 1961.

18. 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.

THE NATIONAL HOUSING BOARD ACT, 1988

(Act No. 3 of 1988)



I ASSENT

NTOMBI

NDLOVUKAZI AND REGENT
OF SWAZILAND

4th June, 1986

AN ACT

entitled

An Act to establish the National Housing.

ENACTED by the Regent and the Parliament of Swaziland.

Short title and commencement.

1. (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.

Interpretation.

2. 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.

Establishment of the Board.

3. (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;

Objects and functions of the Board.

4. (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 scheme;
- (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.

Constitution of the Board.

5. (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.

Vacation of office of member of the Board.

6. 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.

Vacancies not to invalidate proceedings.

7. (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.

Disclosure of interest.

8. (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.

General Manager.

9. (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.

Procedure of the Board.

10. (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.

Powers of the Minister.

11. (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.

Funds of the Board.

12. 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.

Rental charges.

13. 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).

Borrowing powers of the Board.

14. 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.

General reserve fund.

15. (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.

Investment.

16. (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.

Accounts and audit.

17. (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.

Transfer and vesting of assets and liabilities.

18. (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.

Pending proceedings.

19. 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.

Staff.

20. (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.

Exemption from duties and taxation.

21. (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.

Protection from personal liability.

22. 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.

Regulations.

23. (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 Emalangeni 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.

LEGAL NOTICE NO. 20 OF 1988

THE HUMAN SETTLEMENTS AUTHORITY ACT, 1988

(Act No. 2 of 1988)

THE HUMAN SETTLEMENTS AUTHORITY ACT

(DATE OF COMMENCEMENT) NOTICE, 1988

(Under section 1)

In exercise of the powers conferred by section 1 of the Human Settlements Authority Act, 1988, the Minister of Natural Resources and Energy hereby issues the following Notice.

Citation.

1. This Notice may be cited as the Human Settlements Authority Act (Date of Commencement) Notice, 1988.

Date of Commencement of the Human Settlements Authority Act, 1988.

2. The Human Settlements Authority Act, 1988 shall come into operation on 1st March, 1988.

A.N.N. MASEKO
Acting Principal Secretary

MBABANE,
1st March, 1988.

LEGAL NOTICE NO. 21 OF 1988

THE NATIONAL HOUSING BOARD ACT, 1988

(No. 3 of 1988)

THE NATIONAL HOUSING BOARD ACT (DATE OF COMMENCEMENT)
NOTICE, 1988

(Under Section 1)

In exercise of the powers conferred by Section 1 of the National Housing Board Act, 1988, the Minister of Interior hereby issues the following Notice.

Citation.

1. This Notice may be cited as the National Housing Board Act (Date of Commencement) Notice, 1988.

Date of Commencement of the National Housing Board Act, 1988.

2. The National Housing Board Act, 1988 shall come into operation on 1st March, 1988.

V.N. DLAMINI
Principal Secretary
Ministry of Interior

MBABANE,
29th February, 1988.

LEGAL NOTICE NO. 22 OF 1988

THE HUMAN SETTLEMENTS AUTHORITY ACT, 1988

(Act No. 2 of 1988)

ESTABLISHMENT OF AUTHORITY

(Under Section 4)

In exercise of the powers conferred by section 4 of the Human Settlements Authority Act, 1988, the Minister for Natural Resources and Energy hereby appoints the following persons to be members of the Human Settlement Authority with effect from the 1st March, 1988 to 28th February, 1991.

1. Rev. I.S. Hleta—Chairman
2. Prince Celucolo—Member
3. Mr. J.C. McSeveney—Member
4. Mr Humphrey Ndlangamandla—Member
5. Mr. Joseph Mabuza—Member
6. Mr. Macaleni E. Nkosi—Member
7. Principal Secretary, Ministry of Natural Resources or his representative
8. Ministry of Agriculture and Co-operatives
9. Ministry of Commerce, Industry and Tourism
10. Department of Economic Planning and Statistics
11. Ministry of Interior

A.N.N. MASEKO
Acting Principal Secretary

MBABANE,
1st March, 1988.

LEGAL NOTICE NO. 23 OF 1988

THE NATIONAL HOUSING BOARD ACT, 1988

(No. 3 of 1988)

ESTABLISHMENT OF THE BOARD

(Under Section 5)

In exercise of the powers conferred by Section 5 of the National Housing Board Act 1988, the Honourable Minister of Interior hereby appoints the following persons to be members of the National Housing Board with effect from 1st March, 1988 to 28th February, 1991.

1. Mr. Bill Dawson
2. Mr. J.B.J.S. Dhlamini
3. Mr. Samuel Earnshaw
4. Mr. Michael Khoza
5. Miss Sebenzile Matsebula
6. Mr. Mandla Mkhwanazi
7. Mr. Harry Shirley
8. Prince Sulumlomo
9. Canon Siphetswe Dlamini (Chairman)

V.N. DLAMINI
Principal Secretary

MBABANE,
29th February, 1988.

LEGAL NOTICE NO. 24 OF 1988

THE MAGISTRATES COURTS (AMENDMENT) ACT, 1988

(Act No. 1 of 1988)

THE MAGISTRATES COURTS (AMENDMENT) ACT (DATE OF
COMMENCEMENT) NOTICE, 1988

(Under Section 1)

In exercise of the powers conferred by section 1 of the Magistrates Courts Act, 1938, the Minister for Justice hereby issues the following Notice—

Citation.

1. This Notice may be cited as the Magistrates Courts (Amendment) Act (Date of Commencement) Notice, 1988.

Date of commencement.

2. The Magistrates Courts (Amendment) Act, 1988 shall come into force on the 2nd March, 1988.

A.V. MAMBA
Principal Secretary

MBABANE,
29th February, 1988.