



BERMUDA

BERMUDA HOUSING ACT 1980

1980 : 29

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[preamble and words of enactment omitted]

PART I
INTRODUCTORY

Short title and commencement

- 1 This Act may be cited as the Bermuda Housing Act 1980 *[commencement omitted]*

Interpretation

- 2 In this Act unless the context otherwise requires—
 - “Auditor” means the person appointed to the public office of auditor established under section 107 of the Constitution ;
 - “the Corporation” means the Bermuda Housing Corporation;
 - “disposal of land or buildings” means their sale or their lease for a period of twenty-one years or more;
 - “dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling and, in relation to a building or part of a building which comprises multiple dwelling units, includes the common areas;
 - “Minister” means the Minister responsible for housing;

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“multiple dwelling unit” means a unit in a building or part of a building which comprises more than one dwelling;

“owner”, in relation to any land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple or a mortgagor in possession;

“the person having control” in relation to any premises, means the person who receives any rent payable by the tenant of the premises, whether on his own account or as agent or trustee for any other person, or who would so receive the rent if the premises were let;

“registered housing association” means a housing association registered under section 26.

[Section 2 “dwelling” amended, “the Minister” substituted, and “multiple dwelling” inserted, by 2001:40 s.2 effective 31 May 2002; “Minister” deleted and substituted by BR 5/2011 para.5 effective 25 February 2011]

Fitness for human habitation, standards

3 (1) A dwelling is fit for human habitation for the purposes of this Act unless, in the opinion of the Minister, it fails to meet one or more of the requirements in paragraphs (a) to (j) and, by reason of that failure, is not reasonably suitable for occupation—

- (a) it is structurally stable;
- (b) it is free from serious disrepair;
- (c) it is free from dampness prejudicial to the health of the occupants;
- (d) it has adequate provision for lighting and ventilation;
- (e) it has an adequate piped supply of potable water;
- (f) its internal arrangements, relating to the location of bedrooms, bathrooms, storage facilities and common areas, do not include any feature which prohibits the safe or unhampered passage of occupants;
- (g) there are satisfactory facilities in the dwelling for the preparation and cooking of food, including a sink with a satisfactory supply of hot and cold water;
- (h) it has a suitably located water-closet for the exclusive use of the occupants;
- (i) it has, for the exclusive use of the occupants, a suitably located fixed bath or shower and wash-hand basin each of which is provided with a satisfactory supply of hot and cold water; and
- (j) it has an effective system for the draining of foul, waste and surface water;

and any reference to a dwelling being unfit for human habitation shall be construed accordingly.

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(2) The Minister may make regulations prescribing minimum standards in respect of any matter set out in paragraph (a) to (j) of subsection (1) and any dwelling that fails to comply with a prescribed minimum standard shall be deemed to be unfit for human habitation.

(3) Regulations made under subsection (2) shall be subject to the negative resolution procedure.

[Section 3 repealed and replaced by 2001:40 s.3 effective 31 May 2002]

PART II

THE BERMUDA HOUSING CORPORATION

Bermuda Housing Corporation

4 (1) There shall continue to be an authority called the Bermuda Housing Corporation which with effect from 30 July 1980 shall have the constitution, powers and duties provided for in this Act.

(2) The Corporation shall continue to have perpetual succession and shall continue to use its common seal and may continue to sue and be sued in its corporate name.

Corporation subject to directions of Minister

5 (1) The Corporation in the exercise of its functions shall be subject to any general or particular directions given to it by the Minister.

(2) Without prejudice to any provision of law relating to the delegation of any power or duty of a Minister to a public officer, the Minister may delegate his power under subsection (1) to the Permanent Secretary responsible for housing.

[Section 5 subsection (2) amended by 2008:45 s.2 effective 23 December 2008]

Board of directors

6 (1) The governing body of the Corporation shall be a board of directors (hereinafter referred to as the Board) consisting of a Chairman and Vice-Chairman appointed by the Minister, the three ex-officio members set out in the First Schedule and not less than seven or more than eleven further members appointed by the Minister, who together with the Chairman and Vice-Chairman are hereinafter referred to as the appointed members.

(2) Subject to any directions given by the Minister the Board shall have the sole management of the property, income and funds of the Corporation and of all the affairs and concerns thereof.

(3) No person shall be appointed or remain as an appointed director—

- (a) if he has been or is declared bankrupt or insolvent under the law of any country and has not been discharged or rehabilitated or if he has made a composition with his creditors and has not paid his debts in full;

- (b) if he is incapacitated by physical or mental illness or infirmity so as to be unfit to perform his duties as a director;
 - (c) if he has been sentenced to imprisonment without the option of a fine or has been convicted of an offence involving dishonesty; or
 - (d) if he has such financial or other interest, whether in the operations of the Corporation or otherwise, as in the opinion of the Minister is likely to affect prejudicially the performance of his functions as a director.
- (4) Before appointing any person as a director the Minister shall require him to declare, in such particularity as the Minister may require, the nature and extent of any interest which he may have either directly or indirectly in—
- (a) any land or buildings in Bermuda;
 - (b) any business which makes loans for the purpose of buying or leasing land or buildings; and
 - (c) the business of any building contractor, architect, civil engineer, land or quantity surveyor or estate agent.
- (5) Any appointed director shall forthwith declare to the Minister any interest or change of interest which he may acquire or change either directly or indirectly in any land or building or business referred to in subsection (4).
- (6) The affairs and proceedings of the Board shall be regulated in the manner set out in the First Schedule.

The General Manager

- 7 (1) The executive officer of the Corporation shall be the General Manager who shall be appointed by the Board with the approval of the Minister and whose services shall not be terminated by the Board save with like approval.
- (2) The remuneration, emoluments, terms and period of service of the General Manager shall be fixed by the Board with the approval of the Minister and shall not be altered save with like approval.
- (3) The General Manager shall be responsible for the day to day management of the Corporation and subject to the directions of the Board shall be responsible for the carrying out of the functions of the Board.

Staff of the Corporation

- 8 (1) The Corporation shall employ such staff as may be necessary for the proper carrying out of its functions and such staff shall be employed on such terms as the Board may either determine generally or in a particular case.
- (2) The Government may at the request of the Corporation second to it any public officer or other Government employee on such terms and conditions as may be agreed.
- (3) The Corporation shall be responsible for the payment of the salaries and wages and for the cost of all emoluments of the General Manager and other staff of the Corporation

including those of any public officers or other Government employees seconded to the service of the Corporation.

(4) If any person in Government employment in a pensionable office is seconded to the Corporation then for the purposes of computing the time and amount of his service for the purposes of his Government pension the period of his secondment shall be deemed to be service in his pensionable office.

(5) The Minister may require the Corporation to pay into the Consolidated Fund such amounts as he may determine to reimburse the Government in respect of pensions payable by the Government to public officers who have been seconded to the Corporation under this section.

(6) The Minister of Finance may by order apply all or any of the provisions of any enactment relating to the payment to public officers of pensions or superannuation benefits to all or any of the officers and staff of the Corporation and may make such application subject to such conditions as he considers proper.

General functions of the Corporation

- 9 (1) The Corporation may either by itself or in conjunction with other persons—
- (a) acquire or build dwellings;
 - (b) build, develop or manage housing estates or housing schemes;
 - (c) acquire, build, develop or manage premises other than dwellings which in the opinion of the Corporation will improve any housing estate or housing scheme;
 - (d) acquire, construct, develop or manage community facilities including recreational areas in conjunction with any housing estate or housing scheme;
 - (e) develop land and construct or lay out street roads and open spaces in connection with any housing estate or housing scheme;
 - (f) if requested by the Minister provide and manage dwellings for public servants and Government employees;
 - (g) repair and improve dwellings; and
 - (h) demolish buildings.

(2) The Minister may require the Corporation generally to carry out any of the functions mentioned in subsection (1) or may in a particular case require the Corporation to carry out any such function.

(3) In addition to the functions mentioned in subsection (1) the Minister may require the Corporation to undertake other functions related to the construction, repair or management of dwellings.

(4) In exercise of its functions the Corporation shall subject to the other provisions of this Act have the powers set out in the Second Schedule.

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Functions of the Corporation in relation to housing associations

10 In addition to its other functions the Corporation shall—

- (a) promote and assist the development of housing associations;
- (b) facilitate the proper exercise and performance of the functions and publicise the aims and principles of housing associations;
- (c) establish and maintain a register of housing associations and exercise control over registered housing associations and to such an extent as the Minister may require, act as his agent with respect to the consideration of applications for and the payment of loans to registered housing associations; and
- (d) undertake, to such an extent as the Corporation considers desirable the provision by construction, improvement, conversion or acquisition of dwellings for letting or sale to registered housing associations.

Acquisition, development and rehabilitation of land by the Corporation

11 (1) The Corporation may for the purpose of carrying out any of its functions under this Act subject to any directions or conditions that the Minister may make—

- (a) acquire land or buildings by purchase, lease, exchange or gift; and
- (b) make or guarantee loans as provided in Part V.

(2) The Minister responsible for public land may, by order published in the Gazette—

- (a) subject to subsection (3) vest in the Corporation any land the property of the Crown either absolutely or for a term of years and with such reservations and subject to such conditions as may be agreed with the Minister as may be specified in the order; or
- (b) transfer to the Corporation the management and control of any buildings the property of the Crown, for such period and subject to such conditions as may be specified in the order.

(3) The vesting in the Corporation of any land the property of the Crown shall be subject to the approval of both Houses of the Legislature.

Provision of dwellings and clearance, management and development of land

12 (1) The Corporation may undertake the construction, adaptation or improvement of dwellings on any land belonging to them.

(2) The Corporation may clear any land belonging to them and carry out any other work on the land to prepare it as a building site or estate, including the laying out and construction of streets or roads and open spaces and the provision of sewerage facilities and supplies of electricity, gas and water.

(3) The Corporation shall have power to repair, maintain and insure any buildings or works for the time being on any land belonging to them and generally to deal in the proper

course of management with any such land and any such buildings or works and to charge for the tenancy or occupation thereof.

(4) Without prejudice to subsection (3) above, the Corporation may carry out such operations on, and do any other such things in relation to, land belonging to them as appear to them to be conducive to facilitating the provision or improvement of dwellings on the land, whether by the Corporation themselves, or by a registered housing association.

(5) The Corporation may acquire, lease or rent premises for its own use in carrying out its functions under this Act.

(6) In the exercise of their powers under subsection (4) above, the Corporation may carry out any development ancillary to or in connection with the provision of dwellings including development which makes provision for any building or land intended for use for commercial, recreational or other non-domestic purposes.

Disposal of land and buildings by the Corporation

13 (1) Subject to this section the Corporation may dispose of land or buildings with the consent of the Minister subject to such conditions as he may either generally or in a particular case require.

(2) The Corporation in its discretion may—

- (a) mortgage any land or building for a period of not more than thirty-five years; or
- (b) lease any land or building for a period of not more than one hundred and twenty years or for terms renewable at the option of the lessee not exceeding in the aggregate one hundred and twenty years.

(2A) Notwithstanding subsection (2) the Corporation shall obtain the consent of the Minister for a lease of any land or building for a period of more than thirty-five years.

(2B) Except with the prior approval of Cabinet, the Minister shall not consent to a lease for a period of more than thirty-five years.

(2C) The Corporation shall obtain the prior approval by resolution of both Houses of the Legislature for any lease or letting to which subsection (2A) applies.

(3) Any lease or letting in which there is an option of renewal that would increase the period to more than thirty-five years shall be deemed to be a lease or letting for more than thirty-five years.

(4) The Corporation may dispose of any building or land intended for use for commercial, recreational or other non-domestic purposes in respect of which development has been carried out by virtue of section 12(6); but no such building or land may be disposed of for less than the best consideration it is likely to command except with the consent in writing of the Minister.

(5) The Corporation may dispose of any land which is not required for the purposes for which it was acquired but, subject to subsection (6), if the land—

- (a) was acquired compulsorily on behalf of the Corporation; or

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(b) is not disposed of for the best consideration it is likely to command, the Corporation shall not dispose of the land except with the consent in writing of the Minister.

(6) The consent of the Minister shall not be required under subsection (5) to the disposal of land for less than the best consideration it is likely to command if the land is to be used as, or in connection with a highway or a right of way not being a highway.

[Section 13 subsection (2) substituted, and (2A) to (2C) inserted, by 2006:14 s.2 effective 26 June 2006]

Management of business of the Corporation

14 (1) The Corporation shall so manage its business that taking one year with the next—

- (a) its revenue is sufficient for meeting all expenditure properly chargeable to revenue;
- (b) sufficient provision is made for depreciation of assets.

(2) Except in so far as is required by subsection (1) the making of profits shall not be the object of the activities of the Corporation; but in so far as there may be profits or other income, surplus to the requirements of the Corporation for the satisfaction of its obligations under subsection (1), such profits shall be paid into the Consolidated Fund after the creation of such reserves as are by this Act required or permitted to be created or established or which the Minister may authorize the Corporation to create or establish.

(3) Sums appropriated to reserves by virtue of subsection (2) shall be used for the purpose for which they were created or where they were created for no special purpose then they may be used for such purposes as the Corporation may consider expedient for the proper performance of its functions.

Funds of the Corporation

15 The funds of the Corporation shall consist of—

- (a) grants from the Government out of moneys appropriated by the Legislature for the purposes of the Corporation;
- (b) any loan or advance to the Corporation authorized by this Act;
- (c) any moneys accruing to the Corporation in the course of the discharge of its functions; and
- (d) contributions and endowments from other sources.

Borrowing powers

16 (1) The Corporation may, with the approval of the Minister of Finance and subject to such conditions as he may determine, borrow moneys to enable it to discharge its functions under this Act and to meet its obligations; and the repayment of such moneys may be secured upon the property of the Corporation by the issue of debentures or debenture stock or otherwise howsoever.

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(2) The Corporation shall not borrow so as to have outstanding at any time in respect of moneys borrowed an aggregate amount exceeding the statutory maximum.

(3) The powers of the Minister of Finance under this section shall extend to the amount (subject to the statutory maximum), the nature and sources of the borrowing, and the time at and conditions on which the borrowing may be effected, and his approval may be either general or limited to a particular borrowing.

(4) The aggregate outstanding in respect of advances and loans to the Corporation by the Government, shall not exceed the statutory maximum.

(5) Failure to enquire whether the borrowing of any money is within the power of the Corporation shall not preclude a person lending such money to the Corporation from enforcing the contract under which the money is lent.

(6) In this section "the statutory maximum" means \$50,000,000 or such greater amount as the Minister of Finance may by order made in accordance with the affirmative resolution procedure determine.

Guarantees by Government

17 (1) The Government may guarantee, by the undertaking of the Minister of Finance, in such manner and on such conditions as he thinks fit, the payment of the principal and interest on any authorized borrowings of the Corporation.

(2) Any sums required by the Government for fulfilling any guarantee under this Act of borrowings of the Corporation are hereby charged upon the Consolidated Fund.

(3) As soon as may be practicable after any guarantee is given under this section, the Minister of Finance shall lay before both Houses of the Legislature a statement of the guarantee so given.

Repayments by Corporation

18 (1) The Corporation shall make to the Consolidated Fund at such times and in such manner as the Minister of Finance may direct—

- (a) payments of such amounts as he may so direct in or towards repayments of advances made by the Government to the Corporation;
- (b) payments of any sums issued in fulfilment of any guarantee made under section 17; and
- (c) payment of interest of any amount outstanding for the time being in respect of any advances,

and different rates of interest may be directed as respects different advances or sums, and in respect of interest for different periods.

(2) The Minister of Finance shall lay before both Houses of the Legislature a statement of any payment due from the Corporation under this section which is not duly paid to him as required by this section.

Budget of revenue and expenditure

19 (1) The Corporation shall submit to the Minister for his approval—

- (a) not later than three months prior to the commencement of each financial year, revenue and expenditure estimates, in such detail as the Minister may require, relating to the programme planned for that financial year of the operation of the Corporation; and
- (b) as soon as may be, any subsequent proposal to amend such estimates,

and the estimates, together with any amendments, upon being approved by the Minister, shall be deemed to be the budget for the financial year to which it relates.

(2) The Minister may, for good cause shown, exempt the Corporation in respect of the provision relating to the period prescribed by subsection (1)(a).

Budget of capital expenditure

20 (1) The Corporation shall before the commencement of each financial year, submit to the Minister for his approval estimates showing the capital expenditure to be incurred by the Corporation during the financial year to which it relates and the amounts of the expenditure intended to be met from the resources of the Corporation and from other sources; and such estimates shall include an estimate of the unexpended provision carried forward from a previous approved budget of capital expenditure.

(2) The estimates referred to in subsection (1), upon being approved by the Minister, shall be deemed to be the approved budget of capital expenditure for the financial year to which it relates.

(3) Subject to any direction given by the Minister the Corporation may subsequently amend any budget so approved by the Minister but it shall not exceed the total capital expenditure so approved, except with the approval of the Minister.

(4) Notwithstanding that a project involving capital expenditure for which provision has been made in an approved budget in accordance with subsection (2), or by an amendment of an approved budget in accordance with subsection (3), was not commenced or completed during the financial year for which it was approved, that project may be commenced or continued in any subsequent financial year with the further approval of the Minister, to the extent that it has been approved.

Financial year

21 The financial year of the Corporation shall be the Government financial year.

Investments

22 (1) If the Corporation at any time has moneys that it does not require for its purposes for a foreseeable period, it may invest those moneys in such manner as the Minister may approve.

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(2) Nothing in Part V applies to a loan made as an investment under subsection (1).

[Section 22 replaced by 1993:54 effective 23 July 1993]

Accounts and audit

23 (1) The Corporation shall prepare books of account and proper records in relation thereto.

(2) Subject to such directions as to form as the Minister may direct, the Corporation shall prepare in respect of each financial year, a statement of account which shall include—

- (a) a balance sheet, a statement of income and expenditure and a statement of surplus or deficit; and
- (b) such other information in respect of the financial affairs of the Corporation as the Minister may require.

(3) The books and accounts of the Corporation shall be audited within a period of four months after the end of each financial year by the Auditor, or an auditor appointed by him.

Auditor to report to the Minister

24 The Auditor shall report annually to the Minister the results of his examination of the accounts of the Corporation and the report shall state whether in his opinion—

- (a) proper books of account have been kept by the accounting officer; and
- (b) the financial statement of the Corporation—
 - (i) was prepared on a basis consistent with that of the preceding year and is in agreement with the books of account;
 - (ii) in the case of a balance sheet gives a true and fair view of the state of the Corporation's affairs as at the end of the financial year; and
 - (iii) in the case of the revenue or income and expenditure gives a true and fair view of the income and expenditure or profit and loss account of the Corporation for the financial year,

and the Auditor shall call the attention of the Minister to any other matter falling within the scope of his examination which in his opinion should be brought to the attention of the Legislature.

Annual report

25 (1) The Corporation shall, as soon as practicable, and in any case not later than six months after the termination of each financial year, submit an annual report to the Minister on the activities of the Corporation.

(2) The Minister shall as soon as practicable after receiving the report of the Corporation, lay such report before both Houses of the Legislature and such report shall be accompanied by the report of the Auditor made under section 24.

PART III
HOUSING ASSOCIATIONS

The register of housing associations

26 (1) There shall be a register of housing associations which shall be established and maintained by the Corporation and in which the Corporation may register any housing association which fulfills the conditions set out in subsection (2).

(2) The conditions referred to in subsection (1) are that the housing association does not trade for profit and is established for the purpose of, or has among its objects or powers those of, providing, constructing, improving or managing—

- (a) dwellings to be kept available for letting; or
- (b) dwellings for occupation by members of the association where the rules of the association restrict membership of the association to persons entitled or prospectively entitled, whether as tenants or otherwise, to occupy a dwelling provided or managed by the association,

and that, if the association has any additional purposes or objects, it has none which are not mentioned in subsection (3).

(3) The additional purposes or objects referred to in subsection (2) above are those—

- (a) of providing land or buildings for purposes connected with the requirements of the persons occupying the dwellings provided or managed by the association; and
- (b) of providing amenities or services for the benefit of those persons, either exclusively or together with other persons.

(4) In addition to the conditions set out in subsections (2) and (3) the Corporation shall not register any housing association the rules of which are not in conformity with the model rules prescribed by the Minister by virtue of subsection (5).

(5) The Minister shall by regulations prescribe model rules for housing associations. Such regulations shall be subject to negative resolution procedure.

Control by Corporation of disposition of land by housing association

27 (1) A registered housing association shall not sell, lease, agree to lease, mortgage, charge or otherwise deal in any land in respect of which it has received a loan from the Corporation or the Government, and any part of which is outstanding.

(2) Subsection (1) shall not apply to leases or tenancies for a period of seven years or less.

(3) A lease or a tenancy which may be renewed so that its total period if renewed will exceed seven years shall be deemed to be a lease or tenancy for more than seven years.

Removal of housing association from the register

28 (1) The Corporation may remove a registered housing association from the register if—

- (a) it has either ceased to exist or operate; or
- (b) if it is not fulfilling the conditions set out in section 26 subject to which it was registered.

(2) The Corporation before removing any association from the register shall give it fourteen days notice of its intention and shall give it an opportunity of being heard prior to its name being removed from the register.

(3) Any housing association removed from the register may within thirty days of being notified of the removal appeal to the Supreme Court which may confirm the decision of the Corporation or may allow the association to remain on the register subject to such conditions as it may impose.

(4) Pending the hearing of an appeal under subsection (3) the name of the association shall remain on the register.

(5) Where a housing association is removed from the register the Minister shall appoint an administrator to manage the affairs of the association.

(6) An administrator appointed under subsection (5) shall be solely responsible for the affairs of the association and shall have all the powers of the managing body of the association but shall not be personally liable for the acts or defaults of the association.

(7) An administrator shall in his discretion so soon as is practicable having in mind the interests of the occupiers of dwellings belonging to or under the control of the association either wind up the association or return the management of the association to its managing body.

(8) The appointment of an administrator under this section shall not affect any rights or obligations of the association.

(9) Any notice may be served on a housing association at its address last known to the Corporation.

PART IV

GENERAL IMPROVEMENT AREAS

Declaration of general improvement areas

29 (1) Where a report is submitted to the Minister with respect to a predominantly residential area which may include one or more dwellings by a person or persons appearing to him to be suitably qualified, whether or not that person or those persons are employed by the Government, and it appears to him upon consideration of the report and any other

information in his possession that living conditions or means of access in the area are in need of improvement the Minister may by order cause the area to be defined on a map and declare it to be a general improvement area.

(2) An order under this section shall be published in the Gazette.

General powers exercisable by the Minister in areas declared to be general improvement areas

30 (1) Where the Minister has declared an area to be a general improvement area he may in such area—

- (a) acquire any land or building either by agreement or by compulsory purchase under the Acquisition of Land Act 1970 [*title 19 item 2*];
- (b) serve notices under sections 31 and 32 on any person having control of any land or building;
- (c) create or divert highways or footpaths under section 55;
- (d) initiate proceedings under section 56 to settle the ownership or title to any land or building; or
- (e) order the vacation under section 43 of any building;
- (f) appoint any authority or person to act on his behalf; or
- (g) sell, let or otherwise dispose of any land or building owned or acquired by the Government.

(2) Where the Minister decides by virtue of subsection (1) to acquire any land or building the Acquisition of Land Act 1970 [*title 19 item 2*] shall for the purposes of such acquisition be varied in the following manner—

- (a) the Minister referred to in this Act shall have all the powers of the Minister referred to in that Act;
- (b) section 2(1) of that Act shall include a power to acquire land or buildings, for the purposes of this Act and if the Minister so wishes to transfer such land or buildings to the Corporation or to any other person;
- (c) for the purposes of paragraph (iv) of section 14(2) if the house was overcrowded it shall be deemed to have been in a condition detrimental to the health of the occupants; and
- (d) section 23 of that Act shall not apply.

(3) Where the Minister decides by virtue of subsection (1) to acquire any land or buildings if all the persons who within his knowledge have an interest in the land or building are willing to sell the land or building but he is unable to agree the amount of compensation payable to any of such persons, then the Minister may instead of proceeding to compulsory purchase agree with the interested parties to settle the amount of compensation payable to such persons by means of a submission under the Arbitration Act 1986 [*title 8 item 75*].

Preliminary notice of proposals for improvement of dwelling

31 (1) At any time after publication of a notice of the declaration of a general improvement area the Minister, if satisfied that a dwelling in the area—

- (a) is for the time being occupied; and
- (b) is unfit for human habitation but is capable of improvement at reasonable expense to be made fit for human habitation; and
- (c) after being so improved will be in such condition as to be fit for human habitation, and will be likely, subject to normal maintenance, to remain in that condition for a period of not less than fifteen years,

may serve a notice (hereinafter referred to as “a preliminary notice”) on the person having control of the dwelling—

- (i) specifying the works which in his opinion are required for the dwelling to be improved so as to be fit for human habitation; and
- (ii) stating the date, being a date not less than twenty-one days after service of the preliminary notice and time and place at which the future use of the dwelling, the Minister’s proposals for the carrying out of the works, any alternative proposals, and the views and interests of any person occupying the premises and any other matters may be discussed.

(2) The Minister shall, not less than twenty-one days before the date so stated in the preliminary notice in addition to serving the notice on the person having control of the dwelling, serve a copy of the notice on the person occupying the premises if he is not the person in control of the premises and on every other person who, to his knowledge, is an owner, lessee or mortgagee of the dwelling, and such persons shall be entitled to be heard when the Minister’s proposals are discussed in accordance with the notice.

(3) The discussions referred to in subsection (2) shall be informal and may take place on the premises or at any other suitable place.

Improvement notice

32 (1) After the service of a preliminary notice, the Minister shall take into consideration all representations made on or before the occasion when his proposals with respect to the dwelling are discussed in accordance with the preliminary notice and, in particular, any representations with respect to the nature of the works proposed by him for improving the dwelling.

(2) At any time after the occasion when the Minister’s proposals are so discussed, but not more than six months after the passing of the resolution declaring the area to be a general improvement area, the Minister may, if satisfied that the dwelling still falls within section 31(1)(b) and (c), serve a notice (hereinafter referred to as “an improvement notice”) on the person having control of the dwelling.

(3) In addition to serving the notice on the person having control of the dwelling, the Minister shall at the same time serve a copy of the notice on the person occupying, if

he is not the person in control of the dwelling, and on every other person who is to his knowledge an owner, lessee or mortgagee of the dwelling.

(4) The improvement notice shall specify the works which in the opinion of the Minister are required to improve the dwelling so as to make it fit for human habitation.

Requirements of an improvement notice

33 The Minister shall in an improvement notice require the person having control of the dwelling to carry out the works specified in the improvement notice within twelve months from the date when the improvement notice becomes operative or such longer period as the Minister by permission given in writing may from time to time allow.

Dwellings outside improvement areas

34 (1) A person occupying a dwelling which is not in an improvement area and which is unfit for human habitation, may make representations in writing to the Minister with a view to the exercise by the Minister of his powers under this section.

(2) The Minister shall notify the person having control of the dwelling of any representations so made.

(3) If on taking the representations into consideration the Minister is satisfied—

- (a) that the person making representations with a view to the exercise by the Minister of his powers under this section is a person lawfully occupying the dwelling; and
- (b) that the dwelling is capable of being made fit for human habitation at reasonable expense; and
- (c) that, having regard to all the circumstances, the dwelling ought to be improved so as to be fit for human habitation and that it is unlikely that it will be so improved unless the Minister exercises his powers under this section; and
- (d) that the dwelling after being so improved will be in such condition as to be fit for human habitation, and will be likely, subject to normal maintenance, to remain in that condition and available for use as a dwelling for a period of not less than fifteen years,

the Minister may serve a preliminary notice, pursuant to section 31, on the person having control of the dwelling, and shall serve a copy of any preliminary notice so served on the occupier, if not the person in control of the dwelling, and on every other person who is to the knowledge of the Minister an owner, lessee or mortgagee of the dwelling; and such persons, shall be entitled to be heard when the Minister's proposals are discussed in accordance with the notice.

(4) If the Minister decides not to serve a preliminary notice under this subsection he shall notify the occupier of the dwelling of his decision and, if the occupier so requests, shall give him a written statement setting out his reasons for making his decision.

(5) After the service of a preliminary notice under subsection (3) in respect of a dwelling referred to in that subsection the provisions of this Act relating to buildings in general improvement areas shall apply to such dwelling as if it was in a general improvement area.

Acceptance of undertakings to carry out works

35 (1) The Minister may at any time before an improvement notice has been served in respect of a dwelling which is unfit for human habitation accept from the person having control of the dwelling, or from any other person having an estate or interest in the dwelling, an undertaking in writing to improve the dwelling so as to be fit for human habitation.

(2) The undertaking shall specify the works agreed to be carried out, and the period within which they are to be carried out.

(3) If the Minister has accepted an undertaking under this section as respects a dwelling he shall not serve an improvement notice as respects that dwelling—

- (a) unless any of the works specified in that undertaking are not carried out within the period so specified, or within such longer period as the Minister may by permission in writing have allowed; or
- (b) unless the Minister is satisfied that, owing to a change of circumstances since the undertaking was accepted by him, the undertaking is unlikely to be fulfilled.

(4) An improvement notice as respects a dwelling in relation to which the Minister has accepted an undertaking under this section may, be served at any time within two years from the end of the period specified in the undertaking or, if the Minister has allowed a longer period, from the end of that longer period.

(5) Before accepting an undertaking under this section, the Minister shall satisfy himself that the person giving the undertaking has a right to carry out the works specified in the undertaking as against all other persons interested in the dwelling, except so far as, under section 41(1) or (2), he may be enabled to carry out those works without the requisite consent; and if the dwelling is for the time being occupied there must be incorporated in the undertaking a note of the views of the person so occupying the dwelling, on the carrying out of the works specified in the undertaking, signed by such person.

(6) The Minister shall discharge an undertaking if at any time he considers that the dwelling no longer falls within section 31(1)(b) or (c), and may discharge an undertaking under this section in any other case.

The discharge of the undertaking shall be effected by serving notice of the discharge on the person who gave the undertaking, and the Minister shall serve a copy of the notice on the occupier of the dwelling, if different from that person and on every other person who, to the knowledge of the Minister is an owner, lessee or mortgagee of the dwelling.

General provisions as to improvement notices

36 (1) Any improvement notice shall, if no appeal is brought against the improvement notice under section 37, become operative on the expiration of six weeks from the date of

the service of the improvement notice on the person having control of the dwelling or other premises; and any improvement notice against which an appeal is so brought shall, if and so far as it is confirmed by the court, become operative on the final determination of the appeal.

(2) For the purposes of subsection (1) the withdrawal of an appeal shall be deemed to be the final determination thereof, having the like effect as a decision confirming the improvement notice or decision appealed against.

(3) An improvement notice shall, subject to the right of appeal conferred by section 37, be final and conclusive as to any matters which could be raised on any such appeal.

(4) Without prejudice to the provisions of this Act making it the duty of the Minister to withdraw an improvement notice in specified circumstances, the Minister may, if he thinks fit, at any time withdraw any improvement notice.

The withdrawal shall be effected by serving notice of the withdrawal on the person having control of the dwelling and on the occupier of the dwelling, if different from the person having control of the dwelling and on every person who, to his knowledge, is an owner, lessee or mortgagee of the dwelling or other premises.

Appeal against improvement notice

37 (1) Within six weeks from the service on the person having control of the premises of an improvement notice, any such person or any other person having an estate or interest in the premises, other than a person whose only estate or interest is as a tenant occupying the premises, may appeal to a court of summary jurisdiction against the improvement notice.

(2) The grounds of the appeal may be all or any of the following—

- (a) that it is not practicable to comply with the requirements of the improvement notice at reasonable expense, regard being had to the estimated cost of the works and the value which it is estimated that the dwelling or other premises will have when the works are completed;
- (b) that the Minister has refused unreasonably to approve the execution of alternative works, or that the works specified in the notice are otherwise unreasonable in character or extent;
- (c) that the dwelling, or any of the dwellings in the premises, is not, or is no longer unfit for human habitation, or that the dwelling or other premises after being improved would not be in such condition as to be fit for human habitation, and likely, subject to normal maintenance, to remain in that condition and available for use as living accommodation for a period of not less than fifteen years;
- (d) that some person other than the appellant will as the holder of an estate or interest in the dwelling or other premises, derive a benefit from the execution of the works and that that person ought to pay the whole or part of the cost of the execution of the works;

- (e) that the improvement notice is invalid on the ground that any requirement of this Act has not been complied with or on the ground of some informality, defect or error in or in connection with the improvement notice.

(3) In so far as an appeal under this section is based on the ground that the improvement notice is invalid, the court shall confirm the improvement notice unless satisfied that the interests of the appellant have been substantially prejudiced by the facts relied on by him.

(4) On any appeal under this section the court may, subject to subsection (6), make such order either confirming or quashing or varying the improvement notice as the court thinks fit.

(5) On any appeal under this section the court may, if the court thinks fit, accept from an appellant or any other party to the proceedings an undertaking to carry out the works specified in the improvement notice, or any such works as might have been so specified if the court exercised its jurisdiction to vary the improvement notice; and any undertaking accepted by the court shall have the same effect as if it had been given to and accepted by the Minister under this Part of this Act, and had not been given to the court.

(6) Where the grounds on which an appeal under this section is brought include the grounds specified in subsection (2)(d), the court may on the hearing of the appeal make such order as it thinks fit with respect to the payment to be made by that other person to the appellant or, where the works are carried out by the Minister, to the Minister.

(7) If an improvement notice is quashed by the court, the court may, if it thinks fit, and subject to compliance by the Minister with such terms and conditions as the court thinks fit to impose, extend the time within which, under section 31(2), he may serve a further improvement notice in respect of the dwelling.

(8) "Tenant" for the purpose of subsection (1) shall mean any person who is in occupation of premises without a lease or if with a lease if the lease has less than five years to run. No account shall be taken in reckoning five years of any right to renewal of the lease.

Enforcement of improvement notices and undertakings to carry out works

38 (1) If the works to be carried out in compliance with an improvement notice, or an undertaking accepted under this Act, have not been carried out in whole or in part within the period specified in the notice or undertaking, or within any further period which the Minister has by permission given in writing allowed, or within any period allowed by a court on appeal or agreed in a court on appeal the Minister may himself do the work which has not been completed.

(2) If before the expiration of the period mentioned in the foregoing subsection the person who is for the time being the person having control of the dwelling or who is bound by the undertaking notifies the Minister in writing that he does not intend or is unable to do the work in question, the Minister may, if he thinks fit, do the work before the expiration of the said period.

(3) Not less than twenty-one days before beginning to do the work, the Minister shall serve notice of his intention on the occupier of the dwelling, on the person having

control of the dwelling and on every other person who is to the knowledge of the Minister an owner, lessee or mortgagee of the dwelling.

Recovery of expenses incurred by Minister on default under improvement notice

39 (1) Any expenses reasonably incurred by the Minister under section 38 in carrying out works may, except so far as they are by any direction of the court on appeal recoverable under an order of the court, be recovered by him by action from the person on whom the improvement notice was served or when was bound by an undertaking, as the case may be:

Provided that if such person proves that he—

- (a) was only properly served with the notice or gave the undertaking as being an agent or trustee for some other person; and
- (b) does not have, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the Minister,
his liability shall be limited to the total amount of the money which he has, or has had, in his hands as aforesaid.

(2) If the person served with an improvement notice was only properly served as being an agent or trustee for some other person, or gave the undertaking on behalf of such person the said expenses may be recovered by the Minister under subsection (1) either from him or from that other person, or as to part from him and as to the remainder from that other person.

(3) Expenses recoverable by the Minister under subsection (1) shall carry interest at the statutory rate fixed by the Interest and Credit Charges (Regulation) Act 1975 [*title 17 item 22*].

A demand for the expenses so recoverable, together with interest so payable shall be served on the person on whom the improvement notice was served, or who gave the undertaking and interest shall be payable from the date when the demand is so served until payment.

(4) The amount of any expenses and interest thereon due to the Minister under this section shall, as from the date when the demand under subsection (3) becomes operative, be a charge on the premises in respect of which the expenses were incurred, and on all estates and interests in those premises, and the Minister shall for the purpose of enforcing that charge have all the same powers and remedies otherwise as if he was a mortgagee by deed having powers of sale and lease, or accepting surrenders of leases and or appointing a receiver.

The power of appointing a receiver under this subsection shall be exercisable at any time after the expiration of one month from the date when the said demand becomes operative.

(5) On the date on which the Minister under subsection (3) serves a demand for expenses incurred by him, he shall also serve a copy of the demand on any person who is to his knowledge an owner or lessee or mortgagee of the dwelling or other premises to which the improvement notice or undertaking relates; and within twenty-one days from that date any person may appeal to a court of summary jurisdiction against the demand.

On the appeal no question may be raised which might have been raised on an appeal against the improvement notice.

(6) Any such demand shall, if no appeal is brought under subsection (5), become operative on the expiration of twenty-one days from the date of service of the demand; and any such demand as respects which an appeal is so brought shall, if and so far as it is confirmed on appeal, become operative on the final determination of the appeal.

For the purposes of this subsection the withdrawal of an appeal shall be deemed to be a final determination thereof having the like effect as a decision confirming the demand appealed against.

(7) Any such demand shall, subject to the right of appeal conferred by subsection (5), be final and conclusive as to any matters which can be raised on such an appeal.

Adjustment of relations between lessors and lessees

40 (1) Where a person who incurs expenditure in complying with an improvement notice is a landlord of the premises to which the notice relates, he may apply to a court for an increase of the rent payable by the tenant and the court, after giving to the tenant and any sub-tenant an opportunity of being heard, and having regard to the amount of the expenditure, to any transfer of the burden of the expenditure from the lessor to any other person and to all the other circumstances, may, if the court thinks fit, make such an order for the variation of the rent payable by the tenant and any sub-tenant as will in the opinion of the court afford an appropriate return in respect of the expenditure.

(2) For the purpose of subsection (1) "court" shall mean in the case of premises the rent of which is controlled by any Act the authority under that Act responsible for fixing or controlling rents and in any other case a court of summary jurisdiction.

Provisions as to carrying out of works

41 (1) The person having control of any premises—

- (a) which consist of or comprise a dwelling in an improvement area; or
- (b) which consist of or comprise a dwelling in respect of which representations have been made by the tenant under section 33(1),

shall, as against any other person having an estate or interest in the premises, have the right to enter the premises in order to carry out any survey or examination required with a view to finding out whether the dwelling is fit for human habitation.

(2) After service of an improvement notice in respect of any dwelling, the person having control of the dwelling shall have the right, as against any other person having an estate or interest in the premises including the occupier, to take any reasonable steps for the purpose of complying with the improvement notice; and any person bound by an undertaking accepted under this Act shall have the same right.

(3) For the purposes of subsection (2) reasonable steps shall include requiring the occupier to vacate the premises if it is necessary for him so to do in order that the person having control of the dwelling may comply with an improvement notice or an undertaking;

Provided that if an occupier is required to vacate any premises the person having control of the dwelling shall, when the improvement notice or undertaking has been complied with, offer to reinstate the occupier in the premises on the same terms subject to section 40 as when he occupied the premises prior to being required to vacate them.

(4) Without prejudice to subsection (2), the carrying out of works in pursuance of an improvement notice or an undertaking accepted under this Act shall not give rise to any liability on the part of a lessee to reinstate the premises at any time in the condition in which they were before the works were carried out, or to any liability for failure so to reinstate the premises.

Penalty for preventing execution of repairs

42 If any person—

- (a) being the occupier of any premises, prevents the owner thereof or his officers, agents, servants or workmen, from carrying into effect with respect of those premises any work required by an improvement notice or the subject of an undertaking accepted under this Act;
- (b) being the owner or occupier of any premises prevents any officers, agents, servants or workmen of the Minister from so doing,

a court of summary jurisdiction may order him to permit to be done on the premises all things requisite for carrying into effect those provisions, and if he fails to comply with the order, he commits an offence:

Punishment on summary conviction: in respect of each day during which the failure continues, a fine of \$100.

Vacation of premises in an improvement area

43 (1) Subject to sections 44 and 45 notwithstanding the Minister's other powers in relation to an improvement area if he wishes to demolish any building for the purpose of the redevelopment of the area or because he is of the opinion that it is not possible at reasonable expense to make the building, if a dwelling, fit for human habitation he may serve on the occupier of the building or any part of it a notice requiring him to quit the building, specifying the date on which he requires the building to be vacated which date shall not be less than twenty-eight days from the date of the service of the notice.

(2) If at any time after the date on which the notice served under subsection (1) requires a building to be vacated any person is in occupation of the building or any part thereof the Minister may apply to a court of summary jurisdiction for an order for possession of the building and upon such application the court shall, if satisfied that the Minister has given proper notice, direct the occupier to vacate the building by a specified date.

(3) If a direction under subsection (2) is not obeyed the Minister shall without further order be entitled to serve out a warrant directing the Provost Marshal to evict the occupier from the building.

Compensation to owner of building affected by section 43

44 When the Minister makes an order for the vacation of a building under section 43 he shall acquire the building under the Acquisition of Land Act 1970 [*title 19 item 2*] either by agreement with the owner or by compulsory purchase and section 30(2) and (3) shall apply mutatis mutandis to such acquisition.

Compensation to the tenants of a building affected by section 43

45 (1) The Minister shall pay to any person who has been ordered to vacate a building under section 43 such reasonable allowance as he thinks fit towards his expenses in removing, and to any person lawfully carrying on any trade or business in any such house he may pay also such reasonable allowance as he thinks fit towards the loss which, in his opinion, he will sustain by reason of the disturbance of his trade or business consequent on his having to quit the building, and in estimating that loss he shall have regard to the period for which the premises occupied by him might reasonably have been expected to be available for the purpose of his trade or business and the availability of other premises suitable for that purpose.

(2) When the Minister orders any person to vacate any dwelling under section 43 and where he is satisfied that no suitable accommodation is otherwise available on reasonable terms, he shall provide such accommodation for such person on reasonable terms.

PART V

LOANS

Government may make loans

46 (1) The Government, subject to the funds being made available by the Legislature, may make loans to the Corporation or to any other person approved by the Minister of Finance for any of the purposes set out in section 47(2).

(2) Any loan made under subsection (1) shall be subject to such rate of interest as the Minister of Finance shall decide and subject to such conditions as he may impose.

(3) If a loan is made under subsection (1) to a person other than the Corporation, the Minister of Finance may direct that it shall be administered on his behalf by the Corporation.

Loans by the Corporation

47 (1) The Corporation may subject to any special or general directions of the Minister make loans to any person for any of the purposes set out in subsection (2).

(2) Loans made under subsection (1) may be made for any of the following purposes—

- (a) the acquisition or leasing of land;
- (b) the construction of dwellings;

- (c) the provision of dwellings by the conversion of buildings;
- (d) the improvement of dwellings;
- (e) the improvement of land; or
- (f) any other purpose in connection with the improvement of dwellings in any area including the provision, repair or conversion of recreational facilities and buildings other than dwellings if the Minister considers such works are required to improve the area.

(3) No loan shall be made by virtue of this section for less than one thousand dollars.

Security for money lent or guaranteed

48 Any money lent or guaranteed by the Corporation shall be on the security of first mortgages or on such other security as the Minister of Finance may either specially or generally approve.

Rent Commissioner to fix rents

49 (1) Where a loan has been made under this Act for the construction or improvement of any premises or for the purchase of any land and the premises or land are leased, rented or allowed to be occupied by any person other than the person who received the loan the rent by whatever name called for such premises or land shall be fixed and may be varied from time to time by the Rent Commissioner under the Rent Increases (Domestic Premises) Control Act 1978 [*title 28 item 3*] whether the premises are domestic or not, whether the land is being used for domestic purposes or not or whether the premises are being used for the first time or not.

(2) In fixing or varying the rent of any premises or land under subsection (1) the Rent Commissioner shall take into account the rate of interest that is being paid in respect of any loan granted in respect of the premises or land.

Persons responsible for loans in following sections

50 In sections 51, 52, 53 and 54 Minister shall mean the Minister of Finance in respect of loans made with his approval under section 46(1) and in every other case for the word "Minister" there shall be substituted the word "Corporation".

Application for loans

51 Any application for a loan from the Minister shall be made in such form and in such manner as he shall from time to time determine.

Conditions for approval of application for a loan

52 (1) The Minister shall not consider an application for a loan if the works specified therein have been begun unless he is satisfied that there were good reasons for beginning the works before the application was approved.

(2) The Minister shall not consider an application for a loan unless he is satisfied that the land or buildings will remain in a satisfactory condition for not less than fifteen years and are likely to conform with the requirements with respect to construction and physical condition and the provision of amenities as are likely to be expected during such period.

Approval of application for a loan

53 (1) Where the Minister makes a loan he shall determine the amount of the expenses which, in his opinion, are proper to be incurred for the execution of the works specified in the application and shall notify the applicant of that amount; and the amount so notified is in this Act referred to as the approved expense of the works.

(2) Where the applicant satisfies the Minister that the works specified in the application cannot be or could not have been carried out without the carrying out of additional works and that this could not have been reasonably foreseen at the time the application for a loan was made the Minister may substitute a higher amount as the amount of the approved expense.

(3) In making a loan the Minister may require as a condition of paying the loan that the works specified in the application are carried out within such time, which must not be less than twelve months, as the Minister may specify or such further time as he may allow.

Payment of improvement grant

54 (1) A loan may be paid after the completion of the works towards the cost of which it is payable or part of it may be paid in instalments as the works progress and the balance after the completion of the works.

(2) Where part of a loan is paid in instalments the aggregate of the instalments paid shall not at any time before the completion of the works exceed one half of the aggregate cost of the works executed up to that time.

(3) The payment of a loan or of any part thereof shall be conditional upon the works or the corresponding part of the works being executed to the satisfaction of the Minister.

(4) If a complete loan or an instalment of a loan is paid before the completion of the works and the works are not completed within the time specified in subsection (5), all sums paid by the Minister as part of the loan shall, on being demanded by the Minister, forthwith become repayable by the person to whom the instalment was paid and shall carry interest at the statutory rate as fixed by the Interest and Credit Charges (Regulation) Act 1975 [title 17 item 22] from the date on which it was paid by the Minister until repayment.

(5) Where the Minister has specified no time under section 53(3) for the completion of the works the time referred to in subsection (4) is twelve months from the date on which the complete loan or instalment was paid or such further time as the Minister may allow; and where he has specified a time or allowed further time under section 53(3) the time referred to in subsection (4) is the time so specified or allowed.

PART VI
HIGHWAYS

Highways

55 (1) Notwithstanding the provisions in the Public Lands Act 1984 relating to highways the Minister with the concurrence of the Minister charged with responsibility for Works and Engineering may within a general improvement area create highways and designate their use either as footpaths or roads and divert any highways, private roads and rights of way in such area.

(2) Where the Minister creates a highway or diverts a highway over land not belonging to the Crown he shall acquire the land either by agreement or by compulsory purchase under the Acquisition of Land Act 1970 :

Provided that no compensation shall be payable where a highway is created or diverted over land which the Minister is satisfied has been used as a highway or right of way for ten years or more unless it is proposed that the use of the land should be changed from a footpath to a road.

(3) Any person aggrieved by a decision of the Minister that land has been used as a highway or right of way for ten years or more may appeal against the Minister's decision to a court of summary jurisdiction.

[Section 55 subsection (1) amended by BR 5/2011 para. 3 effective 25 February 2011]

PART VII
GENERAL IMPROVEMENT AREA TRIBUNAL

General Improvement Area Tribunal

56 (1) Where there is any doubt or dispute as to the ownership or right over any land or buildings in a general improvement area the Minister shall by order refer the matter to the General Improvement Area Tribunal established under subsection (2).

(2) For the purposes of this Act there shall be established a tribunal consisting of a Chairman, who shall be a barrister and attorney admitted to practice in the Supreme Court and two other members, appointed by the Minister to be called the General Improvement Area Tribunal.

(3) The Third Schedule shall apply in relation to the Tribunal.

(4) It shall be the duty of the Tribunal to determine in cases of doubt what persons have interests in a right over land in general improvement areas and the extent, if any, of such interests.

(5) For the purpose of this section there shall be a case of doubt as to the ownership or rights over any land or buildings if any person claims such ownership or right and the Minister does not accept such claim either in whole or in part or if the Minister is unable himself to determine whether any person or persons have any claim to ownership or rights over any land or buildings.

(6) Any order made under subsection (1) shall be published in the Gazette and in another newspaper on two occasions together with an invitation to anybody who believes that he has an interest in the land or buildings to inform the Minister and the Tribunal at an address to be stated within thirty days of the first publication of the order.

Service of summons on parties interested

57 (1) As soon as may be after the publication of an order under section 56 the Minister shall furnish the Chairman of the Tribunal with a statement in writing containing particulars of the persons who appear to the Minister to be potential claimants to the land or buildings described in the order and of the land or buildings to which their claim relates.

(2) On the receipt of the statement furnished under subsection (1) the Chairman of the Tribunal shall cause a summons to be served on every person mentioned in the statement of the Minister and every person who has informed the Tribunal that he has an interest in the land or buildings directing him to send particulars of his claim to the Tribunal and to appear before the Tribunal either in person or represented by a barrister and attorney at the time and place specified in the summons.

Hearing of claims

58 (1) At the hearing of claims the Tribunal shall hear all evidence available to them relating to claims to the land or buildings and when they are satisfied that so far as practicable all relevant facts have been presented and all claims properly submitted to them, shall decide what person or persons have established a claim and the interest or right which such person or persons have.

(2) Where a claimant is found by the Tribunal to have established his claim the Tribunal shall issue him a certificate signed by the Chairman and stating the nature of his interest in the land or right with respect thereto.

(3) The Chairman shall cause a copy of every certificate issued under subsection (1) to be sent to the Minister and to the Registrar-General for recording and registering under the Registrar-General (Recording of Documents) Act 1955 [*title 28 item 2*].

(4) The interest in any land stated in a certificate issued under subsection (2) shall be conclusive evidence in any court that such interest was held by the person to whom the certificate was issued at the date of its issue.

Power of Tribunal to obtain information

59 (1) For the purpose of an inquiry under this Act the Tribunal shall have power by order under the hand of the Chairman to summon any person to attend before them and to give evidence on oath or otherwise, and to require the production of documents, so as to elicit all such information as the Tribunal may consider necessary.

(2) Any person who—

(a) fails without reasonable excuse to attend before the Tribunal in compliance with an order under subsection (1);

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- (b) when in attendance before the Tribunal refuses to make any oath, or refuses to produce a document, or refuses to give evidence, in compliance with such an order as aforesaid,

commits an offence:

Punishment on summary conviction: a fine of \$250:

Provided that the person shall not be punished for refusing to answer any question or produce any document which he could not be required to answer or produce before a court.

Appeals

60 (1) Any claimant or the Minister may appeal to the Supreme Court against a decision of the Tribunal.

(2) The power of the Chief Justice to make rules of court under section 62 of the Supreme Court Act 1905 [*title 8 item 1*], shall include a like power in relation to appeals under subsection (1).

PART VIII

GENERAL

Circumstances under which bodies corporate may mortgage or lease land for thirty-five years

61 (1) Notwithstanding any other provision of law and notwithstanding its corporate powers a body corporate of any class may with the consent of the Corporation take a mortgage on or lease land in Bermuda for the purpose of the construction of dwellings of a type approved by the Corporation for periods of up to thirty-five years.

(2) In giving its consent to a mortgage or lease under subsection (1) the Corporation may restrict the occupation of any or all the dwelling to be constructed to any category or categories of person and may limit its consent accordingly.

(3) Any mortgage or lease in which there is included an option of renewal that would increase the period of the mortgage or lease to more than thirty-five years shall be deemed to be a mortgage or lease for a period of more than thirty-five years.

(4) Any person who permits the occupation of a dwelling mortgaged or leased by virtue of the consent of the Corporation under subsection (1) to any person who by virtue of subsection (2) is not permitted to occupy such a dwelling commits an offence:

Punishment on summary conviction: a fine of \$1,000.

Service of notice

62 Any notice or other document which is required or authorized under this Act to be given or served on any person may, in any case for which no other provision is made in this Act, be given or served—

- (a) by delivering to that person; or
- (b) by leaving it, or by sending it in a prepaid letter addressed to him, at his usual or last known residence; or
- (c) in the case of a corporate body or other body of persons, by delivering it to the secretary or clerk thereof at its registered or principal office, or by sending it in a prepaid letter addressed to the secretary or clerk at that office; or
- (d) in the case of a document to be given to or served on the owner or the occupier of any premises, if it is not practicable after reasonable inquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of "owner" or "occupier" of the premises (naming them) to which it relates, and by delivering it to some person on the premises, or, if there is no person on the premises it can be delivered, by affixing it, or a copy, to a conspicuous part of the premises.

Development and Planning Act 1974 and Public Health Act 1949 shall apply

63 (1) Any development, as defined in the Development and Planning Act 1974 [*title 20 item 1*], undertaken in a general improvement area by virtue of this Act shall be subject to that Act unless the Minister responsible for Development and Planning is satisfied that in respect of such development the proceedings under this Act have been such that all or any of the provisions of that Act should not apply.

(2) Where the Minister responsible for Development and Planning is satisfied by virtue of subsection (1) that any provision of the Development and Planning Act 1974 shall not apply he shall so order and shall publish such order in the Gazette and with effect from such publication the provision shall not apply.

(3) The provisions of this Act shall be in addition to and not in derogation of the provisions of the Public Health Act 1949 [*title 11 item 1*].

[Section 63 amended by BR 9/1990 effective 16 February 1990]

Functions to be carried out in conjunction with certain departments of Government

64 In carrying out their functions under this Act the Minister and the Corporation shall act in conjunction with the departments of Health, Social Services, Works and Engineering, and Environmental Protection in so far as such departments are generally responsible for the function being carried out.

[Section 64 amended by 2002:18 s.2 & Sch effective 1 April 2002]

Entry into buildings or on land

65 Subject to this section, any person authorized by the Minister, shall, on producing, if so required, a duly authenticated document showing his authority, be entitled to enter any building or on any land at all reasonable hours for the purpose of—

- (a) ascertaining whether any dwelling is fit for human habitation;

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- (b) whether the living conditions in any area are in need of improvement; or
- (c) whether circumstances exist which would allow the Minister to take any action or execute any work under this Act:

Provided that admission to any building or on any land shall only be demanded as of right if twenty-four hours' notice of the intended entry has been given to the person having control of the building or land or the occupier if either of them are reasonably available to be given the notice.

Amends No. 51 of 1975

66 *[omitted]*

Repeal of No. 92 of 1973

67 (1) The Bermuda Housing Corporation Act 1973 is repealed.

(2) The repeal of the Bermuda Housing Corporation Act 1973 shall not affect any statutory instrument, appointment, conveyance, mortgage, deed or agreement made, resolution passed, direction given, proceeding taken, instrument issued or thing done under that Act and if in force at 30 July 1980 shall continue in force and shall have effect as if passed, given, taken, issued or done under this Act.

FIRST SCHEDULE

(Section 6)

1 The three ex officio directors shall be public officers appointed by name or office respectively by the Minister of Finance, the Minister responsible for Social Services and the Minister responsible for housing and shall hold their appointments at the pleasure of the Minister appointing them.

2 (1) An appointed director shall be appointed for a period of three years, beginning on such day as may be determined by the Minister, and may, unless disqualified, be reappointed from time to time for a like period.

(2) An appointed director may resign his office at any time by notice in writing to the Minister.

3 The Minister may terminate the appointment of an appointed director at any time and shall terminate the appointment if he is satisfied that the director—

- (a) is unable through absence from Bermuda to perform to the satisfaction of the Minister the functions of his office;
- (b) has failed, without adequate cause, to attend three successive meetings of the Board;
- (c) would be disqualified for appointment by reason of the provisions of section 6(3);
- (d) has made a false or incomplete declaration for the purposes of section 6(4);
- (e) has failed to notify the Minister of any material changes in the nature of the financial interests required to be declared under section 6(5) which have occurred subsequent to such declaration.

4 (1) A person appointed to fill the place of a director before the end of the director's term of office shall hold office so long only as the vacating director would have held office.

(2) Where the place of a director becomes vacant before the end of his term of office and the unexpired portion of his term of office is less than three months, the vacancy need not be filled.

5 Subject to the provisions of this Act and to any directions given to the Board by the Minister, the Board shall meet for the dispatch of business and otherwise regulate its meetings and procedure as it may determine.

6 There shall preside at any meeting of the Board—

- (a) the Chairman; or

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- (b) in the absence of the Chairman, the Vice-Chairman; or
- (c) in the absence of the Chairman and Vice-Chairman, such director as those present may elect for that meeting.

7 Not less than 5 directors of whom not less than 3 shall be appointed directors shall form a quorum at a meeting of the Board.

8 Any question proposed for a decision by the Board shall be determined by a majority of the votes of the directors present and voting at a meeting of the Board at which a quorum is present; each director present shall have one vote on a question proposed for decision by the Board and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a second vote.

9 As soon as practicable after each meeting of the Board, a copy of the minutes of such meeting shall be forwarded to the Minister.

10 (1) All disposals of land, other than those required by law to be under seal, may be executed under the hand of any two directors.

(2) Any other document may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for the purpose.

11 The application of the seal of the Corporation shall be authenticated by the signatures of any two directors.

12 A decision or an act of the Board shall not be rendered invalid by reason only that there is a vacancy in the directorship of the Board or a defect in the appointment of a director or that a disqualified person acted as a director at the time the decision was taken or the act was done or authorized.

13 If a director or his spouse or any company of which he is a director or shareholder has any interest, direct or indirect, in any contract or proposed contract, or in any other matter which is the subject of consideration by the Board and whereby his interest may conflict with his duties as a director, he shall disclose the same to the Board and shall absent himself from the meeting while the matter is being discussed and voted upon.

14 Appointed directors shall be paid such fees and allowances out of the funds of the Corporation as the Board may, with the approval of the Minister, determine.

[First Schedule amended by 2010 : 31 s. 2 effective 25 June 2010]

SECOND SCHEDULE

(Section 9)

The Corporation shall have the following powers—

(1) The management of any estate or building together with any land or structures ancillary thereto over which the Corporation has control or in respect of which it has entered into a management agreement with any person.

(2) The assistance of persons in the preparation of programmes and plans for the acquisition or construction of dwellings and in the carrying out of such programmes and plans.

(3) In connection with any land or building developed, constructed or managed by the Corporation provide and maintain roads, foot paths, sewers, water supplies and other services.

(4) Enter into contracts with surveyors, architects, civil engineers, contractors, draftsmen and other persons connected with the acquisition, construction, improvement and rehabilitation of land and buildings for the planning, preparation and carrying out of works for and on behalf of the Corporation.

(5) The establishment and the making of contributions to provident, pension, superannuation, medical and other funds for its officers and staff and their dependants.

(6) The provision for its officers and staff of amenities and services and the making of financial allowances in respect of study, recreation and travel both on duty and on leave as is customary in the case of public Corporations.

(7) The promotion and the publicising of the need to use land and buildings to the best advantage of the community and the manner in which the need can be met.

(8) The carrying out of the following work—

(a) (with the prior approval in writing of the Minister in every case) to make investigations into, conduct surveys of, and gather information and compile statistics about, housing conditions in Bermuda generally and, in particular—

(i) the cost of construction of dwellings; and

(ii) the adequacy of residential accommodation,
in Bermuda or any part of Bermuda;

(b) to take steps, being steps of an educational nature and not involving any substantial expenditure of money by the Corporation itself, to promote the construction of cheaper, more efficient and generally better housing;

(c) to publish and distribute the results of the Corporation's activities under sub-paragraphs (a) and (b) in such legible or audible form as the Corporation may consider most useful to the public or any part of the public;

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(9) The exercise or performance of such other functions as are necessary for the Corporation to exercise or perform in order to carry out its duties and powers under this Act.

THIRD SCHEDULE

(Section 56)

PROVISIONS APPLYING TO THE TRIBUNAL

1 If any member of the Tribunal dies or resigns, or for any reason is unable to or, in the opinion of the Minister, is unfit to discharge his duties, the Minister may appoint another person in his stead.

2 Subject to paragraph 3 in any matter to be decided by the Tribunal the Chairman shall vote as a member and the decision shall be that of the majority of the members but in the event of an equality of votes the Chairman shall have a casting vote.

3 The interpretation, effect and application of any deed or document, and any question relating thereto, and of any question of law shall be decided by the Chairman of the Tribunal alone.

4 Subject to the provisions of this Act the Tribunal may regulate their own procedure, adjourn their proceedings from time to time as they consider necessary and may prescribe any forms to be used in connection with their proceedings,

5 The Tribunal shall not be bound by the rules of evidence in civil or criminal proceedings.

6 Where a vacancy occurs in the membership of the Tribunal during the hearing of any matter the Tribunal may continue to act notwithstanding such vacancy.

7 The Minister may be represented before the Tribunal by any public officer or by a barrister and attorney, any claimant may be represented by a barrister and attorney.

8 The Tribunal may inspect the land which is the subject of any proceedings before it under this Act and for that purpose may at any reasonable hour enter that land or any building thereon.

[this Act was brought into operation on 30 July 1980]

[Assent Date: 22 May 1980]

[Amended by:

1983 : 2

1984 : 6

1984 : 35

1988 : 19

BR 9 / 1990

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1993 : 54
2001 : 40
2002 : 18
2006 : 14
2008 : 45
2010 : 31
BR 5 / 2011]