

STATE OF SABAH

Housing and Town Development Authority Enactment 1981 (Sabah No. 20 of 1981)

LIST OF AMENDMENTS

<i>Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
2/1987	50, 51	16-4-1987
6/1988	34A, 34B, 34C	1-1-1982

An Enactment to repeal and re-enact the law relating to the establishment of a Housing and Town Development Authority and provide for matters incidental thereto and connected therewith so as to make better provisions respecting the constitution, administration, procedure, functions and finance of the Housing and Town Development Authority.

[1st January 1982]

ENACTED by the Legislature of the State of Sabah as follows :

PART I PRELIMINARY

Short title and commencement.

1. (1) This Enactment may be cited as the Housing and Town Development Authority Enactment 1981 and shall come into operation on such date as the Minister may, by notice in

the *Gazette*,* appoint.

(2) The Minister may appoint different dates for the coming into operation of different parts or provisions of the Enactment.

Interpretation.

2. In this Enactment, unless the context otherwise requires-

“Authority” means the Housing and Town Development Authority constituted under section 3;

“building” includes any house, hut, shed or roofed enclosure, whether used for the purpose of a human habitation or otherwise, and also any wall, fence, platform, staging, gate, post, pillar, paling, frame hoarding, slip, dock, wharf, pier, jetty, landing-stage or bridge, or any structure or foundation connected to the foregoing;

“buildings or works” includes waste materials, refuse and other matters deposited on land and reference to the erection or construction of buildings or works shall be construed accordingly;

“building operations” includes any building or erectional operations, rebuilding operations, structural alterations of or additions to buildings and other operations normally undertaken by a person carrying on business as a builder and the making of access roads, railways, water works, electrical installations and any road works preliminary or incidental to the erection of buildings;

“Chairman” means Chairman of the Authority;

“Collector” has the same meaning as in the Land Ordinance [Cap. 68.];

“Deputy Chairman” means Deputy Chairman of the Authority;

“functions” includes powers and duties;

“General Manager” means the General Manager appointed under section 20 of the

* In force 1 st January 1982 – See G.N. 86/82.

Enactment and includes any person for the time being so appointed to perform the duties of the General Manager;

“local authority” has the same meaning as in the Local Government Ordinance 1961 [Ord. 11/61.];

“member” means a member of the Authority including the Chairman and Deputy Chairman;

“Minister” means the Minister for the time being charged with responsibility for matters relating to housing and town development.

PART II ESTABLISHMENT AND CONSTITUTION OF AUTHORITY

Establishment of Authority.

3. (1) As from the commencement of this Enactment there shall be constituted the Housing and Town Development Authority which shall be a body corporate with perpetual succession, capable of suing and being sued in its corporate name and with power to purchase or otherwise acquire, hold, and exchange or alienate or otherwise deal with in any lawful manner whatsoever, any property movable and immovable, and to enter into contracts and generally to do such acts and things as a body corporate may do by law and as are necessary for, or incidental to, the carrying out of its objects and the exercise of its powers as set out in this Enactment.

(2) The Authority shall have a common seal which shall bear such device as the Authority may approve and such seal may from time to time be broken, changed, altered and made anew by the Authority, as the Authority may think fit.

(3) Until a common seal is provided under subsection (2), a stamp bearing the inscription “The Housing and Town Development Authority” may be used as the common seal of the Authority.

Composition of Authority.

4. (1) The Authority shall consist of the following members –

- (a) a Chairman;
- (b) a Deputy Chairman;
- (c) four *ex-officio* members, who shall be the Permanent Secretary of the Ministry of Local Government and Housing, the Permanent Secretary of the Ministry of Finance, the Permanent Secretary of the Ministry of Communications and Works and the Director of the Town and Country Planning Department;
- (d) not more than six other members; and
- (e) the person for the time being holding the office of the General Manager:

Provided that the General Manager shall not be entitled to vote at the meeting of the Authority.

(2) The members as specified in paragraphs (a), (b) and (d) of subsection (1) shall be appointed by the Yang di-Pertua Negeri.

(3) An *ex-officio* member may by instrument in writing addressed to the Chairman appoint another officer in the public service of the State as an alternate member who may attend on his behalf any meeting of the Authority which such member is for any reason unable to attend and such alternate member when attending such meeting shall for all purposes be deemed to be a member of the Authority.

(4) Subject to the provisions of section 7 of this Enactment, a member, other than an *ex-officio* member and the General Manager, shall hold office for a period of three years from the date of his appointment, and shall be eligible for re-appointment.

Resignation and revocation.

5. (1) A member, other than an *ex-officio* member and the General Manager, may at any time resign his office by giving notice in writing to the Chairman.

(2) The appointment of a member may at any time be revoked by the Yang di-Pertua Negeri if he thinks it expedient to do so.

Disqualification from membership.

6. The following persons shall be disqualified from being appointed as, or if appointed, remaining a member –

- (a) a person who is of unsound mind or otherwise incapable of performing his duties or managing his affairs;
- (b) a person who is prohibited from being a director of a company under the provisions of any written law relating to companies;
- (c) a person who has been convicted of any offence involving fraud, dishonesty or moral turpitude; and
- (d) a bankrupt.

Vacation of office.

7. The office of a member, other than an *ex-officio* member and the General Manager, shall become vacant –

- (a) on his death;
- (b) if he is absent from three consecutive meetings of the Authority without the special leave of the Chairman or leave of absence granted under this Enactment and the Authority passes a resolution declaring his office vacant;
- (c) if he resigns his office;
- (d) if he becomes disqualified for membership under section 6 of this Enactment;
- (e) if his appointment is revoked by the Yang di-Pertua Negeri.

Leave of absence.

8. The Minister may grant to any member such leave of absence as the Minister may deem fit.

Casual vacancies and temporary membership.

9. (1) If the office of a member other than an *ex-officio* member and the General Manager, becomes vacant, the Yang di-Pertua Negeri may appoint another suitably qualified person to fill such vacancy for so long only as the member in whose place he is appointed would have held office.

(2) Where any member, other than an *ex-officio* member and the General Manager, is prevented by illness, absence from the State or other like cause from performing his duties as a member the Yang di-Pertua Negeri may appoint any suitably qualified person to act as deputy for such member during such period as he is so prevented from performing his duties.

Remuneration of members of Authority.

10. There shall be paid to the members or such of them as the Minister may determine, such salaries, fees and allowance out of the funds of the Authority as the Minister may from time to time approve.

PART III
PROCEDURE OF AUTHORITY

Meetings.

11. (1) The Authority shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times as the Chairman may determine:

Provided that the Chairman shall not allow more than three months to elapse between such meetings.

(2) Where not less than three members, by notice in writing signed by them and addressed to the Chairman, request that a meeting of the Authority be held for any purpose specified in such notice the Chairman shall, within seven days of the receipt by him of such notice, convene a meeting accordingly.

Procedure of meetings.

12. (1) The quorum necessary for the transaction of the business of the Authority shall be five.

(2) In the absence of the Chairman from any meeting of the Authority, the Deputy Chairman shall preside thereat and, in the absence of both the Chairman and the Deputy Chairman, the members present shall elect one of their number to preside thereat.

(3) Questions arising at any meeting of the Authority shall be decided by the votes of the majority of those present and voting thereon and in the case of an equality of votes the Chairman or other person presiding at such meeting shall have a second or casting vote.

(4) Subject to the provisions of this Part, the Authority shall have power to make standing orders to regulate its own proceedings.

Members interested not to vote.

13. (1) Any member who has or acquires, directly or indirectly by himself, his partner or agent –

(a) any share or interest in any contract made with or work done for the Authority or in any company or with any person or in respect of any undertaking with which the Authority proposes to contract; or

(b) any beneficial interest in land proposed to be acquired, purchased, leased or otherwise dealt with by the Authority or which he knows to be affected or to be likely to be affected by any project, scheme or enterprise approved or proposed to be approved by the Authority,

shall, before taking part in any proceedings at a meeting of the Authority, relating to or affecting directly or indirectly any such contract or land, inform the person presiding at such meeting of the nature and extent of such share or interest, and such information shall be recorded in the minutes of such meeting, and such member shall not vote upon any resolution or question relating thereto or to matters incidental thereto and if the person presiding at the meeting so requests, such member shall withdraw from the meeting during such deliberation or decision:

Provided that no member shall be deemed to have or acquire any share or interest in a contract with the Authority by reason only that he has or acquires a share in any loan issued by the Authority or in any security for the same:

Provided further that for the purpose of determining whether there is a quorum a member who attends the meeting shall be treated as being present notwithstanding that, under the provisions of this section, he may not vote or has withdrawn.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable to a fine of one thousand ringgit and imprisonment for six months.

Power to appoint committee.

14. (1) Subject to the provisions of this Enactment, the Authority may, for any general or special purpose, appoint such committees as it thinks desirable.

(2) A committee may do all such things as may be necessary for the effective carrying out of its functions but shall be subject to the general directions of the Authority.

(3) A committee shall consist of a Chairman and not more than five other persons.

(4) A committee may consist of persons who are not members of the Authority.

(5) Members of a committee may be paid such remuneration or allowance as the Authority may, with the approval of the Minister, determine.

Meetings of a committee.

15. (1) In the absence of the Chairman of a committee from any meeting of the committee, such other member of the committee as may be elected by the members present shall preside over the meeting.

(2) The quorum for the meeting of a committee shall be three.

(3) Any question to be determined at any meeting of a committee shall be decided by the votes of the majority of those present and voting thereon, and in case of an equality of

votes the person presiding shall have a second or casting vote.

(4) A committee may invite to any of its meetings any person who can in its opinion contribute to its deliberations but such a person shall have no right to vote at the meeting.

(5) Subject to this section and the directions of the Authority, a committee shall regulate its own procedure.

Delegation of powers.

16. (1) The Authority may delegate to any committee, member, officer or servant of the Authority, such of its functions as it may deem necessary or desirable.

(2) Any functions delegated under this section –

(a) may be so delegated subject to such conditions or restrictions as the Authority may either generally or specially impose;

(b) shall be exercised by the committee, member, officer or servant concerned in the name and on behalf of the Authority.

(3) No delegation made under this section shall preclude the Authority itself from exercising or performing at any time any of the functions so delegated.

Power of Chairman to delegate.

17. (1) Subject to the provisions of this Enactment and of any rules made thereunder, the Chairman may delegate in writing to any member, officer or servant of the Authority the power and authority to carry out on his behalf such duties, powers or functions as he may determine.

(2) The Chairman may at the time of delegating any power or authority under subsection (1) to any member, officer or servant, or at any time thereafter give directions as to the manner in which such delegated power or authority is to be exercised and may at any time revoke, modify or increase such delegation.

Execution of document, etc..

18. (1) The common seal of the Authority shall be in the custody of the Chairman and shall not be used except in the presence of the Chairman or Deputy Chairman and one member and such use shall be authenticated by the signatures of such persons and such authentication shall be sufficient evidence that such seal was duly and properly fixed and that it is the lawful seal of the Authority.

(2) All documents, other than those required by law to be under seal, to which the Authority is a party may be signed on behalf of the Authority by the Chairman or any member or by any officer or servant generally or specially authorised in that behalf by the Authority.

Vacancy not to invalidate acts, etc..

19. (1) No act or proceeding of the Authority or any committee thereof shall be questioned on account of any vacancy among the member or on account of the appointment of any member having been defective.

(2) Until the contrary is proved, every meeting of the Authority or of any committee thereof shall be deemed to have been duly convened and held and all members present thereat shall be deemed to have been duly qualified.

(3) A statement in any document to the effect that any function has been delegated under this Part shall, unless the contrary is proved, be evidence that such delegation has been lawfully made.

PART IV
ADMINISTRATION

Appointment of General Manager, officers and servants.

20. (1) Subject to section 21, the Authority shall appoint a General Manager with the approval of the Minister, and such other officers and servants as may be necessary for carrying out its functions and duties under the Enactment.

(2) Whenever the General Manager is prevented by illness, absence from the State, or other like cause from performing his duties as such, or when the office of General

Manager is vacant, the Authority may appoint one of its officers to perform the duties of General Manager during such period as the General Manager is so prevented from performing his duties or the said office is vacant.

(3) Subject to the approval of the Government, the General Manager and other officers and servants of the Authority shall be engaged on such terms and conditions as the Authority may think fit.

Restriction on alterations in establishment.

21. The Authority shall not, without the approval of the Government, make any addition to its established posts.

General Manager as chief executive officer.

22. (1) The General Manager shall be the chief executive officer responsible to the Authority and shall perform such duties and exercise such powers as may be determined or delegated by the Authority.

(2) Subject to the directions and control of the Authority, all officers and servants of the Authority shall be under the administrative control of the General Manager.

Officer or servant not to be interested in contracts.

23. (1) No person shall be eligible for employment as an officer or servant of the Authority who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, for or on behalf of the Authority.

(2) Any officer or servant of the Authority who has or acquires any such share or interest shall be liable in the discretion of the Authority to summary dismissal without notice.

(3) No officer or servant shall be deemed to have or acquired any such share or interest by reason only that-

- (a) he is or becomes a member of an incorporated company which owns land situated in Sabah or has a contract with or executes work for the Authority; or

- (b) he has or acquires a share in any loan, issued by the Authority or in any security for the same.

PART V
FUNCTIONS OF THE AUTHORITY

Duties of the Authority.

24. Subject as hereinafter provided, it shall be the function and duty of the Authority-
- (a) to prepare and execute proposals, plans and projects for –
 - (i) the erection, conversion, improvement and extension of any building for sale, lease, rental or other purpose;
 - (ii) the development of all towns;
 - (iii) the redevelopment and extension of existing towns;
 - (iv) the clearance and redevelopment of slum areas;
 - (v) the development or redevelopment of areas designated by the Minister;
 - (vi) the development of rural or agricultural areas for the resettlement of persons displaced by operations of the Authority or other resettlement projects approved by the Minister;
 - (b) to provide and manage housing loans;
 - (c) to manage all lands, houses and buildings or other property vested in or belonging to the Authority;
 - (d) to carry out all investigations and surveys necessary for the performance of the functions and duties of the Authority;
 - (e) to do all such other matters and things as are necessary for the exercise or performance of all or any of the functions and duties of the Authority.

Submission of projects by the Authority.

25. (1) The Authority shall from time to time prepare and submit to the Minister proposals, plans and projects showing the nature of work proposed to be executed and other steps proposed to be undertaken by the Authority under the provisions of section 24 of this Enactment, and the Minister may reject or approve any such proposal, plan or project or any part thereof either without modification or subject to such modification as he may think fit.

(2) Every such proposal, plan or project submitted by the Authority under this section shall be in such form and contain such particulars as the Minister may direct.

Contracts.

26. The Authority may in accordance with rules made under this Enactment enter into such contracts as are necessary for the discharge of its functions and duties and in the case of contracts for the supply of goods or materials or for the execution of works such rules shall-

(a) require that, except as otherwise therein provided, notice of the intention to enter into such contracts shall be published and tenders invited;

(b) regulate the manner in which such notice shall be published and tenders invited:

Provided that a person entering into a contract with the Authority shall not be bound to inquire whether the rules have been complied with and all such contracts, if otherwise valid, shall have full force and effect notwithstanding that the rules applicable thereto have not been complied with.

Power of the Authority to enter into agreements.

27. The Authority may make and carry into effect, any agreement whereby the Authority undertakes to act as agent for the Government or statutory and local authority in the carrying out of site preparation, erection of houses or other buildings, the carrying out of repairs, the collection of rents or other payments, or in relation to any other services in connection with housing or buildings ancillary thereto.

The Authority may make *ex-gratia* payments.

28. The Authority may with the approval of the Minister make an *ex-gratia* payment to any person sustaining any damage by reason of the exercise of any of the powers vested in the Authority or its officers or servants under and by virtue of this Enactment.

Conformity with approved plan.

29. The Authority shall in all housing and development projects act in conformity with the approved plan.

Rent of housing accommodation provided under this Enactment.

30. The rent charged for any housing accommodation provided under this Enactment shall be such amount as may from time to time with the approval of the Minister be fixed by the Authority.

Charge on immovable property of the Authority.

31. (1) The Government shall be deemed to have a first charge, unless the Minister shall otherwise direct, on all immovable property at any time vested in, or acquired by the Authority to secure all moneys from time to time owing by the Authority to the Government or lent by the Government to the Authority.

(2) Subject to the provisions of the foregoing subsection and excepting only such charges and mortgages as were created, or made by the Authority with the approval of the Minister before such moneys became owing to or were advanced by the Government, such charge shall have priority over all other charges and mortgages.

(3) The Yang di-Pertua Negeri by virtue of such charge may, at any time, so long as there are moneys owing by the Authority to the Government –

- (a) sell the whole or any part of the immovable property of the Authority, either by public auction or private contract, and on such sale execute a conveyance of the immovable property sold, which conveyance shall, without the concurrence of the Authority vest such property in the purchaser;

- (b) by notification in the *Gazette* declare that the whole or any part of the immovable property of the Authority shall on a date to be mentioned in such notification vest in the Government, and thereafter the immovable property of the Authority described in the notification shall, on the date mentioned in the notification vest in the Government for all the estate, right, title and interest of the Authority, freed and discharged from all charges and mortgages, created or made by the Authority, saving only such charges and mortgages as are excepted in subsection (2) of this section and are subsisting securities;
- (c) appoint some person to receive the rents and other income which the Authority is entitled to receive, or any portion thereof, and to apply the same in discharge of the amount due and of all expenses incurred in respect of the appointment of such person, and of the recovery by him of the said rents and income, and the person so appointed shall have for the recovery of the said rents or other income, all and singular powers conferred by this Enactment on the Authority for the said purpose.

(4) Whenever any declaration has been made under this section notice thereof shall in the case of registered land be sent to the Registrar of Titles who shall thereupon enter in the land register a memorial of the registration of the vesting of the land in the Government.

PART VI FINANCIAL PROVISIONS

Fund of the Authority.

32. (1) There shall be established a fund to be known as the "Housing and Town Development Fund" which shall include a Capital Account and a Housing and Town Development Account.

(2) The Capital Account shall include particulars of the expenditure of moneys provided by the Government and by the raising of loans for the purpose of building.

(3) The Housing and Town Development Account shall contain-

- (a) on the income side-
 - (i) the proceeds of sales and rents from all property owned by the Authority;
 - (ii) contributions from tenants in respect of conservancy and service charges and income from other miscellaneous sources;
 - (iii) grants from the Government by way of subsidy or reimbursement;
- (b) on the expenditure side-
 - (i) the cost of administration of the Authority;
 - (ii) the cost of designing and supervising the erection of new buildings;
 - (iii) the cost of managing the housing estates;
 - (iv) contributions to the local authority in respect of rates, and payments to the local authority in respect of conservancy and service charges;
 - (v) the cost of maintenance of buildings;
 - (vi) contributions for housing repairs;
 - (vii) the payments of interest and repayments of principal on loans;
 - (viii) any other expenditure properly chargeable in the opinion of the Authority to such account.

Investment of funds.

33. The Authority may, from time to time, invest any of its funds, not immediately required to be expended in the meeting of the obligations or in the discharge of the functions of the Authority, in securities authorised for the investment of trust funds by any written law for the time being in force, and may place the same on deposit in any bank or banks licensed under

the provisions of the Banking and Financial Institutions Act 1989* [Act 372.] or in any undertaking as may be approved by the Minister of Finance.

Borrowing powers.

34. (1) The Authority may, from time to time, with the approval of the Minister of Finance, borrow money by the issue of debenture stock or otherwise as the Minister of Finance may direct for the purposes of this Enactment.

(2) The Authority may, from time to time, for the purpose of this Enactment, raise loans from the Government, or with the consent of the Minister of Finance, borrow by way of a temporary loan or overdraft from a bank licensed under the provisions of the Banking and Financial Institutions Act 1989*, or otherwise.

Loans may be secured by mortgage.

34A. The Authority may secure the repayment of any sum borrowed by the Authority or by a third party with the approval in writing of the Authority by the mortgage or charge, legal or equitable, of any property vested in the Authority, or of any revenue receivable by the Authority under this Enactment or any other written law.

Power to make loans.

34B. (1) Subject to such conditions as the Minister may deem fit to impose in particular cases, the Authority may, out of the Fund, make loan in accordance with the provisions of this Enactment in that behalf in the execution of its duties or in the discharge of its functions under section 24.

(2) In making loans under the provisions of subsection (1) the Authority may charge such rate of interest as it may deem fit in any particular case.

(3) Every loan shall be repaid to the Authority in accordance with the terms and conditions under which such loan was made and the moneys so paid shall thereupon be taken into the accounts of the Authority.

* "Banking and Financial Institutions Act 1989" substituted for "Banking Act 1973" by virtue of Act 372.

* "Banking and Financial Institutions Act 1989" substituted for "Banking Act 1973" by virtue of Act 372

(4) Every mortgage to secure loan and every instrument or charge under the provisions of this Enactment shall be approved by the Authority, and all costs, charges and expenses incurred in connection therewith shall be paid by the person to whom the loan is made.

Power to guarantee loans.

34C. The Authority may, with the written approval of the Yang di-Pertua Negeri, guarantee any loans made by any bank or financial institution to any applicant approved by the Authority for any purpose for which the Authority might itself have granted such loan.

Annual estimates.

35. (1) The Authority shall before the commencement of each financial year cause to be prepared and shall adopt annual estimates of income and expenditure of the Authority for the ensuing year.

(2) Supplementary estimates may be adopted by the Authority of any of its meetings.

(3) A copy of all annual estimates and supplementary estimates shall, upon their adoption by the Authority, be sent forthwith to the Minister for his approval.

(4) No expenditure shall be incurred by the Authority which has not been included in the annual estimates or supplementary estimates adopted by the Authority and approved by the Minister:

Provided that the Authority may pay-

- (a) sums deposited by the contractors or other persons whenever by the conditions of such deposit any sum has become repayable;
- (b) sums collected and credited to the funds of the Authority in error;
- (c) sums payable by the Authority under any award of the Collector or under any of the provisions of this Enactment or of any other written law relating to the acquisition of land for a public purpose or under any judgment or order of any

court;

- (d) any expenditure incurred to secure the proper execution of the functions and duties of the Authority under this Enactment which in the opinion of the Authority cannot be postponed provided that the Authority shall report such payment forthwith to the Minister:

Provided further that provision shall be made in a supplementary estimates for any payment made under paragraph (c) or (d) of the above-mentioned proviso.

Accounts.

36. (1) The Authority shall cause-

- (a) proper accounts and other records in relation thereto to be kept; and
- (b) an annual statement of accounts to be prepared.

(2) The annual statement of accounts of the Authority shall present a true and fair view of the financial position of the Authority, and of the results of the operations of the Authority for the year to which it relates.

(3) The financial year of the Authority shall be the period commencing on the 1st day of January and ending on the 31st day of December in each year.

Audit and statement of accounts.

37. (1) The accounts of the Authority shall be audited by the Auditor-General.

(2) The Authority shall not later than the 31st day of July of each year submit the accounts of the Authority for the preceding financial year to the Auditor-General for the purpose of audit.

(3) The Authority shall, when required by the Auditor-General, produce and lay before him all books and accounts of the Fund concerned, together with all vouchers in support thereof, and relating thereto, and the Auditor-General shall be entitled to require from the Authority, or any member, officer, servant, or agent of the Authority such information and explanation as he may deem necessary for the performance of his duties as an auditor.

(4) After the end of each financial year, as soon as the accounts of the Authority have been audited, the Authority shall cause a copy of the statement of accounts, together with a copy of any report made by the Auditor-General on that statement or on the accounts of the Authority, to be sent to the Minister who shall lay the same before the Legislative Assembly and cause a copy thereof to be published in the *Gazette*.

Annual report.

38. The Authority shall, as soon as practicable after the end of each Financial year, cause to be made and transmitted to the Minister a report dealing generally with the activities of the Authority during such year, and the Minister shall cause a copy of such report to be laid before the Legislative Assembly.

Bank account.

39. (1) All moneys paid to the Authority shall be paid into an account in such bank or banks licensed under the provisions of the Banking and Financial Institutions Act 1989* [Act 372.] as may be approved by the Authority.

(2) All orders against the said account shall be signed by the General Manager and countersigned by another officer of the Authority authorised in writing in that behalf by the Authority.

When tenders to be called.

40. Tenders for the execution of any work or duty, or for the supply of any materials or for other things necessary for the purposes of the Authority whereby the expenditure of the Authority is involved, shall be called in such cases and in such manner as the Government may generally or in any particular case direct.

* "Banking and Financial Institutions Act 1989" substituted for "Banking Act 1973" by virtue of Act 372

PART VII
GENERAL

Power of Minister to give directions.

41. (1) The Minister may give to the Authority directions of a general character, not inconsistent with the provisions of the Enactment, as to the exercise and performance by the Authority of its functions, and the Authority shall give effect to any direction so given.

(2) The Authority shall furnish the Minister with such information with respect to its property and activities as he may from time to time require.

Land acquired compulsorily.

42. (1) Where any immovable property, not being State land, is needed for the purposes of the Authority and cannot be acquired by agreement, the Authority may request and the Yang di-Pertua Negeri may, as he thinks fit, direct the acquisition of such property, and in such case, such property may be acquired in accordance with the provisions of any written law relating to the acquisition of land for a public purpose and any declaration required under any such law that such land is so needed may be made notwithstanding that compensation is to be paid out of funds of the Authority, and such declaration shall have effect as if it were a declaration that such land is needed for a public purpose made in accordance with such written law.

(2) When any land is acquired compulsorily by the Government at the request and for the purposes of the Authority under the provisions of any written law for the time being in force relating to such acquisition –

- (a) the Authority shall indemnify the Government against all costs, charges and expenses incurred by the Government in relation to such acquisition;
- (b) the Authority shall not, without the written consent of the Minister, sell, exchange or otherwise dispose of such land or any interest therein.

Transfer of property to Authority.

43. (1) The Yang di-Pertua Negeri may at any time by order vest any State land or

movable property of the Government in the Authority where it appears desirable to do so to enable the Authority to carry out its duties and responsibilities.

(2) Property vested in the Authority under this section may be so vested absolutely or subject to such terms and conditions as the Yang di-Pertua Negeri may think fit to impose.

(3) Where any land is vested in the Authority under this section a delivery of a copy of the order concerned shall, notwithstanding any provision of any State law to the contrary, be sufficient authority to any public officer charged with the responsibility for registering dealings with land or the issue of title thereto and any such officer shall thereupon, without payment of fee, take all necessary steps to perfect the title of the Authority to such land.

Emergency powers of General Manager.

44. In any case of emergency, the General Manager may direct the execution of any work or the doing of any act which the Authority is empowered to execute and do and which he is not by the provisions of this Enactment or the rules expressly empowered to execute or do and the immediate execution or doing of which is in his opinion necessary, and he may direct that the expense of executing the work or doing the act shall be paid from the funds of the Authority:

Provided that –

- (a) the General Manager shall not take any step under this section in contravention of any resolution of the Authority duly passed at a meeting; and
- (b) he shall report anything done under this section to the next following meeting of the Authority.

Power of suspension of executive functions.

45. Notwithstanding any other provisions of this Enactment, the Yang di-Pertua Negeri may by order suspend all or any of the executive functions of the Authority or of any member or any officer or servant thereof and assign the same to any person or persons for such period as he may deem fit.

Secrecy and penalty.

46. (1) Except for the purposes of this Enactment or of any criminal proceedings under this Enactment, no member, or officer or servant of the Authority shall disclose any information with respect to any individual business, which has been obtained by him in the course of his duties and which is not published in pursuance of this Enactment.

(2) Any person knowingly contravening the provision of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year.

Protection against legal proceedings.

47. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Authority or against the officer or servant appointed by the Authority in respect of any act done or statement made *bona fide* in pursuance or execution or intended execution of this Enactment.

(2) Where a person is exempted from liability by reason only of the provision of this section the Authority is liable to the extent that it would be if such person were a servant or agent of the Authority.

Public servants.

48. All members, officers and servants of the Authority shall be deemed to be public servants within the meaning of the Penal Code [Act 574.].

Public Authorities Protection Act 1948.

49. The Public Authorities Protection Act 1948 [Act 198.] shall apply to any action, suit, prosecution or proceeding against the Authority or against any member, officer, servant or agent of the Authority in respect of any act, neglect, or default done or committed by the Authority or such person in such capacity.

Persons authorised to prosecute.

50. Any prosecution for an offence under this Enactment may be conducted by any person

employed by the Board or by any public officer authorised in writing in that behalf by the State Attorney-General.

Sanction for prosecution.

51. No prosecution for any offence punishable under this Enactment shall be instituted except by or with the previous sanction in writing of the State Attorney-General.

Power to make rules.

52. (1) The Yang di-Pertua Negeri may make rules prescribing anything that is to be prescribed and providing for any matter in regard to which rules may be made under this Enactment and in particular for the following-

- (a) the method of entering into contracts by or on behalf of the Authority;
- (b) the delegation of powers to officers of the Authority;
- (c) the execution of documents, cheques and instruments of any description;
- (d) the opening, keeping, closing and internal audit of accounts of the Authority;
- (e) the conduct and discipline of officers and servants of the Authority;
- (f) loans and allowances or gratuities of officer and servants of the Authority;
- (g) housing accommodation for officers and servants of the Authority;
- (h) the professional and technical training of officers and servants of the Authority.

Repeal and Saving.

53. (1) The Housing and Town Development Authority Enactment 1967 [*En. No. 12/1967.*] is hereby repealed.

(2) Notwithstanding the repeal of the Enactment specified in subsection (1)-

- (a) the corporate body constituted under the repealed Enactment shall continue to exist as if the same had been constituted under this Enactment;
- (b) any right, privilege, obligation or liability acquired, accrued, or incurred under the repealed Enactment shall continue to be valid as if the same had been acquired, accrued or incurred under this Enactment;
- (c) any property of whatever nature possessed by or vested in the corporate body constituted under the repealed Enactment shall continue to be possessed by or vested in the Authority;
- (d) any deed, bond, agreement, instrument and working arrangement subsisting immediately before the commencement of this Enactment shall continue to be in force and effect against or in favour of the Authority;
- (e) any appointment made under the repealed Enactment or any subsidiary legislation made thereunder shall continue to be in force and have effect as if the same had been made under this Enactment;
- (f) any subsidiary legislation made under the repealed Enactment shall insofar as such subsidiary legislation is not inconsistent with the provisions of this Enactment continue to be in force and have effect as if the same had been made under this Enactment and may be repealed, extended, varied or amended accordingly;
- (g) any person's liability to be prosecuted or punished for offences committed under the repealed Enactment or any proceedings brought in respect of such offence before the commencement of this Enactment shall not be affected;
- (h) any proceedings, whether civil or criminal, or cause of action pending or existing immediately before the commencement of this Enactment by or against the corporate body constituted under the repealed Enactment may be continued or instituted by or against the Authority; and

- (i) any person who, immediately before the commencement of this Enactment, was employed as an officer or servant of the body corporate constituted under the repealed Enactment shall continue to be employed by the Authority as an officer or servant, as the case may be, upon the same terms and conditions of service.

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