

**17<sup>th</sup> July, 2014**

**THE HOUSING BILL, 2014**

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**THE HOUSING BILL, 2014**

**A Bill for**

**AN ACT of Parliament to give effect to Article 43 of the Constitution; to provide for the effective co-ordination, facilitation and monitoring of the housing and human settlements sector; to provide for the establishment of the Kenya Housing Authority and the National Housing Development Fund and for connected purposes**

**ENACTED by the Parliament of Kenya, as follows—**

**PART I- PRELIMINARY**

Short title and commencement.

1. This Act may be cited as the Housing Act, 2014 and shall come into operation on such date as the Cabinet Secretary may, by notice in the Gazette, appoint.

Interpretation.

2. In this Act unless the context otherwise requires—

“adequate housing” means housing with adequate space, privacy, safety, lighting, ventilation, security of tenure, basic and social infrastructural services, which is free from environmental hazards;

“Authority” means the Kenya Housing Authority established by section 5;

“basic infrastructure” includes water, sewerage, access roads, electricity, open drains and refuse storage facilities;

“Board” means the Kenya Housing Authority Board established by section 7;

“Cabinet Secretary” means the Cabinet Secretary

responsible for matters relating to housing”;

“Commissioner” means the Commissioner of Housing appointed under section 4;

“county government” means a county government as defined under Article 176 of the Constitution;

“Director-General” means the Director-General of the Authority appointed under section 12;

“employer” means any person or public body or any firm, corporation or company who or which has entered into a contract to provide housing for its employees and develops at least twenty housing units for the employees;

**Commented [d1]:** To be revisited after covering section on housing fund

“Fund” means the National Housing Development Fund established under section 36;

“house” means a building or immovable structure or any part thereof that is meant for human habitation;

“housing” means the process of creating shelter for humans in sustainable human settlements, and encompasses the local, national and international policies, programmes, strategies and practices that relate to the process and includes–

- (a) analysis of shelter needs and demand;
- (b) determination, organization and management of the production and maintenance of dwelling units including supporting infrastructure; and
- (c) the resources required for housing, while upholding environmental sustainability;

“housing developer” means a person or institution, whether public or private, that develops not less than twenty new housing units for sale or for purposes of renting out to the public;

**Commented [d2]:** Check how it is used in relation to public vs private

“housing development” includes construction and maintenance of housing units and housing infrastructure;

“housing estate” means a group of at least twenty housing units of any type of individual houses or blocks of flats, mainly of similar design, which are planned, built and managed as a unit by one organization;

“housing infrastructure” includes both trunk and basic on-site infrastructure such as water, electricity, sewerage, roads and open drains;

“housing unit” means any residential unit including a house, flat or an apartment occupied or intended for occupancy as a separate living quarter and having its own access;

“human settlement” means the totality of the human community, whether city, town or village, with all the social, material, organizational, spiritual and cultural elements that sustain it and consists of shelter, infrastructure and services;

“implementing agency” means any of the agencies specified under section 32;

“low-cost housing” means a housing unit—

- (a) comprising a minimum of two habitable rooms, cooking area and sanitary facilities and covering a gross floor area of between thirty to sixty square metres for each household, with basic infrastructure and services of standards stipulated by law; and

(b) of a cost of not more than two hundred times the prevailing statutory minimum wage;

“maintenance” means work necessary to keep and restore every part of building components and surroundings to a currently acceptable standard;

“National Housing and Human Settlement Secretariat” means the national office responsible for matters relating to housing and urban development;

“neighbourhood association” means a local community within an urban or rural area whose members are bound by common interests and is registered under any law;

“public housing” means housing development undertaken using public funds;

“residential unit” means any house designed for and used for human habitation;

“social housing” means adequate housing targeting low income segments of the population comprising a combination of subsidised rental housing including slum upgrading, funded by public resources or grants and managed by a public agency, non-governmental organisation or community-based organization;

“special programme” means a housing programme designed for specialized needs which is approved by the Cabinet Secretary;

“social infrastructure” means facilities and services developed for the well-being of the community and includes schools, social halls, health centres, market centres and other recreational facilities;

“sustainable human settlements” means well-managed entities in which economic and social development are in

balance with the carrying capacity of the natural environment on which they depend for their existence and result in sustainable development, wealth creation, poverty alleviation and equity;

“Tribunal” means the Tribunal established under section 46;

“trunk infrastructure” means physical installations which are off-site and are critical for the sustainable development of the site or estate and includes provision of water, sewer system, roads, electricity and any other critical services.

Objects of Act.

**3.** The object and purpose of this Act is to—

- (a) provide for the effective co-ordination, facilitation, and monitoring of the housing and human settlements sector;
- (b) provide for capacity building in the housing sector;
- (c) facilitate the progressive realization of the right to adequate housing;
- (d) facilitate the domestication of any international treaty, convention or other agreement relating to housing to which Kenya is a party;
- (e) facilitate the mobilization of resources for the provision of housing;
- (f) facilitate the provision and maintenance of housing and housing infrastructure;

- (g) facilitate access to adequate housing in sustainable human settlements;
- (h) promote orderly housing in a rapidly urbanizing nation;
- (i) facilitate the enhancement of partnerships among the implementing agencies in the housing delivery process;
- (j) promote the development and adoption of appropriate building materials, technologies and ideas;
- (k) promote the provision of special housing needs, including, but not limited to, the needs of persons with disabilities; and
- (l) secure land for public and social housing.

**PART II— THE COMMISSIONER OF HOUSING**

Commissioner of  
Housing.

**4.(1)** There shall be a Commissioner of Housing who shall be appointed by the Public Service Commission.

(2) A person shall be qualified for appointment as Commissioner of Housing if such person—

- (a) has at least ten years experience in the housing and human settlements sector;
- (b) is a registered architect, quantity surveyor, engineer, surveyor, physical planner, or is registered as an associate or lead environmental impact assessment consultant by the National Environmental Management Authority;
- (c) is the holder of Master's degree in the field of, housing administration, urban management,

urban or regional planning, valuation and property management, architecture, civil, electrical, mechanical or structural engineering, land economics, building economics, estate management, building management, economics, construction, management, economics, sociology, environmental studies, community development, business administration or equivalent qualification from a university recognised in Kenya; and

- (d) has demonstrated a high degree of professional, administrative and managerial competence necessary for the effective management of the functions of the departments responsible for matters relating to housing.

(3) The Commissioner shall—

- (a) advise the Cabinet Secretary on all matters relating to housing and human settlement; and
- (b) perform such other functions as are conferred by or under this Act.

(4) In carrying out the functions under this Act, the Commissioner shall—

- (a) issue licenses to and register housing developers and investors;
- (b) determine standards for the provision of housing to consumers;
- (c) ensure that housing and human settlements development projects are carried out in accordance with this Act;

- (d) develop and ensure compliance with guidelines for the collection of consumers deposits for intended housing developments;
- (e) develop and undertake a comprehensive integrated and continuous national shelter programme at local and regional levels to ensure adequate housing;
- (f) issue permits to authorize developers to receive deposits on intended housing developments;
- (g) co-ordinate and provide information, expertise and technical assistance to county governments in developing solutions to housing and urban renewal problems within their respective jurisdictions;
- (h) monitor compliance with established standards for the design, construction, operation and maintenance of housing facilities;
- (i) develop and review guidelines for the pricing of houses;
- (j) in collaboration with other agencies, develop, issue and enforce guidelines for eviction and resettlement;
- (k) advice the Cabinet Secretary on the national housing policy and other policies relating to housing;
- (l) prescribe and set standards for housing development, estate management and maintenance;
- (m) formulate guidelines and appropriate specifications for housing and human settlement

development in hilltops, slopes, valleys, areas prone to earthquakes and floods and other disaster prone areas;

- (n) liaise with other bodies for the better regulation and management of the housing sector;
- (o) issue, renew, suspend or revoke registration, licenses and permits for activities in the housing sector in accordance with this Act;
- (p) formulate, and review environmental, health, safety and quality standards for the housing sector, in collaboration with other relevant statutory authorities;
- (q) make proposals to the Cabinet Secretary, on regulations necessary to regulate the housing sector or for carrying out the objects and purposes of this Act;
- (r) advise the Government on the adoption, signing, ratification and domestication of international and regional instruments relating to housing and human settlement;
- (s) discharge the responsibilities of the government that arise as a result of the ratification of the instruments under paragraph  
  
and other agreement termed into with other bodies; and
- (t) co-ordinate the National Housing and Human Settlement Secretariat.

**Commented [d3]:** May need to be split for better readability

(4) The Public Service Commission shall appoint such other officers as may be deemed necessary for the purposes of this Act.

(5) The Commissioner may, in writing, delegate any of his powers and functions under this Act, either generally or specifically to an officer appointed under subsection (4).

**PART III—ESTABLISHMENT, POWERS AND  
FUNCTIONS OF THE AUTHORITY AND THE  
BOARD.**

Establishment of the  
Authority.

**5.**(1) There is established an Authority to be known as the Kenya Housing Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name be capable of-

- (a) suing and being sued;
- (b) taking, purchasing, or otherwise acquiring, holding, charging or disposing of moveable and immovable property;
- (c) entering into contracts;
- (d) borrowing money; and
- (e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

Functions and powers of  
the Authority.

**6.**(1) The object and purpose for which the Authority is established is to exercise general supervision and control over all matters relating to housing and human settlement.

(2) Despite the generality of subsection(1), the Authority shall-

- (a) facilitate access to adequate housing in sustainable human settlements;
- (b) obtain funds to facilitate land acquisition, infrastructure development and housing provision and end user financier;
- (c) collaborate with county governments to facilitate the development of housing;
- (d) monitor and evaluate the performance of the housing sector against set goals and objectives for their effectiveness and equitability;
- (e) facilitate and promote research on housing, including research on building materials and technologies;
- (f) liaise with other institutions to develop disaster preparedness and post disaster response interventions on housing and human settlements;
- (g) collaborate and liaise with development partners in the development of housing;
- (h) promote new and innovative forms of housing and land tenure systems to meet the needs of the poor and vulnerable, including persons with disabilities;
- (i) collect, receive, analyse, collate maintain, and disseminate data on the housing sector;
- (j) mobilize resources, approve, allocate and disburse funding for housing and ensure effective and efficient utilization and accounting of the funds disbursed;

- (k) identify and secure land for housing;
- (l) facilitate capacity building and development to support and strengthen the housing sector and in particular the implementing agencies; and
- (m) in consultation with county governments—
  - (i) develop, review and enforce estate management and maintenance regulations and guidelines;
  - (ii) formulate acceptable estate management and maintenance standards;
  - (iii) encourage neighbourhood associations to participate in estate management and maintenance matters to complement county governments;
  - (iv) provide a framework for joint management of common facilities by neighbourhood associations;
  - (v) inspect and certify, every five years, that all residential buildings meet acceptable maintenance standards and subject thereto, issue a certificate of maintenance;
  - (vi) undertake public education and sensitization on the need to keep the built environment clean and habitable; and
  - (vii) undertake such other measures as shall, from time to time, be deemed necessary for the achievement of acceptable estate management and maintenance standards; and
- (n) perform such other functions as may be necessary for the purposes of this Act.

Establishment and  
membership of Board.

7. (1) The management of the Authority shall vest in a Board, to be known as the Kenya Housing Board, which shall consist of—

- (a) a non-executive chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the Ministry responsible for matters relating to housing;
- (c) the Principal Secretary in the Ministry responsible for matters relating to finance;
- (d) the Principal Secretary in the Ministry responsible for matters relating to counties;
- (e) the Chairperson of the National Land Commission;
- (f) the Attorney-General or his representative;
- (g) one person nominated by the Kenya Private Sector Alliance;
- (h) three persons nominated by the Association of Professional Societies in East Africa;
- (i) one representative nominated by the civil society caucus on housing; and
- (j) the Director-General who shall be an ex-officio member and secretary of the Board.

(2) The chairperson shall be appointed from among three persons with knowledge and at least ten years experience in matters relating to housing and urbanisation, submitted to the President by the Cabinet Secretary.

(3) The members of the Board under subsection (1) (g), (h) and (i) shall be appointed by the Cabinet Secretary.

(4) In appointing members to the Board, the appointing authority shall observe the principle of gender equity.

(5) The members referred to under subsection (1)(b),(c),(d),(e) and (f) may in writing, designate an officer to represent them on the Board.

(6) The appointment of the chairperson and the members of the Board appointed under subsection (1) (g), (h) and (i) shall be by name and by notice in the Gazette.

(7) The chairperson and the members of the Board, other than the ex-officio members, shall hold office for a

term of three years and shall be eligible for re-appointment for one further term of three years.

(8) The members appointed under subsection (1) (g), (h) and (i) shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.

(9) The Schedule shall apply with respect to the conduct of business and affairs of the Board.

(10) Except as provided in the Schedule, the Board shall regulate its own procedure.

Functions of the Board.

**8.(1)** The Board shall—

(a) formulate and review the policies of the Authority;

- (b) monitor the performance of the Authority;
- (c) approve the budgetary estimates of the Authority;  
and
- (d) perform any other functions as may be necessary for the exercise of its powers and functions under this Act.

(2) The Board may establish committees consisting of members of the Board to carry out any of its functions.

(3) The Board may co-opt into the membership of the committees established under subsection (2), other persons whose knowledge and skills are necessary for the functions of the Board.

Powers of the Board.

**9.** The Board shall have all the powers necessary for the proper performance of the functions of the Authority under this Act and, in particular but without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) manage, control and administer the assets of the Authority in such manner and for such purposes as best promote the purpose for which the Authority is established;
- (b) receive any gifts, grants, donations or endowments made to the Authority and make disbursements therefrom in accordance with the provisions of this Act;
- (c) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Authority is established;

(d) open a banking account or banking accounts for the funds of the Authority; and

(e) perform any other functions as may be necessary for the furtherance of the objects of this Act.

Delegation by Board.

**10.**(1) The Board may, by instrument of delegation, delegate to the chairperson, a member of the Board, an officer of the Authority or to committee of the Board any of the powers, duties or functions of the Board under this Act.

(2) The terms and conditions regulating the exercise of the powers delegated under subsection (1) shall be contained in the instrument of delegation.

Remuneration of Board members of the Board.

**11.** Members of the Board shall be paid such remuneration or allowances as the Public Commission may, on the advice of the Salaries and Remuneration Commission determine.

Director-General.

**12.** (1) There shall be a Director-General of the Authority who shall be appointed by the Board on such terms and conditions as the Board may determine and which shall be specified in his instrument of appointment.

(2)The Director-General shall be the chief executive officer of the Authority and shall be responsible for the day to day management of the Authority.

(3) A person shall be qualified for appointment as Director-General if such person—

(a) is the holder of a post graduate degree in a field that relates to the built environment including architecture, urban management, building economics, valuation, economics, land economics, urban and regional planning, engineering, housing

administration, construction management,  
environmental health science and sociology;

(b) has not less than fifteen years practical experience in the housing and human settlements sector or in a related field, five of which have been in a senior management position in the private or public sector; and

(c) is registered with the relevant body in the housing sector.

(4) The Director-General shall hold office for a term of five years and shall be eligible for re-appointment for one further term of the five years.

Removal of Director-General.

**13.(1)** The Director-General may be removed from office by the Board for—

(a) inability to perform the functions of the office arising out of physical or mental incapacity;

(b) gross misconduct or misbehaviour;

(c) incompetence or negligence of duty;

(d) violation of the Constitution or any other law;

(e) bankruptcy; or

(f) any other ground that would justify removal from office under the terms and conditions of service.

(2) Where the question of the removal of the Director-General under subsection (1) arises, the Board shall—

(a) in writing, inform the Director-General of the reasons for the intended removal; and

(b) give the Director-General the opportunity to be heard in accordance with the principles of fair administrative action prescribed under Article 47 of the Constitution.

Staff of the Authority.

**14.**(1) The Authority may appoint such officers and staff as may be necessary for the proper and efficient performance of its functions.

(2) The officers and staff appointed under subsection(1) shall hold office on such terms and conditions as may

be determined by the Board and specified in their instruments of appointment.

(3) The Public Service Commission may, upon request by the Board, second to the Authority such number of public officers as may be necessary for the proper performance of the function of the Authority.

(4) A public officer seconded to the Authority shall, during the period of secondment, be deemed to be an officer of the Authority, and shall be subject only to the direction and control of the Authority.

Protection from personal liability.

**15.** No matter or thing done by a member of the Board, or any officer or agent of the Authority shall, if the matter or thing is done in good faith for executing the powers, functions or duties of the Authority, render the member of the Board, officer or agent personally liable to any action, claim or demand whatsoever.

Liability of Authority for damages.

**16.** The provision of section 15 shall not relieve the Authority of the liability to pay compensation for damage to any person for any personal or property interest sustained by the person as a result of the exercise of any power conferred by this Act or by the failure, whether wrongly or partially of any works.

Regional offices. **17.** The Authority may establish such administrative units and regional offices, as may be necessary for the performance of its functions.

**PART IV – FINANCIAL PROVISIONS**

Financial year. **18.** The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in every year.

Funds of the Authority. **19.** The funds of the Authority shall consist of—

- (a) moneys from the National Housing Fund approved under section 26;
- (b) moneys appropriated by Parliament for the purposes of the Authority;
- (c) such funds as may vest in or accrue to the Authority in the performance of its functions under this Act or any other written law;
- (d) grants, loans, gifts or donations from any other source, provided for the use of the Authority; and
- (e) moneys from any other lawful source accruing to the Fund.

Annual estimates. **20.** (1) At least three months before the commencement of each financial year, the Authority shall cause to be prepared estimates of the revenue and expenditure of the Authority for that year.

(2) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate, and shall be submitted to the Cabinet Secretary for approval and after the Cabinet Secretary has approved the estimates, the Board shall not increase any sum

provided in the estimates without the written consent of the Cabinet Secretary.

(3) No expenditure shall be incurred for the purpose of the Authority except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the Board given with the prior approval of the Cabinet Secretary.

Accounts and Audit.

**21.**(1) The Authority shall keep proper books and records of accounts of the income, expenditure, assets and liabilities of the Authority.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General the accounts of the Authority in respect of that year, together with—

- (a) a statement of income and expenditure of the Authority during that financial year; and
- (b) a statement of the assets and liabilities of the Authority on the last day of that financial year.

(3) The accounts of the Authority shall be examined, audited and reported upon by the Auditor-General in accordance with the Public Audit Act.

No.12 of 2003.

Investment of Funds.

**22.** The Board may—

- (a) invest any of the funds of the Authority in securities in which the Board may, by law, invest trust funds or in any other securities which the National Treasury may, approve; and

- (b) deposit, with such bank or banks as it may determine, any money not immediately required for the purposes of the Authority.

Principles of operation.

**23.** The Authority shall perform its functions in accordance with sound financial principles.

Charges and fees to be gazetted.

**24.** The Authority shall publish a notice of any levy, charge or fees for any of its services, in the Gazette.

Annual report.

**25.**(1) The Board shall, at the end of each financial year prepare an annual report.

(2) The Board shall submit the annual report to the Cabinet Secretary three months after the end of the year to which it relates.

(3) The annual report shall contain in respect of the year to which it relates—

- (a) the financial statement of the Authority;
- (b) a description of the activities of the Authority;
- (c) an overview of the policy and operations of the Authority;
- (d) the impact of the exercise of its functions;
- (e) any impediments to the achievement of its objects and functions;
- (f) such other statistical information as the Board may consider appropriate relating to the functions of the Authority;
- (g) an assessment of the adequacy of funding for housing;

- (h) the degree to which sources for housing financing have been exploited and the cost of housing operations;
- (i) a report on the condition of the housing network and the degree of change in condition since the last report, the projected optimal level of the network and the extent of financing required to meet that level;
- (j) a review of the technical adequacy and proven cost efficiency of housing management operations; and
- (k) any other information relating to its functions that the Board considers necessary.

Administrative expenses of the Authority.

**26.** The operational, administrative and management expenses of the Authority shall be met from such proportion of the Fund as may be determined from time to time by the Board and approved by the Cabinet Secretary .

#### **PART V – FACILITATION OF HOUSING**

Implementing agencies.

**27.**(1) The Authority may facilitate the provision of housing and infrastructure through any of the following implementing agencies–

- (a) county governments;
- (b) mortgage providers;
- (c) building societies;
- (d) housing cooperatives;
- (e) housing developers;

- (f) neighbourhood associations;
- (g) employers; or
- (h) any other agency appointed by the Cabinet Secretary on the advise of the Authority.

(2) An implementing agency specified under subsection (1) may apply to the Authority for funding for a housing related project.

(3) The Authority shall, within ninety days of receiving an application for funding of a housing project under subsection (2), determine the application.

(4) The Authority may, in determining an application made under subsection (2)–

- (a) make available to the implementing agency the full or part of the funding for the housing project applied for; or
- (b) reject the application, giving reasons for the rejection.

(5) Funding for a housing project issued under subsection (4) may be subject to such conditions as may be prescribed any this Act or by the Authority.

Annual work program.

**28.**(1) The Authority shall, not later than six months before the end of each financial year, prepare and submit to the Board for approval an annual work program.

(2) Any activity not specified in the housing investment programme approved under section 22 shall only be undertaken with the approval of the Cabinet Secretary, and shall be funded by the person, body or agency recommending it.

(2) The housing investment programme prepared under subsection (1) shall outline development and maintenance priorities indicating the costs with respect to specified housing programmes and such other details as may be prescribed.

(3) All annual work programmes prepared or implemented by the Authority shall be based on the housing investment programme approved under this section.

Land for housing development.

**29.** The Authority shall, in consultation with county government and the National Land Commission, facilitate access to land for housing, human settlements development and related infrastructure and in that regard shall—

- (a) seek concessions on land rents and rates chargeable on land for development of low-cost housing;
- (b) petition the National Land Commission for repossession of any urban land zoned for housing that remains undeveloped for a period exceeding that set in the terms of allotment and re-allocate such land to the Authority for public and social housing purposes;
- (c) apply to the National Land Commission for compulsory acquisition of any private land necessary for public housing; and
- (d) safeguard land zoned for purposes of housing and human settlements from reallocation.

Infrastructure for housing development.

**30.** The Authority shall facilitate installation, expansion and improvement of infrastructural facilities and services for housing development and in that regard shall—

- (a) provide trunk infrastructure and services in urban and peri-urban areas in consultation with all the relevant agencies;
- (b) reimburse a developer where the developer meets the cost of trunk infrastructure through public private partnerships; and
- (c) co-ordinate with other partners to develop infrastructure through public privates partnerships.

Establishment of the National Housing Development Fund.

**31.**(1) There is established a Fund to be known as the National Housing Development Fund which shall vest in and be managed by the Authority.

(2) The Fund shall be used for the approved administrative expenses of the Authority and to finance the development of housing.

(3) There shall be paid into the Fund—

- (a) such money as may be appropriated out of the Consolidated Fund for the purposes of the Fund;
- (b) five percent of annual government revenue for the first ten years from the date the Fund becomes operational;
- (c) income from any investments by the Authority;
- (d) money accruing from the repayment of capital and interest of any loan advanced by the Authority;

- (e) money realized as a result of sale, lease or premium on any asset under the provisions of this Act;
- (f) money accruing to the Authority from levies, contributions from the beneficiaries of housing schemes, fees and licenses;
- (g) grants, gifts, donations or bequests made to the Fund; and
- (h) money received by the Authority from any other source.

(4) The Fund shall be administered by the Director-General under the direction of the Board.

(5) All receipts, earnings savings or accruals of the Fund and the balances of the Fund at the end of each financial year shall but shall be retained for the purposes of the Fund.

(6) The Board may with the approval of the Cabinet Secretary, determine the amount of money which may be spent on recurrent expenditure in any one year.

Administration and  
utilization of the Fund.

**32.**(1) The Authority shall, in consultation with the Cabinet Secretary, prescribe the criteria for eligibility to the Fund including lending limits, repayment terms, applicable interest thereon, extension of grants and any other related matters.

(2) The Authority shall prescribe the procedure for applying for funds from the Fund.

(3) The Board shall approve all expenditure from the Fund.

(4) There may be financed from the Fund any approved expenditure in respect of any of the following elements of housing development—

- (a) housing infrastructure;
- (b) affordable housing finance;
- (c) research on appropriate building materials and technologies;
- (d) slum upgrading and redevelopment;
- (e) social housing;
- (f) acquisition and management of land for housing and human settlements;
- (g) housing maintenance and management.

(4) All expenditure from the Fund shall be subject to an annual budget which shall be approved by the Board in accordance with this Act before the beginning of the financial year to which the budget relates.

(5) There shall be paid out of the Fund all sums required to defray the expenditure incurred by the Authority in the exercise its powers, discharge of its functions and performance of its duties.

Special programmes.

**33.**(1) The Cabinet Secretary shall, on the advice of the Authority, gazette such special programmes as shall be necessary to fulfil the objects of this Act.

(2) The Authority may fund a special programme gazetted under subsection (1)

(3) A special programme that is funded by the Authority may have independent management structures but shall be accountable to the Authority with regard to the funds

received from the Authority and in that regard the Authority shall—

- (a) require each special programme to submit annual budget;
- (b) require each special programme to submit strategic plans, annual work plans, accounts and project implementation reports for review and advice;
- (c) negotiate and set targets for each special programme and monitor its performance;
- (d) periodically report to the Cabinet Secretary on the status and progress of each special programme for further direction where necessary; and
- (e) advise the Cabinet Secretary on degazettement of any special programme.

Accounts and reports of the Fund.

**34.** (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure and assets and liabilities of the Authority.

(2) The accounts and records of the Fund shall be made available to the public for inspection at the offices of the Authority during normal working hours on payment of the prescribed fee.

#### **PART VI—RESEARCH, MONITORING AND EVALUATION**

Research on housing

**35.** The Authority shall promote research on housing, building materials and technologies, and shall, in that regard—

- (a) collaborate with other institutions in the funding and coordination of research;

- (b) advise the Cabinet Secretary on recommendations to the National Treasury on tax concessions in respect of building materials to ameliorate housing construction costs;
- (c) ensure that new technologies and building materials are tested and certified by relevant institutions to uphold set standards;
- (d) promote and disseminate research findings on cost effective materials and technologies;
- (e) promote the production and availability of conventional building materials;
- (f) promote wider adoption and application of building by-laws and planning regulations;
- (h) promote training in requisite skills and construction technologies by appropriate institutions;
- (i) encourage a forestation to ensure increased production of timber;
- (i) promote use of indigenous architecture that is suitable to local environments;
- (j) ensure rehabilitation of sources of building materials;
- (k) promote the adaptation of internationally acceptable measurement criteria to help set appropriate standards for housing development and to enable monitoring of progress; and
- (l) carry out such other activities as may be deemed necessary for the advancement of research and its application to housing.

Maintenance of housing data and information systems.

**36.**(1)The Authority shall establish and maintain a national housing data bank and information system.

(2) The objects of the data bank and information system shall be to-

- (a) record information for the purposes of development, implementation and monitoring of the housing sector;
- (b) provide reliable information for purposes of planning and development;
- (c) provide macro-economic and other information with a view to integrating national housing policy with monetary and fiscal policy and the coordination of housing development with related activities;
- (d) collect, compile and analyse categorised data in respect of housing development, including data categorised according to gender, age and geographical location;
- (e) collect, compile and analyse data pertaining to funds disbursed for housing and outstanding mortgages, mortgage default and delinquency rates, transaction costs for housing purchase; and
- (f) monitor any other aspects of the housing development process.

(3) For purposes of establishing and maintaining a data bank, the Authority shall -

- (a) obtain access to existing sources of information;

- (b) coordinate information required for the purposes of the data bank with other official sources of information;
- (c) require periodical feedback as shall be deemed necessary for housing development from various actors in the housing sector; and
- (d) designate specific agencies including local authorities, relevant professional bodies and the provincial administration as agents of the Authority to collect and compile data where necessary.

Monitoring and evaluation of housing developments.

**37.(1)** For purposes of monitoring the housing sector, the Authority shall-

- (a) require any person or institution to provide any information necessary for the purposes of the data bank or information system and determine the form and manner in, and the time within which such information shall be supplied:

Provided that the principle of confidentiality of information shall not be compromised in the process;

- (b) render to local authorities, public or private bodies or individuals any assistance required for purposes of performing the duties specified in paragraph (a);
- (c) link the data bank or the information system to any other data bank, information system or other system within or outside the Authority;
- (d) subject to any other written law prohibiting or regulating the disclosure of information, limit

or refuse access by any person or category of persons to any information in the data bank or information system, or in any part of that bank or system that was obtained from –

- (i) any state source, if access by any such person or category of persons to such information in or at that source is limited or prohibited;
- (ii) any source other than a state source on condition that such information would not be accessible to any such person or category of persons;
- (iii) any source in respect of which the disclosure of such information would unfairly prejudice any person or give any person any unfair advantage over any other person;
- (e) determine and collect, for the benefit of the Fund, fees payable for the supply of, or the granting of access to any information in the data bank and information system; and
- (f) take any steps reasonably necessary for the Authority to achieve the objects of the data bank and information system.

(2) A person who fails to provide information under subsection (1)(a) commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or to both.

Obligations of data providers.

**38.** Local authorities, public and private bodies and individuals shall–

- (a) collaborate with the Authority in performing its duties and exercising its powers under section 42;

(b) support the objects for which the data bank and information system have been established; and

(c) refrain from any act or omission, which may prejudice the effective functioning of the data bank and information system.

Monitoring and evaluation of housing developments.

**39.** The Authority shall formulate and develop a dynamic monitoring and evaluation system as well as processes that will ensure proper feedback in order to respond to any constraints identified in the housing sector.

#### **PART VII—DISPUTE RESOLUTION**

Reference of disputes.

**40.**(1) All disputes and complaints relating to matters pertaining to the implementation of the provisions of this Act shall be referred to the Tribunal established under section 46.

Establishment of the Tribunal.

**41.**(1) There is established a tribunal to be known as the Housing Tribunal which shall consist of—

(a) a chairperson who shall be a person qualified to be appointed a judge of the High Court;

(b) an advocate of the High Court nominated by the Law Society of Kenya who shall be the vice chairperson;

(c) one person nominated by the Kenya Institute of Planners; and

(d) one person nominated by the Institution of Surveyors of Kenya.; and

(e) one person with knowledge and experience in housing and human settlements sector nominated by the Non-Governmental Organization Board.

(2) A member of the Tribunal shall hold office for a term of three year and is eligible for re-appointment for one further term of three years.

(3) At least two of the persons appointed under subsection (1) shall be women.

(4) The quorum for a meeting of the Tribunal shall be the chairperson and two other members.

(5) All matters before the Tribunal shall be decided by the votes of a majority of the members present.

(6) The members of the Tribunal shall be paid such allowances and be reimbursed for such expenses as may be determined by the Judicial Service Commission in consultation with the National Treasury.

(7) The office of a member of the Tribunal shall become vacant—

(a) at the expiry of three years from the date of appointment;

(b) if the member—

(i) ceases to be a member of the profession specified in subsection (1);

(ii) is removed from membership of the Tribunal by the Chief Justice for failure to discharge the functions of his office, whether arising from infirmity of body or mind or from any other cause; or

(iii) resigns from the Tribunal.

Jurisdiction of the Tribunal.

**42.** (1) The Tribunal shall have jurisdiction to—

- (a) review and determine grievances by persons not satisfied with the decisions or orders of the Authority under this Act;
- (b) hear and determine complaints arising out of any breach of the provisions of this Act;
- (c) hear and determine any matter or appeal as may be made to it pursuant to the provisions of this Act; and
- (d) perform such other function as may be conferred upon it by this Act or by any other written law.

(2) The jurisdiction conferred upon the Tribunal under subsection (1) excludes criminal jurisdiction.

Enforcements of awards for damages and costs.

**43.**(1) Where the Tribunal awards damages or costs in any matter before it, it shall, on application by the person in whose favour the damages or costs are awarded, issue to him a certificate stating the amount of the damages or costs.

(2) Every certificate issued under subsection (1) may be filed in the High Court by the person in whose favour the damages or costs have been awarded and, upon being so filed, shall be deemed to be a decree of the High Court and may be executed as such.

Rules.

**44.** Except as otherwise provided in this Act, the Chief Justice may, in consultation with the chairperson of the Tribunal, make rules governing the practice and procedure of the Tribunal having regard to the objectives of this Act.

Decisions of the Tribunal.

**45.**(1) Upon hearing any complaint, referral or appeal, the Tribunal shall—

(a) make such order including an order for costs as it may deem fit; or

(b) confirm, set aside or vary any order or decision in question.

(2) The decisions of the Tribunal on a dispute shall be signed by the members who heard that dispute.

Appeal from decision of Tribunal.

**46.**(1) Any party person aggrieved by a decision or order of the Tribunal may, within thirty days of such decision or order, appeal against such decision or order to the High Court.

(2) No decision or order of the Tribunal shall be enforced until the time for lodging an appeal has expired.

(3) Notwithstanding the provisions of subsection (2), where the Director-General is satisfied that immediate action must be taken to avert crisis, the Director-General shall have the power to take such reasonable action or steps, including the powers to stop any undertaking until the appeal is determined.

#### **PART VIII—MISCELLANEOUS PROVISIONS**

Savings.

**47.**(1) Any approval for development given under the provisions of any written law in force immediately prior to the commencement of this Act, shall be deemed to be approval for development granted under this Act.

(2) The powers conferred by this Act to the Authority shall be deemed to be in addition to and not in substitution for any other powers conferred in any other written law which are not in conflict with this Act.

Provisions of other Acts.

**48.** Any written law in force immediately before the coming into force of this Act relating to the housing and

human settlements sector shall have effect subject to such modification as may be necessary as to give effect to this Act.

Rules and Regulations.

**49.**(1) The Cabinet Secretary may, make rules and regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make regulations—

- (a) relating to the use, safety or maintenance of housing and human settlements;
- (b) relating to the erection of structures on, near, or over houses and human settlement areas falling within its responsibility;
- (c) for the drainage of streets, lands, compounds and buildings;
- (d) relating to the level, width and construction of roads and streets within housing projects;
- (e) for the removal, demolition or alteration of any projection, structure or thing obstructing a road or likely to cause damage or inconvenience to users of the housing project;
- (e) prescribing the fees payable to the Authority; and
- (f) providing for any other matter to give effect to the provisions of this Act.

Amendment of title of Cap.117.

**50.** The Housing Act is amended by deleting the title thereof and substituting therefor the title “the National Housing Corporation Act.

Amendment of section 1  
of Cap.117.

**51.**Section 1 of the Housing Act is amended by deleting the words “Housing Act” and substituting therefor the words “National Housing Corporation Act”

**SCHEDULE**

**(S.7 (8))**

**CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD**

Meetings of the  
Board.

**1.**(1) The Board shall meet not less than four times in every financial year and not more than four months shall lapse between the date of one meeting and the date of the next meeting.

(2) The first meeting of the Board shall be convened by the chairperson and, subsequently, the Board shall meet as often as necessary for the transaction of business at such places and at such times as may be decided upon by the Board.

(3) The chairperson shall preside at every meeting of the Board and in his absence the members present may appoint a member from among themselves to preside at that meeting.

(4) The chairperson shall, on the written application of a majority of the members of the Board, convene a special meeting of the Board.

(5) Notice of every meeting of the Board shall be given in writing to each member at least five days before the date of the meeting.

- Quorum. **2.** Five members, excluding the *ex-officio* members shall constitute a quorum for the conduct of business at any meeting of the Board.
- Decisions of the Board. **3.(1)** All questions proposed at a meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the person presiding shall have a casting vote in addition to his deliberative vote.
- Invalidity of proceedings. **4.** Subject to paragraph 3, no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.
- 5.** The Board may co-opt such other persons as it deems fit to assist the Board in its deliberations.
- Minutes of proceedings. **6.(1)** The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Board at the next meeting of the Board and signed by the chairperson or the person presiding at the meeting.
- (2)** The chairperson of the Board shall submit to the Cabinet Secretary a copy of the minutes of each meeting of the Board as soon as the minutes have been confirmed.
- Seal of the Board. **8.** The seal of the Board shall not be affixed to any instrument except in the presence of the chairperson and one other member of the Board.