

KWAZULU-NATAL HOUSING ACT 12 OF 1998

[ASSENTED TO 13 JANUARY 1999]

[DATE OF COMMENCEMENT: 1 APRIL 1999]

(English text signed by the Premier)

as amended by

KwaZulu-Natal Housing Amendment Act 8 of 2000

ACT

To establish the KwaZulu-Natal Housing Development Board; to provide for a sustainable housing development process; and to provide for matters incidental thereto.

CHAPTER I INTERPRETATION, APPLICATION, PURPOSE AND THE PRINCIPLES OF THE ACT (secs 1-2B)

[Heading to Chapter I substituted by sec 1 of Act 8 of 2000 wef 10 November 2000.]

1 Definitions

In this Act, unless the context otherwise indicates -

"accounting officer" means the officer appointed as head of the department in terms of the laws governing the Public Service and includes an acting and temporary appointment;

"accredited municipality" means a municipality which is allocated a budget by the Minister for the provision of housing, and then itself determines priorities and undertakes the project or projects without further reference to the Minister;

[Definition of "accredited municipality" amended by sec 9 of Act 8 of 2000 wef 10 November 2000.]

"Board" . . .

[Definition of "Board" deleted by sec 2(a) of Act 8 of 2000 wef 10 November 2000.]

"Constitution" means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

"construct" includes to build, erect, alter, enlarge, reconstruct, repair or adapt, and **"construction"** has a corresponding meaning;

"department" means that department of the KwaZulu-Natal Provincial Administration whose functions and duties include the administration of this Act;

"dwelling" means a structure or any identifiable part thereof intended to be used for human habitation, and includes but is not limited to a sectional title unit, a flat, an identifiable portion of a flat or dormitory within a hostel;

"Cabinet" means the Executive Council of the KwaZulu-Natal Provincial Legislature contemplated in section 132 of the Constitution;

[Definition of "Cabinet", previously definition of "Executive Council", substituted by sec 2(b) of Act 8 of 2000 wef 10 November 2000.]

"Fund" means the KwaZulu-Natal Housing Fund established in terms of section 11 of this Act;

"Housing Act" means the Housing Act, 1997 (Act 107 of 1997);

"housing programme" means any national or provincial programme to facilitate housing development, including but not limited to any measure intended to -

- (a) assist persons who cannot independently provide for their own housing needs;
- (b) facilitate housing delivery; or
- (c) rehabilitate and upgrade existing housing, including municipal services and infrastructure;

"Minister" means the Member of the Executive Council of the KwaZulu-Natal Provincial Government contemplated in section 132 of the Constitution whose portfolio includes responsibility for the provision of housing;

"municipality" means a municipality contemplated in section 10B of the Local Government Transition Act, 1993 (Act 209 of 1993) and any other statutory body which performs local government functions in an area;

"officer" means a person who is employed by the department in terms of the Public Service Act, 1994 (Proclamation 103 of 1994);

"other body" means an individual, state department, statutory body which does not fall within the definition of "municipality", company, corporation, body corporate, close corporation, partnership, voluntary association of persons, or any similar body;

"Parliament" means the Provincial Legislature of the Province of KwaZulu-Natal;

"project" means an undertaking for -

- (a) the acquisition of land for housing purposes;
- (b) the acquisition or setting apart of land for occupation;
- (c) the laying out, planning, subdivision or development of land for building purposes;

- (d) the provision of services to land or a building as contemplated in this Act;
- (e) the construction of one or more dwellings;
- (f) the construction of any building or works which, in the opinion of the Minister, are necessary for the proper management of dwellings;
- (g) the provision of housing support services;
- (h) the planning and execution of anything required for urban renewal;
- (i) the provision of facilities for community development;
- (j) the sale, lease, or alienation of any interest in land or buildings acquired or erected in pursuance of this Act or in terms of any other law, or national or provincial policy; or
- (k) the administration of a housing programme by a municipality as contemplated in section 18;

"Province" means the Province of KwaZulu-Natal contemplated in section 103 of the Constitution;

"Provincial Government" means the Provincial Government of the Province of KwaZulu-Natal;

"Registrar" means the responsible authority as defined in section 102 of the Deeds Registries Act, 1937 (Act 47 of 1937);

"regulations" means the regulations promulgated in terms of this Act;

"Deputy Director-General" means the officer appointed as head of the department in terms of the laws governing the Public Service and includes an acting and temporary appointment;

[Definition of "Deputy Director-General", previously definition of "Secretary", substituted by sec 2(c) of Act 8 of 2000 w e f 10 November 2000.]

"this Act" includes any regulation promulgated in terms hereof;

"Treasury" bears the meaning assigned to it in section 1 of the KwaZulu-Natal Exchequer Act, 1994 (Act 1 of 1994).

2 Purpose of this Act

The purpose of this Act is to provide for sustainable housing development in the Province within the framework of national and provincial housing policy.

2A Application of the Act

This Act applies throughout the Province, subject to the provisions of the Housing Act.

[Sec 2A inserted by sec 3 of Act 8 of 2000 w e f 10 November 2000.]

2B Principles underpinning housing development in the Province

(1) The Minister must, after consultation with the provincial organisation representing municipalities contemplated in section 163(a) of the Constitution, do everything in his or her power to promote and facilitate the provision of housing in the Province within the framework of national policy on housing development.

(2) The Minister must inform the Portfolio Committee of any action taken in terms of subsection (1).

(3) For the purposes of subsection (1), the Minister must-

(a) determine provincial policy in respect of housing development that-

(i) upholds the principles referred to in or prescribed under section 2 of the Housing Act;

(ii) complies with the provisions of the code referred to in section 4 of the Housing Act;

(b) promote the adoption of any legislation to ensure effective housing delivery;

(c) support and strengthen the capacity of municipalities effectively to perform their duties and responsibilities, in respect of housing development;

(d) co-ordinate housing and related activities in the Province;

(e) carry out housing duties and responsibilities of local government in terms of this Act whenever a municipality is not able to do so itself; and

(f) prepare a multi-year plan in respect of the execution of national and provincial housing programmes in the Province in accordance with guidelines that the national Minister may approve for the financing of such a plan with money from the Fund.

[Sec 2B inserted by sec 3 of Act 8 of 2000 w e f 10 November 2000.]

CHAPTER II (secs 3-10) . . .

[Chapter II repealed by sec 4 of Act 8 of 2000 w e f 10 November 2000.]

3 to 10 inclusive . . .

[Secs 3 to 10 inclusive repealed by sec 4 of Act 8 of 2000 w e f 10 November 2000.]

CHAPTER III FINANCIAL MATTERS (secs 11-14)

11 Establishment of Fund

The KwaZulu-Natal Housing Fund is hereby established.

12 Composition of Fund

The Fund shall consist of -

- (a) all assets transferred from the National Housing Fund or its successor in title;
- (b) all assets of the Provincial Government transferred to the Fund;
- (c) any amount which is paid into the Fund in terms of section 13(1) of the Housing Arrangements Act, 1993 (Act 155 of 1993);
- (d) any amount appropriated to the Fund by the national Parliament in terms of section 12 (1)(a) of the Housing Act, 1997;
- (e) any amount appropriated to it by Parliament;
- (f) any amount borrowed in terms of section 26; and
- (g) any other amount which may accrue to the Fund.

12A Transfer of the assets of the Board to the Department

The assets, liabilities, rights and obligations of the Board are hereby transferred to the department for the purpose of implementing section 14 and section 15 of the Housing Act.

[Sec 12A inserted by sec 5 of Act 8 of 2000 wef 10 November 2000.]

13 Administration of the Fund

(1) The Deputy-Director General shall open an account in the name of the KwaZulu-Natal Housing Fund, at a registered bank approved by the Treasury.

[Subsec (1) amended by sec 11 of Act 8 of 2000 wef 10 November 2000.]

(2) The Fund shall be utilized for the purposes of this Act.

(3) The Deputy-Director General shall be the accounting officer of the Fund for the purpose of the KwaZulu-Natal Exchequer Act, 1994 (Act 1 of 1994).

[Subsec (3) amended by sec 11 of Act 8 of 2000 wef 10 November 2000.]

(4) Interest on any loan taken up by the Minister in terms of section 26 shall be paid from the Fund.

(5) Surplus money in the Fund shall be invested with registered private sector financial institutions, approved by the Provincial Treasury, and interest so earned shall accrue to the Fund.

14 Accounting responsibility

(1) The financial year of the Fund shall end on 31 March of each year.

(2) In his or her capacity as accounting officer, the Deputy-Director General shall -

- (a) keep full and proper records of all amounts received or expended by the Fund and of all assets, liabilities, and financial transactions of the Fund;

(b) implement and execute bookkeeping and accounting systems determined by the Treasury, and comply with all other applicable instructions and requirements of the Treasury;

(c) submit to the Minister as soon as possible after, but within four months of 31 March in each year -

(i) a detailed statement signed by him or her showing the results of the previous year's transactions; and

(ii) the balance sheet of the Fund.

[Subsec (2) amended by sec 11 of Act 8 of 2000 wef 10 November 2000.]

(3) The Minister shall table the statement and balance sheet referred to in subsection (2)(c) in Parliament within fourteen days of receipt thereof by him or her, if Parliament is then in ordinary session; if Parliament is not in ordinary session, then within 14 days after the commencement of the next ordinary session.

(4) The books, statement of accounts and balance sheet of the Fund shall be audited annually by the Auditor-General.

(5) The Auditor-General or the Deputy-Director General may require any person, including a municipality or other body or any person in the employ of such municipality or body to make available for examination all books, registers and documents in the possession or under the control of that person which would, in the opinion of the Auditor-General, facilitate the carrying out of his or her audit.

[Subsec (5) amended by sec 11 of Act 8 of 2000 wef 10 November 2000.]

(6) Any person who fails to comply with a request made in terms of subsection (5) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

CHAPTER IV THE ROLE OF THE DEPARTMENT (secs 15-15F)

15 Powers and duties

(1) The department shall -

(a) . . .

[Para (a) deleted by sec 6(a) of Act 8 of 2000 wef 10 November 2000.]

(b) be responsible for the administration of the bank account of the Fund; and

(c) manage and co-ordinate housing development in the Province.

(2) The department shall, subject to national and provincial housing policy and after consultation with the Minister, on behalf of the Provincial Government -

(a) undertake projects;

(b) maintain, sell, or lease dwellings and other immovable property;

(c) notwithstanding anything to the contrary in any law and either with the prior consent of the owner or following the expropriation of such land, perform such work and undertake such projects on privately owned land as the Minister may, subject to such terms and conditions as he or she may determine, approve;

(d) determine provincial policy in respect of housing development;

(e) promote the adoption of provincial legislation to ensure effective housing delivery;
and

(f) prepare and maintain a multi-year plan in respect of the execution in the province of every national and provincial housing programme, which is consistent with a national and provincial housing policy.

[Sec 2 amended by sec 9 of Act 8 of 2000 wef 10 November 2000.]

(3) The Department may, subject to national and provincial housing policy, on behalf of the Provincial Government -

(a) transfer its interest in any complete or incomplete dwelling or project to a municipality: Provided that any dwelling or project in respect of which such interest has been transferred, shall be deemed to be a dwelling or project for which the municipality received a grant or bridging finance in terms of this Act: Provided further that the provisions of this Act shall apply in respect of such dwelling or project;

(b) levy reasonable service, administrative, capital redemption and interest charges in respect of immovable property registered in the name of or in the charge of the Provincial Government;

(c) do or perform any act necessary to attain the objectives or give effect to the intent and purpose of this Act;

(d) carry out housing duties and responsibilities of a municipality in terms of this act whenever such municipality itself is unable to do so or where no municipality exists.

[Para *(d)* substituted by sec 6(*b*) of Act 8 of 2000 wef 10 November 2000.]

(e) take all reasonable and necessary steps to support and strengthen the capacity of municipalities to effectively exercise the powers and perform their duties in respect of housing development; and

(f) take all reasonable and necessary steps to support municipalities in the exercise of their powers and the performance of their duties in respect of housing development.

15A General powers and duties of Minister

In addition to the powers assigned to the Minister by this Act or other legislation, the Minister must -

(1) administer all national and provincial housing programmes through the approval of projects and the financing thereof from the Fund;

- (2) determine housing development priorities in the Province;
- (3) institute a process to enable the department to evaluate and access project applications to ensure a healthy balance between the priorities and needs of all stakeholders, development priorities and technical expertise;
- (4) carry out the duties and responsibilities and exercise any power of the provincial government referred to in section 7 of the Housing Act;
- (5) establish norms, standards, frameworks and provincial policies which are not inconsistent with the Housing Act, in order to deal effectively with matters pertaining to housing development that require to be dealt with uniformly across the Province;
- (6) present the National Minister of Housing with provincial motivations for fund allocations from the South African Housing Fund to the Fund for the purpose of funding national housing programmes in the Province;
- (7) report to Parliament on progress concerning housing programmes in the Province, the activities of accredited municipalities and the transactions of the Fund, and present to Parliament the annual statements and balance sheet of the Fund, the report concerned to be made within in 90 days after 31 December of each year if Parliament is in session or if Parliament is not then in session, within 14 days after the commencement of the next session;
- (8) accredit any municipality which may apply for accreditation: Provided that the municipality concerned satisfies the accreditation criteria as agreed between the Minister and the National Minister of Housing;
- (9) allocate moneys from the Fund to any accredited municipality: Provided that the municipality concerned maintains a separate account for the administration of national housing programmes;
- (10) establish targets in respect of housing delivery in Province;
- (11) encourage and develop new ways of reducing the cost of housing developments and diversifying the type of design and layout used in provincial projects;
- (12) establish a mechanism in the department to administer provincial housing assets; and
- (13) determine a procurement policy which is consistent with section 217 of the Constitution in relation to housing development.

[Sec 15A inserted by sec 7 of Act 8 of 2000 wef 10 November 2000.]

15B Establishment of Panel

- (1) The Minister may establish a panel of persons to advise him or her on any matter relating to housing development.
- (2) The panel may consist of one or more fit and proper persons who have knowledge, qualifications or experience in the field of housing development.

(3) Members of the panel must be appointed in accordance with procurement policy that is consistent with section 217 of the Constitution.

(4) The Minister must, prior to appointment of the panel-

(a) through the media, and by notice in the *Provincial Gazette* invite nominations of persons as candidates for respective positions on the panel; and

(b) advise the Portfolio Committee of the proposed appointment.

(5) A member of the panel is subject to subsection (6) appointed for the period determined by the Minister at his or her appointment, and may, subject to subsection (3), be reappointed on the termination of such period.

(6) The Minister may at any time terminate the membership of a member of the panel for reasons which are just and fair.

[Sec 15B inserted by sec 7 of Act 8 of 2000 wef 10 November 2000.]

15C Enhancing public participation

(1) The Minister may convene a participation forum and call for annual meetings to promote consultation information sharing between the Provincial Government and all major stakeholders in civil society and local government with regard to the Provincial Government's policy, legislative role, and funding role in regard to housing in the Province.

(2) The objects and purposes of the participation forum are:

(a) to ensure that policy, legislation and fund allocation with regard to housing development are consistent with the general principles applicable to housing development;

(b) to ensure transparency, accountability and equity in the administration of housing development;

(c) to promote the participation of all relevant stakeholders in the housing development process; and

(d) create an environment in which all role players can meet their respective obligations.

(3) The Minister serves as the chairperson of the participation forum and meetings must take place at such times and places as the Minister may determine.

(4) More than fifty per cent (50%) of the members of the participation forum compromise a quorum

[Sec 15C inserted by sec 7 of Act 8 of 2000 wef 10 November 2000.]

15D Delegation of powers and assignment of duties

(1) The Minister may, subject to the conditions as he or she may determine -

(a) delegate a power conferred upon him or her under this Act except the power to make regulations, to the Deputy Director-General; and

(b) assign any of his or her duties in terms of this Act, to the Deputy Director-General who may in turn assign the duty to a person employed by the department.

(2) The Deputy Director-General may, for the effective execution of the provisions of this Act -

(a) delegate a power conferred on him or her by this Act; and

(b) assign a duty imposed upon him or her by this Act, except a fifty as accounting officer, to an officer or employee of the department, either in his or her personal capacity or by virtue of the rank he or she holds or the post he or she occupies.

(3) An officer or employee to whom a power has been delegated or duty has been assigned, must exercise the power or perform the duty subject to the conditions that the person who made the delegation or assignment considers necessary.

(4) A delegation or assignment -

(a) must be in writing;

(b) does not prevent the person who made the delegation or assignment from exercising this power or performing this duty himself or herself; and

(c) may at any time be withdrawn in writing by the person who granted it.

[Sec 15D inserted by sec 7 of Act 8 of 2000 wef 10 November 2000.]

15E Expropriation of land required for housing development

(1) The Minister may by notice in the *Provincial Gazette* expropriate any land required by him or her for the purposes of housing development in terms of any national or provincial housing programme, if he or she is unable to Purchase the land on reasonable terms through negotiation with the owner thereof.

(2) The provisions of sections 1, 6 to 15 and 18 to 23 of the Expropriation Act. 1975 (Act No 63 of 1975) apply, with the necessary changes required by the context and any reference in any of those sections to the "Minister" must be construed as a reference to the Provincial Minister responsible for the administration this Act.

(3) The expropriation of land contemplated in subsection (1) must be conducted in consultation with Cabinet, and after consultation with the Portfolio Committee.

[15E inserted by sect 7 of Act 8 of 2000 wef 10 November 2000]

15F Housing Co-Operatives and Association

The department must:

(a) promote the establishment of housing co-operatives and housing associations in the Province; and

(b) monitor the registration functions and development of housing cooperatives and associations.

[15F inserted by sec 7 of Act 8 of 2000 wef 10 November 2000]

CHAPTER V MUNICIPALITIES (secs 16-20)

16 Duties and responsibilities of municipalities

Where in terms of the Constitution a municipality assumes responsibility for housing, it shall, within the framework of national and provincial housing policy and subject to this Act and any other law -

- (a) take all reasonable and necessary steps to ensure that the inhabitants of its municipal area have access to adequate housing;
- (b) set sustainable housing delivery goals in respect of its municipal area;
- (c) identify and designate land for housing purposes;
- (d) ensure the economic, efficient and effective provision, operation and maintenance of services in respect of water, sanitation, electricity, roads and stormwater drainage; and
- (e) regulate health and safety standards relating to housing development.

17 Powers and functions of municipalities

Subject to the provisions of this Act or any other law, a municipality may -

- (a) initiate, plan and execute projects, provided that in such cases where a project forms part of a housing programme for which the municipality is accredited in terms of section 18, the project shall be referred to the Minister for approval;

[Para (a) amended by sec 10 of Act 8 of 2000 wef 10 November 2000.]

- (b) facilitate and co-ordinate housing development in its municipal area; and
- (c) participate in any housing programme subject to the provision of paragraph (a), by -
 - (i) promoting a housing development project by a developer;
 - (ii) entering into a joint venture contract with a developer in respect of a housing development project;
 - (iii) establishing a separate business entity to execute a housing development project; or

(iv) facilitating participation in the housing process.

18 Powers of municipality to administer housing programme

(1) A municipality may apply in writing to the Minister, in the form specified by him or her, for accreditation in terms of subsection (2) for the purpose of administering one or more housing programmes.

(2) (a) If the Minister is satisfied that the municipality complies with the criteria for the accreditation of municipalities, he or she must, after consultation with the Minister, accredit the municipality for the purpose of administering one or more of the housing programmes mentioned in the application, subject to such conditions as he or she may determine, which conditions may include remedies for non-performance on the part of the municipality.

[Para (a) amended by sec 10 of Act 8 of 2000 wef 10 November 2000.]

(b) The criteria determined in terms of section 11B(2) of the Housing Arrangements Act, 1993 (Act 155 of 1993), shall be deemed to be the criteria determined in terms of paragraph (a).

(3) Subject to the directives of the Minister, a municipality that has been accredited in terms of subsection (2), may administer any housing programme in respect of which accreditation has been granted, and for this purpose that municipality may exercise such powers and perform those functions and shall carry out those duties of the Minister that are necessary for the administration of such programme.

[Subsec (3) amended by sec 10 of Act 8 of 2000 wef 10 November 2000.]

(4) The Deputy-Director General, in consultation with the Board and the Minister, may allocate funds from the Fund to a municipality accredited in terms of subsection (2).

[Subsec (4) amended by sec 11 of Act 8 of 2000 wef 10 November 2000.]

(5) Any disbursement of money contemplated in this section to vendors referred to in the Value Added Tax Act, 1991 (Act 89 of 1991), shall be deemed to have been made on behalf of the Provincial Government.

(6) The Chief Executive Officer of an accredited municipality shall, as soon as possible after, but within two months of 31 March of every year, submit detailed statements signed by him or her, showing the results of the previous year's transactions as well as the balance sheet in respect of the accounts referred to in section 19(1)(b), to the Deputy-Director General, who shall incorporate such statements and balance sheet into the statements and balance sheet required to be prepared by him or her in terms of this Act.

[Subsec (6) amended by sec 11 of Act 8 of 2000 wef 10 November 2000.]

18A Regulation of the sale of state funded housing

(1) It must be a condition of every housing subsidy, as defined in the Code, granted to a natural person in terms of any national housing programme for the construction or purchase of a dwelling or serviced site that, notwithstanding any provisions to the contrary contained in any other law, such person or his or her successors in title or his or her or their creditors in law must not sell or otherwise alienate such dwellings or site within a period of eight years from the date on which the property was acquired by such person or of the date of registration of a mortgage bond, as the case may be, unless such dwelling or site has first been offered to the department.

(2) The offer to the department must be made in writing and must be accepted or rejected by the Minister within a period of 60 days from receipt thereof.

(3) If the offer is accepted, the purchase price must be determined-

(a) by agreement between the Minister and the person of creditor concerned; or

(b) if an agreement cannot be reached, by a valuer acceptable to both parties and registered as such in terms of the Valuers' Act, 1982 (Act 23 of 1982).

(4) The purchase price as determined in terms of subsection (3) must be financed by the Minister out of the Fund.

(5) The Minister may grant exemption, either conditionally or unconditionally, from the provisions of subsection (1) in respect of any dwelling or site to which the provisions of that subsection apply.

(6) The Registrar must -

(a) make such endorsements on the title deeds of any dwelling or site and such entries in his or her registers as may be necessary to indicate that the provisions of subsection (1) apply in respect of such dwelling or site; and

(b) cancel any such endorsements or entries where an exemption has been granted unconditionally under subsection (5), or where satisfactory proof that conditions imposed under subsection (5) have been complied with has been submitted, or to make such endorsements or entries as may be necessary to indicate any conditions subject to which an exemption has been granted under subsection (5).

(7) No transfer of any dwelling or site in respect of which subsection (1) applies, shall be passed to a person other than the department unless the Registrar is provided with a certificate, signed by the Deputy Director-General of the department, to the effect that such dwelling or site has been offered for sale to the department in terms of subsection (1) and that:

(a) the offer has been rejected; or

(b) an exemption has been granted under subsection (5), either unconditionally or subject to the conditions set out in the certificate.

(8) The Minister may prescribe by regulation in the Provincial Gazette, rules on the granting of exemption in terms of subsection (5), as well as the amount that must be paid by the person or creditor concerned for the granting of such exemption.

(9) Notwithstanding anything to the contrary contained in this section, subsection (1) does not apply to a municipality or a mortgagee that exercises its rights in terms of law or a mortgage bond, as the case may be, on the grounds that the person or mortgagor has failed to meet his or her obligations in terms of such law or mortgage bond.

[Sec 18A inserted by sec 8 of Act 8 of 2000 wef 10 November 2000.]

19 Control of projects

(1) A municipality or other body which is carrying out a project in respect of which any amount has been made available from the Fund, shall -

(a) open an account at a registered bank approved by the Treasury, into which it shall pay all amounts paid to it in terms of or in pursuance of this Act; and

(b) keep separate statements of income and expenditure in respect of each such amount and any other statements which may be required in terms of the conditions under which the amount was made available and shall, on request, make them available to the Deputy-Director General or an officer or officers duly authorised by him or her for inspection.

[Para (b) amended by sec 11 of Act 8 of 2000 wef 10 November 2000.]

(2) The aggregate of the funds standing to the credit of the trust account or accounts referred to in subsection (1) shall constitute the housing fund of that municipality. Surplus money in the housing fund of a municipality which cannot be readily used for housing purposes shall be invested with registered private sector financial institutions.

(3) Any interest accruing in respect of any amount referred to in this section shall be utilized for the purpose of this Act.

20 Taking over of projects by municipalities

(1) A municipality may, subject to such conditions as the Minister may determine, by agreement with any other body which has carried out or is carrying out a project within the area of that municipality with funds obtained from the Fund, take over the interest and liabilities of such other body in such project.

[Subsec (1) amended by sec 10 of Act 8 of 2000 wef 10 November 2000.]

(2) The provisions of this Act relating to projects carried out by municipalities shall apply with the necessary modification when a municipality has taken over any interest and liabilities in terms of subsection (1).

CHAPTER VI LAND MATTERS (secs 21-22)

21 Extinction or modification of restrictions on land

The provisions of the Removal of Restrictions Act, 1967 (Act 84 of 1967) shall apply with the necessary modification.

22 Registration of transfer of land

The costs of transfer of land acquired or transferred in terms of this Act shall be borne by the transferee.

CHAPTER VII TRADITIONAL AUTHORITIES (secs 23-24)

23 Grant to occupiers of land in tribal authorities

Notwithstanding anything to the contrary contained in this Act or any other law, the Minister may, on such conditions as it may determine, with the approval of the Minister, pay a subsidy to the occupier of land in an area falling within the jurisdiction of any tribal authority if such person is in possession of a form of tenure acceptable in terms of national legislation.

[Sec 23 amended by sec 10 of Act 8 of 2000 wef 10 November 2000.]

24 Approval of KwaZulu-Natal Ingonyama Trust Board

Notwithstanding anything to the contrary contained in this Act or any other law, the provisions of this chapter shall apply only after the Minister has obtained the approval of the KwaZulu-Natal Ingonyama Trust Board established in terms of the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act 3 of 1994), to operate in an area falling within the jurisdiction of a tribal authority.

[Sec 24 amended by sec 10 of Act 8 of 2000 wef 10 November 2000.]

CHAPTER VIII
MISCELLANEOUS (secs 25-35)

25 Illegal occupation of land

Where any person unlawfully occupies land, a dwelling, a building or a structure belonging to, or in possession of the Provincial Government, the Fund, a municipality or the Minister, whether or not such property is intended for housing purposes, the provisions of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (Act 19 of 1998), and the Extension of Security of Tenure Act, 1997 (Act 62 of 1997), shall apply.

[Sec 25 amended by sec 10 of Act 8 of 2000 wef 10 November 2000.]

26 Borrowing powers

Subject to the provisions of any law, the Minister may borrow funds from any source within the Republic by agreement or by issuing debentures, bills or stock, and money so raised shall accrue to the Fund.

27 Exemption from transfer and stamp duties

(1) The Registrar of Deeds concerned must at the request of the Minister, in respect of immovable property or any registrable claim or right that has passed to it in terms of section 14(2)(a) of the Housing Act and on submission to him or her of the relevant title deeds and other documents and a certificate contemplated in subsection (2) make the necessary endorsements in his or her registers and on the title deeds and other documents concerned to give effect to such passage.

[Subsec (1) amended by sec 10 of Act 8 of 2000 wef 10 November 2000.]

(2) The Deputy-Director General must for the purpose of subsection (1) issue a certificate to the effect that the immovable property, claim or right mentioned in the certificate is immovable property or a claim or right that has passed to the Minister in terms of this section.

[Subsec (2) amended by secs 10 and 11 of Act 8 of 2000 wef 10 November 2000.]

(3) No transfer duty, stamp duty or registration fee is payable in respect of a passage contemplated in subsection (1).

28 Power of entry

(1) An officer authorised thereto by the Deputy-Director General may at all reasonable times and in the presence of the lessee, owner or his or her nominee enter -

(a) upon any land acquired or project undertaken by a municipality or other body by means of a loan or grant obtained from the Fund;

(b) any dwelling which is let by the Minister or the Fund;

[Para *(b)* amended by sec 10 of Act 8 of 2000 wef 10 November 2000.]

(c) any dwelling sold by the Minister and in respect of which any amount is owing to the Fund,

[Para (c) amended by sec 10 of Act 8 of 2000 wef 10 November 2000.]

to make any inspection, to perform any work, or do anything which the Minister or the Department is authorised to do under this or any other Act.

[Subsec (1) amended by secs 10 and 11 of Act 8 of 2000 wef 10 November 2000.]

(2) Any person authorised thereto by a municipality may at all reasonable times and in the presence of the lessee, owner or his or her nominee, enter -

(a) upon any land acquired or project undertaken by means of a loan or grant funded by such municipality;

(b) upon any dwelling which is let by such municipality;

(c) upon any dwelling sold by such municipality and in respect of which any amount is owing to such municipality,

to make an inspection or to perform any work, or do anything which such municipality is authorised to do under this or any other Act.

(3) Any person or body who fails to give or refuses access to a person referred to in subsection (1) or (2) or who hinders or obstructs an official in the performance of his or her duties shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

29 Municipal services

(1) Whenever necessary, the Deputy-Director General may, with the approval of the Minister and in consultation with the municipality concerned, call upon a municipality, which, in the opinion of the Minister is best able to do so, to provide such of the following services in connection with a project, as may be specified in the notice -

(a) the provision of water;

(b) the provision of electricity or gas;

(c) the removal of refuse;

(d) the disposal of sewage or night-soil; and

(e) stormwater drainage and transport.

[Subsec (1) amended by sec 11 of Act 8 of 2000 wef 10 November 2000.]

(2) For any such service provided by a municipality, it may levy such charges as are normally payable by those persons to whom such services are provided in its area.

(3) If a municipality fails, refuses or neglects to provide any service which it is obliged to provide under subsection (1) for any reason whatsoever, the Minister may obtain the services from another source and recover any increased expenditure from the municipality concerned.

(4) Where the Minister is satisfied that the carrying out of a project is being delayed by the *bona fide* inability of a municipality within whose area such project is situated to provide the necessary services at reasonable tariffs, he or she may make such other arrangements for the provision of services as he or she may deem necessary.

30 Furnishing of information

(1) A municipality shall, whenever requested thereto by the Minister or the Deputy-Director General, free of charge and within a reasonable period, furnish such information as may be required about those ownership of vacant land within its area specified in the request and the situation of the land.

[Subsec (1) amended by secs 10 and 11 of Act 8 of 2000 wef 10 November 2000.]

(2) If a municipality fails to comply with the provisions of subsection (1), the Minister or the Deputy-Director General may, with the approval of the Minister, granted after consultation with the municipality concerned, cause to be prepared such return as ought to have been furnished to it by such municipality and recover all costs incurred by the Minister or the Deputy-Director General in connection with the preparation of the return from such municipality.

[Subsec (2) amended by secs 10 and 11 of Act 8 of 2000 wef 10 November 2000.]

31 . . .

[Sec 31 repealed by sec 9 of Act 8 of 2000 wef 10 November 2000.]

32 Regulations

(1) The Minister may, after consultation with the Portfolio Committee, make regulations concerning -

- (a) the details of the management of the Fund;
- (b) the procedure relating to issues from the Fund and the repayment to the Fund of amounts issued therefrom or the remission of amounts owed to it;
- (c) the rates of interest to be charged in respect of money advanced out of the Fund, which may vary according to the purpose for which such monies are to be used;
- (d) the manner in which the accounts of the funds are to be kept;
- (e) accounts which shall be kept by a municipality or other body, and in respect of accounts so prescribed, the provisions of section 14 shall apply with the necessary modification;
- (f) any other matter which he or she considers necessary or expedient to prescribe in relation to the control, administration and management of the Fund;
- (g) the calling of a meeting of the Board, the procedures at meetings of the Board and of committees thereof, remuneration and conditions of service of Board members and committees thereof;
- (h) the insurance of dwellings and other buildings constructed or purchased by means of money from the Fund;

(i) the maintenance, repair and inspection of dwellings and other buildings constructed or purchased by the Minister, a municipality or other body under this Act;

[Para (i) amended by sec 10 of Act 8 of 2000 wef 10 November 2000.]

(j) the statements of account which a municipality shall keep in respect of loans or bridging finance granted by the Minister;

[Para (j) amended by sec 10 of Act 8 of 2000 wef 10 November 2000.]

(k) the administration fees which may be charged in respect of dwellings or projects;

(l) the methods by which rentals or instalments shall be determined;

(m) the code of conduct of members of the Board;

(n) all matters which, by this Act, are required or permitted to be prescribed;

(o) the creation of job opportunities; and

(p) generally all matters which he or she may consider necessary or expedient to prescribe in order that the object of this Act may be achieved.

(2) Any regulation made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, which shall be in the form of a fine or imprisonment for a period not exceeding five years or both such fine and such imprisonment.

33 Compliance with Tender Board requirements

The KwaZulu-Natal Tender Board Amendment Act, 1997 (Act 4 of 1997) and the regulations made thereunder shall be applied by the Minister in respect of all contracts entered into and all purchases made by the Minister or the department in terms of this Act.

[Sec 33 amended by sec 10 of Act 8 of 2000 wef 10 November 2000.]

34 Provincial Housing Code

(1) The Minister may, after consultation with the Portfolio Committee, publish a code called the Provincial Housing Code (in this section referred to as the "Code").

(2) The Code -

(a) may contain provincial housing policy;

(b) may, after consultation with the provincial organisation representing municipalities as contemplated in section 163(a) of the Constitution, include administrative or procedural guidelines in respect of -

(i) the effective implementation and application of provincial housing policy;

(ii) any other matter that is reasonably incidental to provincial housing policy;

(c) If the Code is published in terms of subsection (1), the Minister must furnish a copy of the Code to every municipality;

(d) If the code is published in terms of subsection (1) and if the provincial housing policy is amended during any year, the Minister must -

(i) as soon as possible, give notice of such amendment to every municipality; and

(ii) within three months after the end of such year, publish a revised Code, and furnish a copy thereof to every municipality;

(e) Any new provincial housing policy applies notwithstanding that such policy has not yet been included in a revision Code.

35 Short title and commencement

This Act shall be called the KwaZulu-Natal Housing Act, 1998, and shall come into effect on a date fixed by the Premier by notice in the *Provincial Gazette*.