

NORTH WEST HOUSING CORPORATION ACT  
NO. 24 OF 1982

[ASSENTED TO 11 JUNE, 1982]

[DATE OF COMMENCEMENT: 18 JUNE, 1982]

(English text signed by the President)

as amended by

Bophuthatswana Housing Corporation Amendment Act, No. 41 of 1992

North-West Housing Corporation Amendment Act, No. 9 of 1994

ACT

To establish the North West Housing Corporation for the purposes of providing and furthering the provision of housing and accommodation in the Province on a co-ordinated basis and on a national scale and assisting in the formation of policies to achieve these objectives, to provide for the management, control and representation of the said Corporation by a Board of Directors, to define the powers, functions and duties of the said Corporation, and to provide for incidental matters.

**1. Definitions.**—In this Act, unless inconsistent with the context—

“**Board**” means the Board of Directors of the Corporation contemplated by and constituted in terms of section 3;

“**company**” means a company as defined in the Companies Act, 1973 (Act 61 of 1973), and includes a foreign company;

“**Constitution**” means the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993);

[Definition of “Constitution” inserted by s. 1 (a) of Act No. 9 of 1994.]

“**Executive Council**” means the Executive Council contemplated in section 149 of the Constitution;

[Definition of “Executive Council” inserted by s. 1 (a) of Act No. 9 of 1994.]

“**financial year**” means the financial year of the Corporation which shall be from the first day of April of any year to the thirty-first day of March first following, both days inclusive: Provided that the first financial year shall be from the day upon which this Act comes into operation to the thirty-first day of March first following, both days inclusive;

**“General Manager”** means the person appointed as General Manager of the Corporation in terms of section 18 (1);

**“house”** includes any shelter, affordable low cost dwelling, flat, apartment or residential unit whether held or to be held under a sectional title deed as defined in section 1 of the Sectional Title Act, 1986 (Act 95 of 1986), or otherwise and the word ‘housing’ has a corresponding meaning;

[Definition of “house” substituted by s. 1 (b) of Act No. 9 of 1994.]

**“local authority”** means any body contemplated in section 84 (1) (f) of the Provincial Government Act, 1961 (Act 32 of 1961), and includes—

(a)

a local council established under section 2 (1) of the Local Councils Act (House of Assembly), 1987 (Act 94 of 1987);

(b)

an Administrator as contemplated in the Abolition of Development Bodies Act, 1986 (Act 75 of 1986) in the performance of the functions entrusted to him or her in terms of the last-mentioned Act;

(c)

an Administrator in the performance of the functions entrusted to him or her in terms of the Less Formal Township Establishment Act, 1991 (Act 113 of 1991);

(d)

any local authority as defined in the Ordinances of the Province of the Cape of Good Hope and the Province of Transvaal (as of force in the North West Province) and any tribal, community or regional authority contemplated by the Traditional Authorities Act, 1978 (Act 23 of 1978); and

(e)

any body established in terms of the Local Government Transition Act, 1993 (Act 209 of 1993);

[Definition of “local authority” substituted by s. 1 (c) of Act No. 9 of 1994.]

**“Minister”** . . . . .

[Definition of “Minister” deleted by s. 1 (d) of Act No. 9 of 1994.]

**“Province”** means the Province of the North West as contemplated in section 124 (1) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993);

[Definition of “Province” inserted by s. 1 (e) of Act No. 9 of 1994.]

**“responsible Member”** means the Member of the Executive Council for Local Government, Housing, Planning and Development;

[Definition of “responsible Member” inserted by s. 1 (e) of Act No. 9 of 1994.]

**“statutory corporation”** means any corporation which, by or in terms of any law of force in the Province, has been established or exists in the Province;

[Definition of “statutory corporation” amended by s. 1 (g) of Act No. 9 of 1994.]

**“the Republic” . . . . .**

[Definition of “the Republic” deleted by s. 1 (f) of Act No. 9 of 1994.]

**“the Corporation”** means the North West Housing Corporation established by section 2; and

[Definition of “the Corporation” substituted by s. 1 (h) of Act No. 9 of 1994.]

**“this Act”** includes the regulations made in terms of section 30.

**2. Establishment of the North West Housing Corporation.**—(1) There is hereby established a corporation to be known as the North West Housing Corporation for the purpose of providing and furthering the provision of housing and accommodation on a co-ordinated basis and on a national scale, with special reference to those whose housing needs are not being met by existing agencies and facilities, and to assist in the formation of policies to achieve such objectives.

(2) The North West Housing Corporation shall, under that name be a body corporate with perpetual succession and, for the purpose of carrying on its business and operations and exercising and performing its powers, functions and duties under this Act, be capable in law of suing and being sued, of purchasing or otherwise acquiring and holding and alienating movable and immovable property and acquiring real and other rights thereto or any interest therein, of entering into contracts and agreements and, generally, of doing and performing such things and acts as bodies corporate by law may do and perform, subject to the provisions of this Act.

(3) From and after the commencement of this Act and subject to the provisions thereof, the Corporation shall be managed, controlled and represented by a board of directors as hereinafter provided, and all acts of such board shall be deemed to be acts of the Corporation.

**3. Constitution of Board of Directors of Corporation, Appointment and Termination of**

**Appointment of Members of the Board and Remuneration, etc. of Members of Board.**—

(1) Notwithstanding anything to the contrary contained in this Act, the Board of Directors of the Corporation shall consist of a chairperson, deputy-chairperson, an officer in the Public Service designated by the responsible Member and at least seven other members or such greater number of members who shall be persons who in the opinion of the responsible Member are representative of the broad cross-section of the population of the Province and are—

(a)

by virtue of their qualifications, expertise and experience suited to serve on the Board;

(b)

committed to the housing needs of the Province, fairness, transparency, openness and accountability of their public office;

(c)

independent and impartial in the due performance of their functions and duties as officers of the Corporation; and

(d)

committed to the objectives and principles of the Constitution, the housing policy determined by the Provincial Legislature and the Reconstruction and Development Programme.

(2) The members of the Board, save for the members in the Public Service and in the employment of the Corporation, shall be appointed by the responsible Member on such terms and conditions and for such period not exceeding three years as the responsible Member may determine either generally or in respect of each individual member which he or she shall cause to be specified in the letter of appointment to be issued in respect of such member.

(3) Subject to the provisions of subsection (1), the responsible Member shall when making the appointments referred to in subsection (2), have due regard to the promotion and protection of the interests of the disadvantaged persons.

(4) Any member of the Board whose term office has expired, shall be eligible for re-appointment.

(5) The members of the Board excluding members in the Public Service shall be paid such remuneration and allowances and be entitled to such perquisites (including leave of absence) as the responsible Member in consultation with the Member of the Executive Council for Finance and Provincial Expenditure may from time to time determine.

[S. 3 substituted by s. 2 of Act No. 9 of 1994.]

**4. Removal and resignation from office.**—(1) Notwithstanding the provisions of section 3, the term of office of any member may, before the expiration thereof, be terminated by the responsible Member (whereupon such member shall be removed from office)—

(a)

on account of his or her misconduct;

(b)

on account of unfitness for the duties of his or her office;

(c)

on the ground of a permanent infirmity of mind or body which renders him or her incapable of discharging the duties of his or her office or discharging them properly;

(d)

if he or she has become disqualified in terms of section 6;

(e)

if in the opinion of the responsible Member, there are good and sufficient reasons for doing so.

(2) A member of the Board may at any time resign from the Board upon one month's written notice tendered to the responsible Member.

[S. 4 substituted by s. 3 of Act No. 9 of 1994.]

**5. Suspension of member of the Board pending inquiry or investigation.**—(1) The responsible Member may, whenever there is being undertaken any enquiry or investigation for the purpose of establishing whether or not there exists sufficient cause for the removal of a member from office in terms of section 4 (a) to (d), inclusive, suspend such member from his or her office pending the outcome of such an enquiry or investigation.

(2) Whenever a member is suspended in accordance with the provisions of subsection (1), he or she shall in respect of the period of his or her suspension not be entitled to any emoluments under this Act: Provided that—

(a)

if the period of his or her suspension endures for longer than three months, the Board shall until such time as such suspension is terminated and a member is either removed from office under subsection (1), or restored to his or her office (as the case may be), pay to the member an amount equal to such portion of his or her basic salary as would have accrued to him or her in respect of the period in excess of such three-month period;

(b)

if he or she is restored to his or her office, he or she shall, in respect of the period of his or her suspension, and in addition to any amount paid or payable to him or her under paragraph (a) of this proviso (if any) be paid all such emoluments as would have been payable to him or her under this Act had he or she not been so suspended.

[S. 5 substituted by s. 4 of Act No. 9 of 1994.]

**6. Disqualification for membership of Board.**—A person shall be disqualified from being appointed or remaining a member of the Board—

(a)

if he or she is subject to a final order of court whereby his or her estate is sequestrated under the Insolvency Act, 1936 (Act 24 of 1936), or if his or her estate is sequestrated in terms of the laws of any other country or territory by a competent court or authority of such a country or territory, or if he or she has assigned his or her estate for the benefit of his or her creditors;

(b)

if he or she is subject to an order of a competent court declaring him or her to be of unsound mind or mentally disordered or defective;

(c)

if he or she has been convicted of any offence for which he or she was sentenced to imprisonment without the option of a fine for a period of not less than six months, irrespective of whether such imprisonment was wholly or partly suspended or not, unless he or she has received a grant of amnesty or a free pardon, or unless the period of such imprisonment or suspension has expired at least ten years before the date of his or her appointment as such a member of the Board; and

(d)

if he or she—

(i)

is nominated as a candidate for election as a member of the Provincial Legislature or any Provincial Legislature; or

(ii)

is nominated as a senator;

(iii)

is a member of the Executive Council; or

(iv)

is a Minister or Deputy Minister of State.

[S. 6 substituted by s. 5 of Act No. 9 of 1994.]

**7. Vacancies in the Board.**—(1) There shall be a vacancy in the Board—

(a)

when a member dies;

(b)

when a member's written resignation is tendered to the responsible Member;

[Para (b) amended by s. 6 (a) (i) of Act No. 9 of 1994.]

(c)

upon the term of office of a member having been terminated in terms of section 4;

[Para (c) substituted by s. 6 (a) (ii) of Act No. 9 of 1994.]

(d)

if, at the time of a member's appointment, he or she was disqualified in terms of section 6 or if he or she becomes so disqualified after his or her appointment; or

[Para (d) substituted by s. 6 (a) (ii) of Act No. 9 of 1994.]

(e)

if a member is absent from three or more consecutive meetings of the Board without its prior consent.

(2) Any vacancy in the Board occurring in terms of subsection (1) shall be filled by the appointment of another member by the responsible Member in terms of this Act as soon as may be reasonably practicable after the occurrence of such vacancy and any member so appointed shall remain in office for the unexpired portion of his or her predecessor's term of office.

[Sub-s. (2) substituted by s. 6 (b) of Act No. 9 of 1994.]

**8. Chairperson of the Board to preside at meetings of Board, and appointment of deputy-chairperson and acting members and acting chairperson of the Board.**—(1) The Chairperson of the Board shall, subject to the provisions of this section, preside at the meetings of the Board

[Sub-s. (1) amended by s. 7 (a) of Act No. 9 of 1994.]

(2) The deputy-chairperson of the Board shall preside at the meetings of the Board and exercise and perform the powers, functions and duties of the chairperson whenever the office of the chairperson is vacant or the chairperson is absent or suspended or incapacitated or refuses or fails to act, and whenever the offices of both the chairperson and deputy-chairperson are vacant or both the chairperson and deputy-chairperson are absent or suspended or incapacitated or refuse or fail to act, the responsible Member shall appoint one of the remaining members of the Board as deputy-chairperson for the unexpired portion of his or her predecessor's term of office.

[Sub-s. (2) amended by s. 7 (b) of Act No. 9 of 1994.]

(3) If the office of deputy-chairperson becomes vacant before the expiration of the period for which a deputy-chairperson has been appointed, the Board shall at its first meeting held after

the occurrence of the vacancy, appoint one of its members as deputy-chairperson for the unexpired portion of the period of office of his or her predecessor.

[Sub-s. (3) amended by s. 7 (c) of Act No. 9 of 1994.]

(4) Whenever it comes to the notice of the responsible Member that in consequence of the existence of vacancies in the Board or the absence, suspension or incapacity of its members or any refusal or failure to act contemplated by subsection (2), the number of remaining members do not, pending the filling of such vacancies or the termination of any of the circumstances hereinbefore mentioned, form a quorum, the responsible Member shall appoint not less than such number of persons as are required to form such a quorum, but not more than such number of persons as are equal to the difference between the full complement of the Board and the remaining members, to act as members of the Board during the period that such vacancies exist or such circumstances subsist, in order to enable the Board to exercise and perform its powers, functions and duties under this Act.

[Sub-s. (4) amended by s. 7 (c) of Act No. 9 of 1994.]

(5) Notwithstanding the provisions of subsections (2) and (3), the responsible Member may, if he or she deems it necessary, appoint any person to act as chairperson of the Board in the circumstances contemplated by subsection (2) for as long as such circumstances subsist.

[Sub-s. (5) amended by s. 7 (c) of Act No. 9 of 1994.]

**9. Acts, resolutions and proceedings of Board not invalidated in certain circumstances.**—The acts, decisions and proceedings of the Board shall not be rendered invalid or unlawful by reason only of any vacancy occurring therein as contemplated by section 7 or of any defect or irregularity in the appointment of a member or by reason of the disqualification of any member of the Board.

**10. Meetings of the Board.**—(1) All meetings of the Board shall be held on such dates and at such times as may be determined by resolution of the Board, but not less than six times every year: Provided that the first meeting of a newly constituted Board shall be held at such time and on such date as the responsible Member may by written notice to all members of the Board determine, which date shall not be later than twenty-one days (Saturdays, Sundays and public holidays excluded) after such constitution of the Board.

[Sub-s. (1) amended by s. 8 (a) of Act No. 9 of 1994.]

(2) The chairperson may at any time call for an extraordinary meeting of the Board if in his or her opinion it is justified by the circumstances prevailing and shall, upon having been presented with a requisition for that purpose signed by at least two members of the Board, forthwith call for an extraordinary meeting of the Board, and if the chairperson fails to call for such an extraordinary meeting within seven days as from such presentation, such two members may, on the expiration of such seven days, call for an extraordinary meeting.

[Sub-s. (2) substituted by s. 8 (b) of Act No. 9 of 1994.]

(3) (a) Notwithstanding the provisions of subsection (2), the responsible Member may direct the chairperson to call for an emergency meeting of the Board if in the opinion of the

responsible Member there are circumstances relating to housing in the Province which urgently need to be addressed by the Board.

(b) The chairperson shall within three days of receipt of the directive referred to in paragraph (a) forthwith convene an emergency meeting of the Board and the chairperson shall within three days after such emergency meeting submit to the responsible Member a report of the deliberations of such meeting.

[Sub-s. (3) inserted by s. 8 (c) of Act No. 9 of 1994.]

**11. Notice of meetings of the Board.**—Notice of meetings of the Board shall be given to all the members thereof in such manner and form as the Board may from time to time determine.

**12. Quorum and decisions of Board, and voting powers of chairperson.**—(1) At any meeting of the Board the quorum shall be one-half of the total number of the members of the Board.

[Sub-s. (1) substituted by s. 9 of Act No. 9 of 1994.]

(2) The decision of a majority of members of the Board present at any meeting thereof, shall, subject to the provisions of subsection (1), constitute a decision, to be known as a resolution, of the Board: Provided that where the members of the Board present at any meeting thereof constitute a bare quorum, no decision or resolution adopted at such meeting shall be a decision or resolution of the Board and have any force or effect unless such decision or resolution was adopted unanimously by the members so present.

(3) In the event of an equality of votes in regard to any matter put to the vote, the chairperson of the Board or person acting as chairperson of the Board in terms of section 8 shall have a casting vote in addition to his or her deliberative vote.

**13. Pecuniary and other interests of members of the Board in matters dealt with by the Board.**—(1) No member of the Board shall be present at any meeting of the Board or any committee thereof, or be present in the room in which such meeting is held, or in any way whatsoever take part in the proceedings of the Board or such committee, during the discussion of or voting on—

(a)

any matter in which he or she has, directly or indirectly, either by himself or through his or her spouse, partner or business associate or through any person related to him or her within the third degree of consanguinity or affinity, any pecuniary interest; or

(b)

any intended or pending legal or arbitration proceedings to which the Board is or may become a party and in which any such member has, directly or indirectly, either by himself or herself or through his or her spouse, partner or business associate or through any other person related to him or her within the third degree of consanguinity or affinity, any interest, whether as a party, witness or legal representative or otherwise and such interest is disclosed to the Board.

[Para. (b) substituted by s. 10 (a) of Act No. 9 of 1994.]

(2) If any member of the Board fails to disclose any interest on his or her part, as contemplated by subsection (1), when the Board turns to consider and deal with any matter affected by such interest, and if such member contravenes or fails to comply with the provisions of that subsection, such proceedings of the Board shall be null and void and such member shall be guilty of an offence, unless it is proved that such member did not know that he or she had such an interest: Provided that in applying this section a member shall for the purposes of subsection (1) (a) be deemed not to have a pecuniary interest in any matter affecting or relating to any transaction with any established charitable institution, society or association, or any school, college, university or other educational or training institution, where such member or his or her spouse, partner, business associate or any person related to him or her within the third degree of consanguinity or affinity, is a member of the management committee, school committee or controlling body, or is an employee of, such charitable institution, society or association, or such school, college, university or educational or training institution or is enrolled as a student of any school, college, university or educational or training institution.

[Sub-s. (2) substituted by s. 10 (b) of Act No. 9 of 1994.]

**14. Minutes of the Board.**—(1) An officer of the Corporation appointed in terms of section 18, shall prepare and keep the minutes of the proceedings of every meeting of the Board and cause copies thereof to be circulated to all members of the Board.

(2) Every minute prepared in terms of subsection (1), when signed at a subsequent meeting of the Board by the chairperson or the person acting as chairperson in terms of section 8, shall, in the absence of proof of error therein, be deemed to be a true and correct record of the proceedings which it purports to minute, and shall, at any arbitration proceedings or proceedings before a court of law or administrative tribunal, constitute *prima facie* evidence of the proceedings of the Board and the matters it purports to minute.

**15. Standing orders.**—Subject to the provisions of this Act, the Board may make, amend and rescind standing orders for the regulation of the proceedings and business of the Board and of any committee of the Board, and for all other matters connected with or incidental to the management of the Board and in connection with its business and duties.

[S. 15 substituted by s. 11 of Act No. 9 of 1994.]

**16. Committees Board.**—(1) The Board may by resolution appoint of committees for the purpose of assisting the Board in the due and proper exercise or performance of any specific power, function or duty conferred or imposed on the Board by or in terms of this Act, and may likewise dissolve, extend, enlarge or limit any committee so established.

(2) A committee appointed in terms of subsection (1), shall consist of such persons (which shall include at least one member of the Board) who are appointed by the Board by virtue of being regarded by the Board as suitably and appropriately qualified in regard to the matters relating to the objects of the committee in question: Provided that the Board shall be required to obtain the responsible Member's approval where it seeks to appoint a committee not wholly comprised of the Board.

[S. 16 substituted by s. 12 of Act No. 9 of 1994.]

**17. Delegation of powers and duties by the Board.**—The Board may by resolution delegate any of its powers and duties under this Act (excluding any power conferred by section 30) to any member or committee of the Board or any officer appointed under section 18, but shall not thereby be divested of any power or be relieved of any duty which it may so have delegated, and may revoke or amend any such delegation and amend or withdraw any decision by a member, committee or officer in terms of a delegation under this section.

**18. General Manager of the Corporation.**—(1) The responsible Member shall appoint a person known as the General Manager of the Corporation who shall be its chief executive, administrative and accounting officer.

(2) The General Manager shall be appointed for such period, on such terms and conditions as to service, be paid such salary and allowances and be entitled to such perquisites and benefits as the responsible Member in consultation with the Member of the Executive Council for Finance and Provincial Expenditure may from time to time determine.

(3) The provisions of sections 4, 5 and 6 shall *mutatis mutandis* apply in relation to the tenure of office of the General Manager.

(4) Whenever the post of General Manager is vacant or the General Manager is suspended in terms of section 5 (1) or he or she is incapacitated or refuses or fails to act, the responsible Member may designate one of the officers of the Corporation to act as General Manager of the Corporation in which event such acting General Manager shall exercise and perform the powers, functions and duties of the General Manager for as long as any such vacancy exists or any of the aforementioned circumstances subsist.

[S. 18 substituted by s. 13 of Act No. 9 of 1994.]

**18A. Other staff of Corporation.**—(1) The General Manager of the Corporation may, in consultation with the Board appoint such officers, employees and workpersons for the Corporation as he or she may deem necessary, for the due, proper and effective exercise and performance of the powers, functions, duties and business incorporations of the corporation, subject to such terms and conditions relating to service, salary and perquisites as the Board in consultation with the Member of the Executive Council for Finance and Provincial Expenditure may determine.

(2) Subject to the provisions of this Act, provisions of the Public Services Act, 1994, and any regulations and rules thereunder, as amended from time to time, and any determination from time to time made in terms thereof (excluding any such determination relating to salary, salary range or scale or relating to any terms and conditions of service inconsistent with any terms and conditions of service determined or imposed under subsection (1)), shall *mutatis mutandis* apply in respect of any person appointed under subsection (1) except insofar as the Board in consultation with the Member of the Executive Council for Finance and Provincial Expenditure has by regulation amended or substituted the provisions of the last-mentioned Act, the first-mentioned regulations, the said rules and any determination so made.

(3) In applying subsection (1), “salary” includes—

(a)

any payment in money or kind, including remunerative recognition of academic or technical qualifications or the improvement of such qualifications;

(b)

payment of or contribution towards membership fees or moneys in respect of professional, technical or medical aid funds, societies, councils or associations and premiums payable in respect of insurance schemes and pension funds;

(c)

leave of absence, whether with full or half pay or unpaid.

(4) Every person appointed in terms subsection (1) shall, subject to the provisions of this Act, exercise and perform the powers, functions and duties assigned to him or her by the General Manager or by an officer of the Corporation similarly appointed and authorised thereto by the General Manager.

[S. 18A added by s. 14 of Act No. 9 of 1994.]

**19. Principal powers, functions and duties of the Corporation.**—(1) The principal powers, functions and duties of the Corporation shall be—

(a)

on a continuous basis to assess, determine and review the position regarding homelessness and housing in the Province and, in the light thereof, to determine the needs of the Province as regards shelter, accommodation and housing;

(b)

to investigate, plan, prepare, commission and execute schemes and programmes for the provision of shelter, accommodation and housing (including affordable low-cost dwelling and the provision of shelter, accommodation and housing on an *ad hoc* or individual basis);

(c)

to advise and render physical and other assistance to any local, regional or rural authority and any private person as regards shelter, housing, accommodation and urban or rural planning, development and services and facilities of a technical nature connected with any form of shelter, accommodation and housing, urban or rural planning and development;

(d)

to promote the provisions of accommodation and housing on a provincial level, as well as individual home-ownership,

(e)

to make recommendations to the Executive Council as regards all matters connected with shelter, accommodation and housing;

(f)

to advise and render financial, physical and other assistance to the Government of the Province as regards housing, urban and rural planning, development and services and facilities of a technical nature connected with shelter, accommodation and housing, urban rural planning or development.

(2) Notwithstanding the provisions of subsection (1), the responsible Member may, if he or she deems it necessary, direct the Board to implement and promote the provincial housing policy and any housing scheme and to perform such other functions and duties in addition to the functions and duties of the Corporation set out in subsection (1).

(3) In addition to the powers and duties conferred by subsections (1) and (2), the Corporation shall apply its resources equitably for both urban and rural development and shall exercise its powers, functions and duties with due regard to shelter, accommodation and housing needs and development in both urban and rural areas.

[Para. (c) substituted by s. 1 (a) of Act No. 41 of 1992, para. (f) added by s. 1 (b) of Act No. 41 of 1992 and s. 19 substituted by s. 15 of Act No. 9 of 1994.]

**19A. Establishment of Housing Tender Board.**—There is hereby established a Housing Tenderer Board of the Corporation to publicly call for and receive tenders and conclude agreements on behalf of the Corporation for such services as the Board may from time to time determine, including but not limited to—

(1)

the procurement of supplies or services for the Corporation, for use and utilization by the Corporation in the implementation of the housing policy determined by the Provincial Legislature and/or the responsible Member; or

(2)

the construction, hiring and testing and/or maintenance of anything or the acquisition or granting of any site or sites arranged on behalf of the Corporation in promoting the provincial housing policy and housing scheme; or

(3)

the disposal of movable property, used or utilised or which has been procured for use and utilization by the Corporation.

[S. 19A added by s. 16 of Act No. 9 of 1994.]

**19B. Constitution of Housing Tender Board.**—(1) The Housing Tender Board shall consist of nine members appointed by the responsible Member of whom—

(a)

one shall be the Chairperson of the Board of Directors of the Corporation;

(b)

one member of the Board of Directors of the Corporation nominated by the members of the Board of Directors;

(c)

General Manager of the Corporation;

(d)

one member nominated by the employees of the Corporation;

(e)

an officer in the Public Service referred to in section 3 (1); and

(f)

four other persons designated by the responsible Member.

(2) The responsible Member shall designate one member of the Housing Tender Board as Chairperson and another as vice-chairperson, and such designation will be with regard to the promotion and protection of the interest of disadvantaged persons.

(3) At any meeting of the Housing Tender Board the quorum shall be not less than five members of the Housing Tender Board.

[S. 19B added by s. 16 of Act No. 9 of 1994.]

**19C. Regulations of the Housing Tender Board.**—The responsible Member shall make such regulations that are necessary for the powers, administration, function, salary and any matters for the Housing Tender Board and to set the guidelines necessary to promote the interests of disadvantaged persons and groups in the implementation of the provincial housing policy and housing scheme.

[S. 19C added by s. 16 of Act No. 9 of 1994.]

**20. Ancillary powers of the Corporation.**—(1) In addition to the powers and duties conferred and imposed by section 19 and in order to assist the Corporation in the effective exercise and performance of its powers, functions and duties under or by virtue of this Act, the Corporation is hereby empowered—

(a)

to make surveys, plans, sections, maps, drawings and estimates;

(b)

to construct, purchase, hire, maintain, alter or improve offices and carry out other works connected therewith;

(c)

to purchase, sell, hire, lease out, exchange or otherwise acquire or dispose of, for the purposes of this Act, any land (whether developed or unimproved) or rights or interests therein or in connection therewith;

(d)

to sell, lease out, exchange or otherwise dispose of any other property of or for the Corporation for the purposes of this Act;

(e)

to construct, erect, alter or add to, improve or demolish, houses and buildings;

(f)

in pursuance of its object, to provide accommodation and housing, to sell or lease out any houses, buildings and land of the Corporation, and to manage, maintain and exercise final control over any form of dwelling owned and utilised by the Corporation for the purpose of providing shelter, accommodation or housing;

[Para. (f) substituted by s. 17 (a) of Act No. 9 of 1994.]

(g)

to enter into an agreement with any contractor, firm, township developer, company, organisation, statutory body, consultant, local or other authority or any person for the purposes of the due and proper exercise and performance of the powers, functions and duties of the Corporation in terms of section 19 and this section and in pursuance of the objects of the Corporation envisaged by this Act and to pay the monies, fees and charges payable by the Corporation in terms of such an agreement;

(h)

to undertake and execute a housing or town planning or development scheme jointly or in partnership with any local authority, township developer, company, organisation, statutory corporation, employer or person;

(i)

to carry out such ancillary works as may be connected with or be required for services to any houses, buildings, or housing developments or schemes, including the building of roads or streets, sewers and drains, the provision or supply of water and electricity, and any related

services, whether in consequence of having acted under paragraph (e), or as agents for a local authority, township developer, statutory corporation or Provincial Department, or otherwise;

[Para. (i) amended by s. 17 (b) of Act No. 9 of 1994.]

(j)

to undertake, support and encourage investigations, study and research either by itself or in conjunction with a local authority, any Provincial Department or person, regarding all aspects of accommodation and housing, including the suitability, adaptability and improvement of methods of building, construction and development, with particular reference to the erection or construction of low-cost, group or high density accommodation and housing and all matters connected therewith;

[Para. (j) amended by s. 17 (b) of Act No. 9 of 1994.]

(k)

to appoint and engage the services of a suitably qualified and experienced consultant, specialist, company, association of persons, organisation, statutory corporation or body to advise the Board in connection with the functions, business, operations, undertakings and activities of the Corporation and the Corporation may, unless any such persons are members of the Public Service in terms of the Public Service Act, 1994 (Act 103 of 1994), pay them such remuneration, and such allowances in respect of travelling and subsistence expenses incurred, as may be determined by the Board;

[Para. (k) amended by s. 17 (c) of Act No. 9 of 1994.]

(l)

to determine the feasibility and examine the scope and extent of the establishment of housing associations so as to extend the choice of house provision and in this regard to encourage and promote self-help schemes in the Province and to make recommendations in connection therewith to the responsible Member;

[Para. (l) amended by s. 17 (d) of Act No. 9 of 1994.]

(m)

to establish or arrange, and to administer and control a group insurance scheme, a pension fund or scheme and a medical aid scheme for the members of the Board and the officers, employees and workmen of the Corporation;

(n)

to insure itself with any company or association against any loss, damage, risk, liability or accident whatsoever and however caused, which the Corporation may suffer or incur;

(o)

to take out an insurance policy with any insurer providing insurance cover for the members of the Board and the staff of the Corporation in respect of injury, disablement or death resulting from or caused by accident occurring in the course of the exercise or performance of their powers, duties and functions in terms of or by virtue of the provisions of this Act;

[Para. (o) substituted by s. 17 (e) of Act No. 9 of 1994.]

(p)

to acquire by way of purchase, lease or otherwise any vehicles, plant, equipment and materials to be used in connection with the purposes and objects of the Corporation;

(q)

to incur expenditure in respect of official entertainment by the Board for the purposes of or in connection with advancing, promoting, executing or attaining the affairs, operations, purposes and objects of the Corporation; and

(r)

to perform and do all such other acts and things which are not inconsistent with the provisions of this Act and which are necessary or expedient for the due, proper and effective performance of its powers, functions and duties in terms of this Act.

(2) The Corporation may, in exercising any power, function or duty in terms of section 19 (b) or (c) or subsection (1) (b), (e), (h) or (i) of this section, in consultation with the local authority in question, the North West Water Corporation, any Department of State or any other statutory corporation, board or body in question, make provision for and perform any work or execute any works relating to—

(a)

the connection of any drain, sewer, conduit, water or other main or power line or telephone line on land owned or being developed by or under the control of the Corporation for the purposes of the provision of accommodation or housing, to any drain, sewer, conduit, water or other main or power line or telephone line, in the proximity of the said land, which is under the control of such local authority, Department, corporation, board or body or of the North West Water Corporation;

(b)

the connection of any road, street or thoroughfare on land owned by the Corporation or so being developed or under its control, to any road, street or thoroughfare under the control of such local authority, Department, corporation, board or body or the North West Water Corporation;

(c)

the use, for the deposit of night soil or refuse, of any works, premises or site used for that purpose by such local authority, Department, corporation, board or body or the North West Water Corporation; and

(d)

the use of any cemetery, burial place or crematorium owned by or under the control of such local authority, Department, corporation, board or body,

or make use of any such works, premises or site or any cemetery, burial place or crematorium, contemplated by paragraphs (c) and (d), respectively, for the purposes therein mentioned, and such local authority, Department, corporation, board or body or the North West Water Corporation, shall render all such assistance and furnish all such information to the Corporation as it may require for the purposes of acting under this section to the extent that such assistance or information may be necessary for such purposes.

(3) Notwithstanding the provisions of this Act, the Corporation shall in the exercise and performance of the powers, functions and duties conferred and imposed upon it by or in terms of this Act, and in conducting and carrying on its business, operations and undertakings under or by virtue of this Act, observe and comply with all the laws and requirements thereunder which are applicable and of force in respect of any such class or type of business, operation and undertaking.

**21. Transfer by endorsement of certain land, etc., to or by Corporation, and exemption from certain duties, fees and charges.**—Notwithstanding the provisions of any other law—

(a)

the transfer to the Corporation of any immovable property acquired by it from the State or a statutory corporation, or the transfer by the Corporation of any immovable property to the State or a statutory corporation, may with the approval of the Registrar General of the Republic of South Africa or his or her duly appointed representative in the Province be effected by way of endorsement upon the title deed of such property, and any such endorsement shall for all purposes in law be sufficient proof that the right of ownership of the property in question is vested in the Corporation or the State or the statutory corporation in question (as the case may be);

[Para. (a) substituted by s. 18 (a) of Act No. 9 of 1994.]

(b)

no stamp duty or transfer duty shall be payable in respect of any transfer of property to the Corporation and no stamp duty or charge or fee of office shall be payable in respect of any document executed on behalf of the Corporation or in respect of any note made at the request of the Corporation, on any document in the deeds registry of the Republic of South Africa and/or of the Province; and

[Para. (b) substituted by s. 18 (b) of Act No. 9 of 1994.]

(c)

no certificate, document or instrument issued by the Corporation shall be subject to stamp duty or any fee of office or charge whatsoever, nor shall the Corporation be liable for the payment of any search or inspection fee in the deeds registry or any office of a Provincial Department.

[Para. (c) amended by s. 18 (c) of Act No. 9 of 1994.]

**22. Execution of certain instruments on behalf of the Corporation.**—Every contract, agreement, authority, cheque, bill, promissory note, document and any other instrument, executed for and on behalf of the Corporation, shall, if it complies with the provisions of this Act in all other aspects, be duly executed if signed by the General Manager or the chairperson of the Board, and any other member of the Board duly authorised thereto by the Board, or, if so authorised by the Board, by any two members of the Board authorised thereto by the Board or the General Manager and any officer of the Corporation duly authorised thereto by the Board.

**23. Financing of the Corporation.**—(1) The Corporation shall be financed and be provided with working capital, out of—

(a)

such moneys as may from time to time be appropriated to the Corporation by the Provincial Legislature, together with such moneys, which, prior to the commencement of this Act, had been appropriated by the Provincial Legislature for the purposes of housing development, in so far as the lastmentioned moneys are unexpended on the date of such commencement;

(b)

loans granted to the Corporation by the Government of the Province on such terms and conditions as the responsible Member in consultation with the Member of the Executive Council for Finance and Provincial Expenditure may time to time specify;

(c)

loans raised or overdrafts obtained from any bank or financial institution registered in the Republic of South Africa or elsewhere;

(d)

loans negotiated by the Corporation with other states, or with international bodies, agencies, institutions or financiers;

(e)

all fees, charges and moneys payable to the Corporation in respect of services, works or projects undertaken by it as an agent in terms of the provisions of section 20 (1) (i);

(f)

the proceeds of any sale of any land or rights and interests therein, any other property, or any houses and buildings, in terms of section 20 (1) (c), (d) and (f), and the rentals paid in respect of any land, houses, buildings and other property leased out by it in terms of section 20 (1) (c), (d) and (f);

(g)

all interest derived from the investment of moneys by the Corporation in terms of the provisions of section 24 (3);

(h)

donations and bequests to the Corporation accepted by it:

Provided that the acquisition of capital or funds abroad for the Corporation in terms of paragraph (c) or (d) shall be subject to the prior consent of the Executive Council.

(2) The Corporation shall open and maintain with a registered commercial or other bank in the Republic of South Africa or with any other financial institution approved by the Member of the Executive Council for Finance and Provincial Expenditure, an account in which shall be deposited all moneys and income of the Corporation under this Act and from which all payments by the Corporation shall be effected.

[S. 23 substituted by s. 19 of Act No. 9 of 1994.]

**24. Reserve fund of the Corporation.**—(1) The Corporation shall establish a reserve fund which shall from time to time be credited with any surplus of the income of the Corporation over its expenditure at the end of the financial year.

(2) Any deficit in the books of the Corporation at the end of the financial year and any loss which may arise in consequence of any transactions or the business operations of the Corporation shall be made good from the reserve fund unless and in so far as such deficit or loss is, in the circumstances determined by the Executive Council, defrayed by the Government of the Province from moneys specially appropriated by Provincial Legislature for that purpose.

[Sub-s. (2) amended by s. 20 (a) of Act No. 9 of 1994.]

(3) The moneys standing to the credit of the reserve fund at the end of a financial year may, in so far as it is not required for any purpose mentioned in subsection (2) and to such extent as may be determined by the Board, be invested on call with any personal or commercial bank or any building society within the Province or any other financial institution approved by the Member of the Executive Council for Finance and Provincial Expenditure, or may, if deemed necessary or expedient by the Board, be merged with the liquid assets of the Corporation.

[Sub-s. (3) amended by s. 20 (b) of Act No. 9 of 1994.]

(4) The Corporation shall not be liable for the payment of income tax or any other tax on any surplus of the Corporation over its expenditure as reflected at the end of the financial year in respect of such year.

**25. Government of the Province may guarantee repayment of loans raised by the Corporation.**—(1) The Member of the Executive Council for Finance and Provincial Expenditure may, subject to the provisions of section 157 (3) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), on behalf of the Government of the Province and upon such terms and conditions as he or she deems fit, guarantee the repayment of any loans raised or negotiated by the Corporation in terms of the provisions of section 23 (1) (c), as well as the interest and any other charges payable in connection with such loan.

(2) An agreement entered into in pursuance of the provisions of subsection (3), may be signed on behalf of the Government of the Province by the Member of the Executive Council for Finance and Provincial Expenditure or any person authorised thereto in writing by him or her.

[S. 25 substituted by s. 21 of Act No. 9 of 1994.]

**26. Corporation may utilize its funds in connection with salary, etc., of, and pensions and medical aid benefits for, members of the Board and the staff of the Corporation.**—

(1) The salary, allowances and perquisites of the chairperson and other members of the Board and of the officers, employees and workmen of the Corporation appointed in terms of section 18 and of any person appointed in terms of section 20 (1) (k), shall be paid out of the funds of the Corporation.

[Sub-s. (1) amended by s. 22 of Act No. 9 of 1994.]

(2) The Corporation may from its funds contribute towards any pension fund or scheme and any medical aid scheme established or arranged in terms of the provisions of this Act for the benefit of the members of the Board and the officers, employees and workmen of the Corporation, and the dependants of any aforementioned person.

[S. 26 amended by s. 22 of Act No. 9 of 1994.]

**27. Financial accountability of Board and provisions relating to annual report.**—

(1) The Board shall, in respect of every financial year, cause proper books and records of account to be kept in accordance with established accounting practice, principles and procedure, of—

(a)

all the moneys received by the Corporation within the contemplation section 23 (1);

(b)

all moneys deposited in and payments made from the account contemplated by section 23 (2);

(c)

all moneys of the Corporation invested or deposited in terms of section 25;

(d)

all movable and immovable property and other assets held by the Corporation and every loan raised or overdraft obtained by or for the Corporation and the capital amount outstanding on each loan or overdraft;

(e)

all costs incurred or moneys expended or owing by the Corporation in connection with the exercise and performance of its powers, functions and duties under this Act;

(f)

the interest paid and/or payable by the Corporation in respect of every loan or overdraft referred to in section 23 (1) (d);

(g)

the interest received and/or accrued on moneys deposited or invested in terms of section 23 (2),

and the Board shall, within three months as from the end of each financial year or such longer period as the responsible Member may in writing allow, submit the said books and records of account, together with the financial statements of the Corporation in respect of such year, comprising an income and expenditure statement and a balance sheet, to be audited in accordance with the provisions of section 28.

[S. 27 substituted by s. 23 of Act No. 9 of 1994.]

**28. Provisions relating to audit, and offences and penalties in connection with audit.—**

(1) The statements, records, books, accounts and documents of the Corporation (together with all vouchers, invoices and receipts) relating to the business and the financial affairs, position and transactions of the Corporation, shall be fully audited by the Auditor General or a practising public accountant and auditor appointed by him or her for that purpose, at the conclusion of which audit the auditor concerned shall furnish his or her report to the Board.

[Sub-s. (1) substituted by s. 24 (a) of Act No. 9 of 1994.]

(2) In carrying out any audit in terms of subsection 910, the Auditor General or the public accountant or auditor referred to in subsection (1) may direct any person (including any local authority or Department of Province, any statutory or other corporation, board or body or any company, firm or association of persons) to furnish to him or her such information in the possession of such person or to make available for examination of all such statements, records, books, accounts and documents in the possession or under control of such person, as in the opinion of the Auditor General or such public accountant or auditor relate to or are relevant in connection with any transactions of or with or any business, operation or undertaking of the Corporation and are likely to facilitate the carrying out of such audit.

[Sub-s. (2) substituted by s. 24 (a) of Act No. 9 of 1994.]

(2A) Notwithstanding the provisions of subsection (1), if the responsible Member is of the opinion that for any reason the Corporation's finances have become unsound he or she may appoint an independent auditor to conduct an interim audit and he or she shall call for and receive from the Chairperson a report as contemplated in section 27 for such period determined by the responsible Member and, such report to be submitted to the responsible Member within a period specified by the responsible Member and the provisions of subsection (2) shall *mutatis mutandis* apply.

[Sub-s. (2A) inserted by s. 24 (c) of Act No. 9 of 1994.]

(3) Any person who fails or refuses to comply with any direction under subsection (2) shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand rand or imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.

[Sub-s. (3) amended by s. 24 (b) of Act No. 9 of 1994.]

**29. Auditor General's report, report of chairperson of the Board and the financial statements of the Corporation to be tabled in the Provincial Legislature.**—The responsible Member shall, within fourteen days after he or she has received the Auditor General's report as to the audit in terms of section 28 and the report and financial statements contemplated by section 27, lay such reports and statements on the table in the Provincial Legislature, if the Provincial Legislature is then in session, or, if it is not then in session, within fourteen days after the commencement of its next ensuing session.”.

[S. 29 substituted by s. 25 of Act No. 9 of 1994.]

**30. Regulations.**—(1) The Board may, subject to the approval of the responsible Member, make regulations not inconsistent with the provisions of this Act, relating to—

(a)

the rights, powers, functions, duties and conditions and terms of service (including salary and perquisites) of the staff of the Corporation appointed in terms of section 18 and the manner in which it is to be exercised and performed, and the control and supervision of such staff;

[Para. (a) amended by s. 26 (a) of Act No. 9 of 1994.]

(b)

the management, supervision and control of the Corporation;

(c)

the establishment or arrangement and the administration and control of any pension fund or scheme, group insurance scheme and medical aid fund or scheme for the staff of the Corporation hereinbefore mentioned and for members of the Board;

(d)

the contributions of the Corporation towards any fund or scheme referred to in paragraph (c);

(e)

standard terms and conditions relating to the sale, lease, use or occupation of or the eviction from any house, building or land of the Corporation and the circumstances in which such terms and conditions shall apply;

(f)

the due, proper and effective conducting of the business, operations, undertakings and activities of the Corporation, generally; and

(g)

any matter which is required to be prescribed or determined or may be prescribed or determined by the Board in terms of the provisions of this Act, in so far as such provisions do not require the Board to exercise its discretion separately in respect of every individual case presented to or to be considered by it:

Provided that in so far as any regulation under this subsection relates to matters financial or matters having financial implications, it shall be made in consultation with the Member of the Executive Council for Finance and Provincial Expenditure.

(1A) Notwithstanding the provisions of subsection (1), the responsible Member may, if he or she deems it necessary, make such regulations that are necessary for the proper functioning and administration of the Corporation and implementation of the provincial's housing policy.

[Sub-s. (1A) inserted by s. 26 (b) of Act No. 9 of 1994.]

(2) Regulations made in terms of subsections (1) and (1A) shall be published for general information in the Provincial *Gazette* and may in so far as it relates to the improvement of the conditions and terms of service, salary and perquisites, be made with retrospective effect, subject to the approval of the Member of the Executive Council for Finance and Provincial Expenditure.

[Sub-s. (2) substituted by s. 26 (c) of Act No. 9 of 1994.]

(3) Every regulation made in terms of subsections (1) and (1A) shall be laid on the table of the Provincial Legislature within fourteen days of its publication in the Provincial *Gazette*, if the Provincial Legislature is then in session, or, if it is not then in session, within fourteen days after commencement of its next ensuing session.

[Sub-s. (3) substituted by s. 26 (c) of Act No. 9 of 1994.]

**31. Restriction of liability of members of the Board.**—No member of the Board shall be liable for any loss or damage suffered by the Corporation if such loss or damage is caused by or is the result of any *bona fide* act or omission by such a member in the exercise or

performance of any power, function or duty conferred or imposed upon him or her by or in terms of this Act.

**31A. Application of Act to the territory of North West.**—The Act and any amendment thereof shall apply to the whole territory of the North West Province as defined in Part 1 of Schedule 1 to the Constitution of the Republic of South Africa Act, 1993 (Act 200 of 1993).

[S. 31A inserted by s. 27 of Act No. 9 of 1994.]

**32. Short title.**—This Act shall be called the North West Housing Corporation Act. 1982.

[S. 32 substituted by s. 28 of Act No. 9 of 1994.]