

CHAPTER 261

HOUSING AUTHORITY ACT

To provide for the establishment of a body corporate to be known as the Housing Authority and for the exercise by or on behalf of that Authority of functions relating to housing, residential and commercial accommodation and related facilities and amenities; to provide for the transfer to that Authority of certain properties; to make provision with respect to the transfer of certain other assets; and to make provision with respect to matters ancillary thereto or connected therewith.

(11th October, 1976)*

ACT XV of 1976, as amended by Acts XXV of 1977, XXIX of 1979, XLIII of 1986, XVIII of 1988, XXIV of 1995, XVI of 1997, and XXVIII and XXXII of 2007; and Legal Notice 423 of 2007.

Preliminary

1. The short title of this Act is the Housing Authority Act.
 2. In this Act, unless the context otherwise requires -
 - "appointed day", in relation to article 12, has the meaning given to it by that article;
 - "Authority" means the Housing Authority established by article 3;
 - "Board" means the Board established by article 6
 - "Chairman" means Chairman of the Authority and includes, in the circumstances mentioned in article 5(2), the deputy chairman or other person appointed to act as chairman;
 - "the Company", in relation to article 20, means the company now known as Mid-Med Finance Corporation Limited[†] formed by a memorandum and articles of association signed on 10th January, 1968 under the name of Barclays Finance Corporation (Malta) Limited, and registered as a company with the Registrar of Partnerships on the same date, the change of name having taken effect on 1st October, 1975, by virtue of a resolution taken by the Company on 29th September, 1975 and duly registered with the said Registrar; and any reference to the Company, whether in this Act or elsewhere, shall, for the purposes of this Act, include a reference to the Company by whichever of the two names it is referred to;
 - "financial year" means a period of twelve months ending on 31st December:
- Provided that the financial year which commenced on the 1st October, 2007 shall be for a period of fifteen months and shall

Short title.

Interpretation.
Amended by:
XXIX. 1979.3;
XXVIII. 2007.2;
XXXII. 2007.7.

*See article 1(2) as originally enacted, which subarticle has been omitted under the [Statute Law Revision Act](#), 1980 and Legal Notice 129 of 1976.

[†]By resolution dated 9th March, 1977, the name has been changed to "Lohombus Corporation Limited" with effect from 1st April, 1977.

terminate on the 31st December, 2008;

"House" means the House of Representatives;

"immovable assets", in relation to article 12, has the meaning given to it by that article;

"land" includes any buildings or other structures thereon;

"Minister" means the Minister responsible for housing;

"operative date", in relation to article 20, has the meaning given to it by that article;

"public officer" shall have the same meaning assigned to it by article 124 of the [Constitution](#);

"title", in relation to article 12, means any title over immovable property so however called or described and includes any title mentioned in article 5(a), (b) and (c) of the [Land Acquisition \(Public Purposes\) Ordinance](#) and any rights over the said property exercised in terms of the provisions of the said Ordinance;

"the transferee", in relation to article 20, has the meaning given to it by that article;

"transferred loans", in relation to article 20, has the meaning given to it by that article.

Establishment, functions and conduct of affairs of the Authority

Establishment of the Housing Authority.
Amended by:
XXVIII. 2007.3.

3. (1) There shall be a body, to be known as the Housing Authority.

(2) The Authority shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any property or rights for the purpose of its functions, of suing and being sued, and of doing all such things and of entering into all such transactions as are incidental or conducive to the performance of its functions under this Act.

(3) The Authority shall be composed of the Chairman appointed under article 5(2) and the Board established under article 6.

Functions of the Authority.
Amended by:
XXV. 1977.2;
XLIII. 1986.2;
XVIII. 1988.2;
XXVIII. 2007.3.

4. (1) It shall be the function of the Authority to develop, to promote and finance the development of, and to administer, housing estates and other residential and commercial accommodation and related facilities and amenities, to promote and finance home ownership and generally to improve housing conditions in Malta.

(2) Subject to the provisions of this Act and without prejudice to the generality of subarticle (1), the Authority may:

(a) acquire, hold, purchase, administer and in any manner dispose of, any property both movable and immovable:

Provided that in the disposal of Government owned non-residential property situated in government housing estates which is transferred to the Authority in accordance with article 12, the Authority shall act in accordance with the provisions of the [Disposal of Government Land Act](#) which shall for the purposes of this proviso apply *mutatis mutandis* to the Authority;

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- (b) develop, or cause the development of, any land for residential and commercial purposes and for purposes connected therewith or ancillary thereto;
- (c) construct, or cause the construction of, any property for residential and, or commercial purposes and for purposes connected therewith or ancillary thereto;
- (d) provide, manage, administer and revise schemes related to housing;
- (e) administer, maintain, upkeep, carry out structural repairs of residential and commercial accommodation and general repairs of common areas of properties owned or administered by it and related facilities and amenities;
- (f) develop and embellish areas surrounding properties owned or administered by it, including public areas, gardens, recreational facilities and open spaces;
- (g) carry out urban regeneration and landscaping;
- (h) carry out evictions and other law enforcement related to property owned or administered by it;
- (i) collect rent, ground rent or other annuities or arrears from all properties owned or administered by it;
- (j) assume all the powers, rights and obligations vested in the Director of Social Housing emanating from the [Housing Act](#) or any other law;
- (k) finance the acquisition and the development of any land, whether such acquisition or development is to be made by the Authority or by others, including individuals;
- (l) make any form of investment which the Authority may deem proper or expedient;
- (m) make such payments, whether by way of subsidy or otherwise which it may deem appropriate for any of the purposes aforesaid and for any other purpose related to its functions;
- (n) act by agreement with the Government as agent for implementing, or in furtherance of, the policy of the Government with respect to housing, including any project or plan of the Government relating to housing;
- (o) advise the Minister, on any matter relating to its functions or which the Minister may from time to time refer to the Authority for advice;

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- (p) generally do all such things as may be incidental or conducive to any of its functions or to the exercise of any of its powers.
- (3) The following provisions shall have effect with respect to the functions and powers of the Authority:
- (a) where the function or power involves the development of land by the erection or construction thereon, or the carrying out of any structural repairs or the maintenance of any buildings or other works, the Authority may carry out such functions directly or by means of a grant of contract of works;
 - (b) any other function or power of the Authority may, with the approval of the Minister, and shall, if the Minister so directs, be performed or exercised through the agency of a department of Government or of any other body or person;
 - (c) the performance or exercise of any function or power of the Authority as provided in this subarticle shall be made under arrangements agreed between the Authority and its agent and in accordance with such directions as the Authority may from time to time give to its agent.
- (4) Notwithstanding any other law, where any function or power of the Authority is performed or exercised through an agent as provided in subarticle (3), all judicial actions, acts and proceedings arising from or relating to any matter in respect of which an agent acts for and on behalf of the Authority shall be taken or made by or against such agent in the name of the Authority.
- (5) For the purpose of carrying out any of its functions under this Act, the Authority may, with the approval in writing of the Minister given after consultation with the Minister responsible for finance, borrow or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister, after consultation as aforesaid, may in writing approve.
- (6) The Minister responsible for finance may, after consultation with the Minister, make advances to the Authority of such sums as he may agree to be required by the Authority for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as he may, after consultation as aforesaid, deem appropriate. Any such advance may be made by the Minister responsible for finance out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorising the Accountant General to make such advance.

Conduct of the
affairs of the
Authority.
Amended by:
XXVIII. 2007.5.

5. (1) The affairs, business and the carrying out of the functions of the Authority shall be the responsibility of the Board; but subject to the provisions of this Act and to any directions of the said Board, the executive conduct of the Authority, its administration and organization and the administrative control of its officers and employees, shall be the responsibility of the

Chairman of the Authority, who shall also have such other powers as may from time to time be delegated to him by the Board.

(2) The Chairman of the Authority shall be appointed by the Minister for such period as the Minister may deem appropriate. The Minister may also designate another member of the Board as deputy chairman, and the member so designated shall have all the powers and perform all the functions of the Chairman during his absence or inability to act as chairman, or while he is on vacation, or during any vacancy in the office of chairman; and the Minister may also, in any of the circumstances aforesaid, appoint another person to act as chairman and in such case the foregoing provisions shall apply in respect of such person.

6. (1) There shall be a Board of Directors of the Housing Authority, which shall be composed of the Chairman and a minimum of six but not more than ten other voting members.

Board of Directors
of the Housing
Authority.
*Substituted by:
XXVIII. 2007.6.*

(2) The members of the Board shall be appointed, by the Minister, from among persons who appear to him to be qualified by reason of having had experience of, and shown capacity in, matters relating to housing or property development, banking, finance, architecture, design, social policy, management, organisation of workers or employees, industry, trade or administration, and the Minister may also choose one or more members from among public officers.

(3) The Board shall be responsible for the formulation of policies to be pursued by the Authority in the carrying out of its functions. In determining policies the Board shall follow such guidelines as may be set out by Government. Such policies shall be in writing and shall be made public.

(4) The members of the Board shall receive, out of funds of the Authority, such remuneration as the Minister may, from time to time, determine.

(5) The provisions of the Criminal Code in respect of public officers or employees shall apply to the members of the Board and to all other officers and employees of the Authority.

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(6) A person shall be disqualified for appointment to, or from remaining a member of, the Authority if he:

- (a) is a member of the House of Representatives, or of a Local Council, or a candidate for election to the House of Representatives or to a Local Council; or
- (b) has such a financial or other interest in any enterprise or activity as is likely to affect prejudicially the discharge by him of his functions as a member of the Authority; or
- (c) is legally incapacitated or interdicted; or
- (d) has been adjudged bankrupt or has made a composition or arrangement with his creditors; or
- (e) has been convicted of a crime affecting public trust or of theft or of fraud or of knowingly receiving property

obtained by theft or fraud.

(7) Subject to the provisions of subarticle (8), the members of the Authority shall hold office for such period and on such terms and conditions as the Minister may deem appropriate; and a member shall, on ceasing to be a member, be eligible for reappointment.

(8) A member of the Authority may resign from office by letter addressed to the Minister; and if during his tenure of office there is a change in the person of the Minister, every such member shall tender his resignation to the new Minister.

(9) A member of the Authority may be removed from office by the Minister if, in his opinion, such member is unfit to continue in office; or has become incapable of, or is not, properly performing his duties as a member; or in the event of any of the circumstances which disqualify such person from remaining a member of the Authority.

(10) The appointment and termination of office of any person as member of the Authority shall be notified in the Gazette.

(11) Any member of the Authority who has any direct or indirect interest in any contract made or proposed to be made by the Authority, not being an interest which disqualifies such member from remaining a member, shall disclose the nature of his interest at the first meeting of the Board after the relevant facts have come to his knowledge; such disclosure shall then be recorded in the minutes of the meeting of the Board, and the member having an interest as aforesaid shall withdraw from any meetings at which such contract is discussed or decided on by the Board. Any such disclosure shall be communicated to the Minister without delay. Where the interest of the member is such as to disqualify him from remaining a member, he shall report the fact immediately to the Minister and tender his resignation.

Provisions with
respect to meetings
of the Board.
Amended by:
XXVIII. 2007.7.

7. (1) The Board shall meet as often as necessary or expedient, but in no case less frequently than once a month. The meetings of the Board shall be called by the Chairman either on his own initiative or at the request of any two of the other members. Without prejudice to the other requirements of this Act, no decision of the Board shall be valid which is not supported by a majority of the members of the Board.

(2) Half the number of members for the time being constituting the Board shall form a quorum at any meeting of the Board. Decisions shall be adopted by a simple majority of the votes of the members present and voting. The Chairman, or other member presiding at the meeting, shall have an initial vote and, in the event of an equality of votes, a casting vote.

(3) In the absence of the Chairman at any meeting of the Board, the deputy chairman, or other person appointed to act as chairman, or, if no other member or person has been designated or appointed as such, a member of the Board chosen for that purpose by the other members present, shall preside at that meeting of the Board.

(4) Subject to the provisions of subarticle (1), no act or

proceeding of the Board shall be invalidated merely by reason of any vacancy among the members. All acts done by any person acting in good faith as a member of the Board shall be valid as if he were a member notwithstanding any defect in his appointment or qualification; and no act or proceeding of the Board shall be questioned on the ground of the contravention by a member of any of the provisions of article 6(11).

(5) Subject to the provisions of this Act, the Board may regulate its own procedure.

(6) Minutes of the proceedings of the Board and of any committee thereof shall be kept. For this purpose and for the keeping of the relevant records, the Minister shall designate a person to act as secretary to the Board for such period and on such terms as the Minister may deem appropriate. The secretary to the Board shall not have a vote.

8. (1) Without prejudice to the provision of article 4(4), the legal representation of the Authority shall vest in the Chairman:

Legal representation of the Authority.
Amended by: XXVIII. 2007.8.

Provided that the Board may designate any one or more of the other members of the Board, or of the officers or employees of the Authority, to appear in the name and on behalf of the Authority in any judicial proceedings and to sign for and on its behalf any other act, contract, instrument or other document whatsoever.

(2) Any document purporting to be an instrument made or issued by the Authority and to be signed by the Chairman on behalf of the Authority shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Authority.

9. (1) The Minister shall from time to time communicate to the Authority the directions of the Cabinet as to the policy to be followed by the Authority in carrying out its functions and in exercising its powers under this Act. Such directions may be of a general character in relation to matters that appear to the Cabinet to affect the public interest generally and of a specific character in matters that appear to the Cabinet to affect specific public interests, in matters concerning the award of contracts, the disposal of property and the granting of leases and other titles to property, in matters affecting revenue and in all matters concerning payments and expenditure generally, as well as in matters relating to the implementation of the policies, plans or projects of the Government relating to housing. The Authority shall give effect to all such directions and shall conduct its affairs accordingly.

Relations between the Minister and the Authority.
Amended by: XXVIII. 2007.9.

(2) The Minister shall, from time to time, establish committees as necessary to assist the Chairman in the discharge of his duties.

(3) The Authority shall afford to the Minister facilities for obtaining information with respect to the property and activity of the Authority, and furnish him with returns, accounts and other information with respect thereto, and afford him facilities for the verification of information furnished, in such manner and at such times as he may require. Copies of the minutes of the Board and

any committees shall be forwarded to the Minister regularly and without delay.

Officers and employees of the Authority.
Amended by:
XXVIII. 2007.10.

10. (1) The Authority may employ at such remuneration and upon such terms and conditions as the Authority may, with the approval of the Minister, determine, such officers and employees as may from time to time be necessary for the due and efficient exercise of its functions. The terms and conditions of employment shall be comparable with those of employees in the service of the Government.

(2) The officers and employees of the Authority shall not have any direct or indirect interest in any contract made or proposed to be made by the Authority or in any enterprise which has or proposes to have any business relations with the Authority, except such interest as may be allowed under a scheme duly approved by the Minister and applicable to the officers and employees of the Authority generally.

(3) The Authority may, with the approval of the Minister given after consultation with the Minister responsible for finance, establish a scheme or schemes, whether by contributory or non-contributory arrangements or partly by one and partly by the other, for the payment to its officers and employees, or their dependants, on their retirement, death or injury, of pensions, gratuities and other like benefits.

Annual report.

11. (1) The Authority shall, not later than six weeks after the end of each financial year, make and transmit to the Minister and to the Minister responsible for finance a report dealing generally with the activities of the Authority during that financial year and containing such information relating to the proceedings and policy of the Authority as either of the said Ministers may from time to time require.

(2) The Minister shall cause a copy of every such report to be laid on the Table of the House of Representatives as soon as practicable.

Financial provisions

Transfer of immovable assets.
Amended by:
XXVIII. 2007.11.

12. (1) The immovable assets from time to time specified in an order made by the President of Malta and published by legal notice (hereinafter referred to as "the immovable assets") shall, with effect from such day as may be specified in any such order (hereinafter referred to as "the appointed day"), and by virtue of this Act and without further assurance, be transferred to and vest in the Authority under the same title by which they were held by the Government before such day:

Provided that any such order may also provide for the transfer of the administration or other rights pertaining to Government in relation to such immovable assets.

(2) Where in respect of any property or right comprised in the immovable assets, any act, proceedings or other thing is in the process of being done or is still operative immediately before the appointed day under the provisions of the [Land Acquisition \(Public Purposes\) Ordinance](#), including any judicial act or other proceeding, such act, proceedings or other thing may, notwithstanding anything contained in this Act, be continued, and any further acts, proceedings or things may be done, by the competent authority, within the meaning of that Ordinance, in accordance with the provisions of that Ordinance as if the property to which they refer were to be acquired by that authority; but any such acquisition shall be made by or in the name and for the benefit of the Housing Authority.

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(3) Any sums required to acquire any of the immovable assets, or any part thereof, or any right in or over such assets, or to discharge any liability to which they may be subject, and any sums required to complete, ready for occupation, any of the immovable assets which are still under construction or not completed as aforesaid on the appointed day shall, unless different provision is made in the estimates of the Authority as approved by the House of Representatives, be paid to the Authority out of the Consolidated Fund and shall be a charge on such Fund by virtue of this Act and without further appropriation.

13. (1) The Authority shall cause to be prepared in every financial year, and shall not later than six weeks after the end of each such year adopt estimates of the income and expenditure of the Authority for the next following financial year.

Estimates of the
Authority.
Amended by:
XXVIII. 2007.12.

(2) In the preparation of such estimates the Authority shall take account of any funds and other moneys that may be due to be paid to it out of the Consolidated Fund during the relevant financial year, whether by virtue of this Act or of an appropriation act or of any other law; and the Authority shall so prepare the said estimates as to ensure that the total revenues of the Authority are at least sufficient to meet all sums properly chargeable to its revenue account, including, but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form and shall contain such information and such comparisons with previous years as the Minister responsible for finance may direct.

(4) A copy of the estimates shall, upon their adoption by the Board, be sent forthwith by the Board to the Minister and to the Minister responsible for finance.

(5) The Minister shall, at the earliest opportunity and not later than six weeks after he has received a copy of the estimates from the Board (or if at any time during that period the House is not in session within six weeks from the beginning of the next following session), cause such estimates to be laid before the House together with a motion that the House approves the said estimates. Not less than one sitting shall be allotted for the debate in the House on such a motion; and both the motion and the approval of the estimates by the House may be with or without amendments to the estimates.

Expenditure to be according to approved estimates.
Amended by:
XXVIII. 2007.13.

14. (1) No expenditure shall be made or incurred by the Authority unless it has been approved by the House as provided in article 13.

(2) Notwithstanding the provisions of subarticle (1) -

- (a) until the expiration of six months from the beginning of a financial year, or until the approval of the estimates for that year by the House, whichever is the earlier date, the Authority may make or incur expenditure for carrying on its functions under this Act not exceeding in the aggregate one-half of the amount approved by the House for the preceding financial year;
- (b) expenditure approved in respect of a head or sub-head of the estimates may, with approval of the Minister given after consultation with the Minister responsible for finance, be made or incurred in respect of another head or sub-head of the estimates;
- (c) in respect of the first financial year, the Authority may make or incur expenditure until the approval of the estimates for that year by the House not exceeding in the aggregate such amounts as the Minister responsible for finance may, after consultation with the Minister, allow;
- (d) if in respect of any financial year it is found that the amount approved by the House is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Board may adopt supplementary estimates for approval by the House and, pending such approval but subject to its being given, may, with the approval of the Minister responsible for finance given after consultation with the Minister, incur the relative expenditure or such part thereof as the said Minister may so approve; and in any such case the provisions of this Act applicable to the estimates shall as near as practicable apply to the supplementary estimates.

Publication of approved estimates.

15. All estimates and supplementary estimates of the Authority approved by the House shall, as soon as practicable, be published in the Gazette.

Accounts and audit.
Amended by:
XVI.1997.8;
XXVIII. 2007.14.

16. (1) The Authority shall cause to be kept proper accounts and other records in respect of its operations, and shall cause to be prepared a statement of accounts in respect of each financial year.

(2) The accounts of the Authority shall be audited by an auditor or auditors to be appointed by the Board and approved by the Minister:

Provided that the Minister responsible for finance may, after consultation with the Minister, require the books and accounts of the Authority to be audited or examined by the Auditor General who shall for the purpose have the power to carry out such physical checking and other verifications as he may deem necessary.

(3) After the end of each financial year, and not later than the date on which the estimates of the Authority are forwarded to the Minister under article 13, the Board shall cause a copy of the statement of accounts duly audited to be transmitted to the Minister and to the Minister responsible for finance together with a copy of any report made by the auditors on that statement or on the accounts of the Authority.

(4) The Minister shall cause a copy of every such statement and report to be laid before the House of Representatives together with the motion laid before the House under article 13.

17. (1) All moneys accruing to the Authority shall be paid into a bank or banks appointed as bankers of the Authority by a resolution of the Board. Such moneys shall, as far as practicable, be paid into any such bank from day to day, except such sum as the Board may authorise to be retained to meet petty disbursements and immediate cash payments.

Deposit of revenues and payments by the Authority.
Amended by: XXVIII. 2007.15.

(2) All payments out of the funds of the Authority, other than petty disbursements not exceeding a sum fixed by the Board, shall be made by such officer or officers of the Authority as the Board shall appoint or designate for that purpose.

(3) Cheques against and withdrawals from any bank account of the Authority shall be signed by such officer of the Authority as may be appointed or designated by the Board for that purpose and shall be countersigned by the Chairman or such other member of the Board as may be authorized by the Board for that purpose.

(4) The Authority shall also make provision with respect to -

- (a) the manner in which and the officer or officers by whom payments are to be authorised or approved;
- (b) the title of any account held with the bank or banks into which the moneys of the Authority are to be paid, and the transfer of funds from one account to the other;
- (c) the method to be adopted in making payments out of funds of the Authority,

and generally with respect to any matter which is relevant to the proper keeping and control of the accounts and books, and the control of the finances, of the Authority.

18. Without prejudice to any directions communicated by the Minister under article 9, the Authority shall not, except with the approval of the Minister granted for special reasons and after consultation with the Minister responsible for finance, award or enter into any contract for the supply of goods or materials or for the execution of works, to or for the benefit of the Authority, which is estimated by the Authority to exceed six thousand and nine hundred and eighty-eight euro and twelve cents (6,988.12) in value except after notice of the intention of the Authority to enter into the contract has been published and competitive tenders have been issued.

Contracts of supply of works.
Amended by: XIII. 1983.5; L.N. 423 of 2007; XXVIII. 2007.16.

19. The Authority shall be exempt from any liability for the payment of income tax, duty on documents and customs duty under

Exemption from taxation.

any law for the time being in force.

Miscellaneous

Transferred loans.
Amended by:
XXVIII. 2007.17.

20. (1) Where a public deed is entered into between the Company and another company or other body corporate designated in writing by the Minister responsible for finance as the designated transferee for the purposes of this article (such company or body being hereinafter referred to as "the transferee") and such deed transfers or purports to transfer to the transferee any loans or advances made by the Company, and specified in the deed whereby they are or are purported to be, transferred by an indication of the name of the debtor and the date of, and name of the notary executing, the deed whereby the relative loan or advance was made (such loans and advances being in this Act referred to as "the transferred loans"), the deed entered into as aforesaid between the Company and the transferee shall, with effect from the date on which such transfer is by the deed to become operative (in this Act referred to as "the operative date"), effect the transfer to the transferee of all such loans and advances, and -

- (a) such transfer shall effect also the transfer of all rights, real and personal, relating to the transferred loans, including any privilege, hypothec, pledge or other security whatsoever, as well as any rights against sureties, and in regard to third parties such transfer shall have effect upon the registration in the Public Registry of the public deed effecting such transfer by means of a note containing the designation of the parties to the deed and the date and nature of such deed, without any further compliance with any other requirement of law;
- (b) the transfer of any right, liability or other obligation as aforesaid -
 - (i) shall not operate as a novation in any such right, liability or obligation and any such right, liability or obligation shall continue to have effect as if there were no change in the holder, creditor or debtor thereof, and as if they had always been rights, liabilities or obligations of, or in favour or in respect of, the transferee;
 - (ii) shall not operate as a breach of covenant or condition, whether statutory or contractual, or give rise to any forfeiture;
 - (iii) shall not give rise to the payment of any premium or penalty, or to any other payment whatsoever;
 - (iv) shall not invalidate, release from or discharge any contract or security;
- (c) every contract relating to the transferred loans in force on the operative date and to which the Company is a party shall, on and after that date, continue to have effect and be construed as if -

- (i) the transferee had been a party thereto instead of the Company;
- (ii) for any reference (however worded and whether expressed or implied) to the Company there were substituted, as respects anything falling to be done on or after the operative date, a reference to the transferee;
- (iii) for any reference (however worded and whether expressed or implied) to the directors, or to a director, officer or employee of the Company there were substituted, as respects anything falling to be done on or after the operative date, a reference to the directors, or to a director, officer or employee of the transferee, or the equivalent thereof, as the case may require,

and the provisions of sub-paragraphs (ii) and (iii) of this paragraph shall apply to any other contract or document (including any note entered in the Public Registry) relating to the transferred loans as in force on the operative date as they apply in relation to a contract to which the Company is a party;

- (d) every account relating to the transferred loans between the Company and any other person shall, on and after the operative date, become an account between the transferee and that other person subject to the same terms, conditions and incidental matters as applied before that date, and any such account shall be deemed for all purposes to be a single continuing account;
- (e) any instruction, direction, mandate, power of attorney, authority or consent given to the Company in relation to the transferred loans, as in force immediately before the operative date, shall continue to have effect, on and after that date, as if given to the transferee;
- (f) any security transferred to the transferee which immediately before the operative date was held by the Company as security for the payment or discharge of any debt, liability or obligation shall, on and after the operative date, be held by and be available to the transferee as security for the payment or discharge of such debt, liability or obligation; and any such security which extends to future advances or liabilities shall, on and after the operative date, be held by and be available to the transferee as security for future advances by and future liabilities to the transferee in the same manner in all respects as future advances by or future liabilities to the Company were secured thereby before that date;
- (g) any judgment or award obtained by or against the Company in relation to the transferred loans before the operative date and not fully satisfied on that date shall, on and after that date, be enforceable by and against

the transferee.

(2) Nothing in subarticle (1) shall preclude the notary receiving the deed whereby the transferred loans are transferred to the transferee from entering in any appropriate register at the Public Registry or in any note registered or enrolled in that Registry such reference or other annotation as may be appropriate in the circumstances.

Detailing of public officers for duty with the Authority.
Added by:
XXVIII.2007.18.

21. (1) The Prime Minister may, at the request of the Authority made with the concurrence of the Minister, from time to time, direct that any public officer be detailed for duty with the Authority in such capacity and with effect from such date as may be specified in the direction.

(2) The period during which a direction as aforesaid shall apply to any officer specified therein shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier date, or unless a different period is specified in the direction, end on the happening of the following events:

- (a) the acceptance by such officer of an offer of permanent employment with the Authority made in accordance with the provisions of article 23; or
- (b) the revocation by the Prime Minister of any direction made by him under this article in relation to such officers.

Status of public officers detailed for duty with the Authority.
Added by:
XXVIII. 2007.18.

22. (1) Where any officer is detailed for duty with the Authority by any direction under any of the provisions of article 21, such officer shall, during the time in which such direction has effect in relation to him be under the administrative direction and control of the Authority but shall for other intents and purposes remain and be considered and treated as a public officer.

(2) Without prejudice to the generality of the foregoing, a public officer detailed for duty as aforesaid:

- (a) shall not during the time while such officer is so detailed:
 - (i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by that public officer at a date on which he was detailed for duty; or
 - (ii) be so employed that the remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by that public officer at the date he was detailed for duty as aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Authority; and

(b) shall be entitled to have his service with the Authority considered as service with the Government for the purpose of any pension, gratuity, or benefit under the [Pensions Ordinance](#) and the [Widows' and Orphans' Pension Act](#), and of any other right or privilege to which that public officer would be entitled, and shall be liable to any liability to which he would be liable, but for the fact that he is detailed for duty with the Authority.

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(3) Where an application is made as provided in subarticle (2)(a)(i), the same consideration shall be given thereto as if the applicant had not been detailed for duty with the Authority.

(4) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Authority as aforesaid during the period in which such officer is so detailed.

23. (1) The Authority may, with the approval of the Prime Minister, offer to any officer detailed for duty with the Authority under any of the provisions of article 21 permanent employment with the Authority at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

Offer of permanent employment with the Authority to public officers detailed for duty with the Authority.
Added by:
XXVIII. 2007.18.

(2) The terms and conditions comprised in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister offer substantially equivalent or greater benefits.

(3) Every officer who accepts permanent employment with the Authority offered that officer, under the provisions of subarticle (1), shall for all purposes other than those of the [Pensions Ordinance](#) and of the [Widows' and Orphans' Pensions Act](#), be deemed to have ceased to be in service with the Government and to have entered into service with the Authority on the date of such acceptance, and for the purposes of the said Ordinance and of the said Act, so far as applicable to that officer, service with the Authority shall be deemed to be service with the Government within the meanings thereof respectively.

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(4) Every such officer as aforesaid who, immediately before accepting permanent employment with the Authority was entitled to benefit under the [Widows' and Orphans' Pensions Act](#), shall continue to be so entitled to benefit thereunder to all intents as if service with the Authority, were service with the Government.

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(5) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer who has accepted permanent employment with the Authority as aforesaid during the period

commencing on the date of such officer's acceptance.

- (6) For the purposes of this article:
- (a) posts and salary grades with the Authority shall be classified in the most nearly corresponding grades and incremental levels in the service under the Government by reference to job description, skills, responsibilities and other analogous factors;
 - (b) the classification referred to in paragraph (a) shall be carried out by a board composed of a chairman appointed by the Minister responsible for finance and two other members, one appointed by the Minister responsible centrally for personnel policies in the public service and one appointed by the Authority. The classification shall be subject to the final approval of the Minister responsible for finance;
 - (c) such classification shall take place within three months of any adjustment of salaries of employees in Government service and, or of employees of the Authority;
 - (d) no post shall be classified in a grade higher than that of Grade 3 in the service of the Government or such other grade as the Minister responsible for finance may, from time to time, determine by notice in the Gazette;
 - (e) without prejudice to article 113 of the Constitution, no person may, following a classification as aforesaid, be entitled to rights under the [Pensions Ordinance](#) less favourable than those to which that person would have been entitled prior to such classification.

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Transfer of functions and assets to the Authority.
Added by:
XXVIII. 2007.18.

24. (1) With effect from the date of entry into force of this article, all rights, obligations, functions and assets previously pertaining to the Director of Social Housing shall, by virtue of this Act, and without further assurance, be transferred to, and shall vest in the Authority under the same title and authority by which they were held by the Director immediately before that day.

(2) Such transfer shall extend to the whole of such assets, rights, and obligations and shall include all land, works and other property, movable and immovable, powers, privileges and causes of action held or enjoyed in connection therewith or appertaining thereto.

Construction of existing laws, contracts, etc.
Added by:
XXVIII. 2007.18.

25. Subject to the provisions of this Act, all laws, rules, regulations, orders, judgments, documents, warrants, agreements and other working arrangements subsisting immediately before the date of entry into force of this article, affecting anything transferred to the Authority by virtue of this Act shall have full force and shall be valid against or in favour of the Authority and shall be enforceable as if, instead of the Government, the Authority had been named therein or had been a party thereto, as the case may be.

26. (1) Where anything has been commenced by or under the authority of the Government prior to the date of entry into force of this article and such thing is in relation to anything transferred to the Authority by virtue of this Act, such thing may be carried on and completed by or under the authority of the Authority.

Transitory
provisions.
Added by:
XXVIII. 2007.18.

(2) Where on the date of entry into force of this article any legal proceeding is pending to which the Government is a party or is entitled to be a party and such proceeding has reference to anything transferred to the Authority by virtue of this Act, the Authority shall be substituted in such proceeding for the Government and shall be entitled to be so substituted.

(3) The Minister may by order make such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of securing and giving full effect to the transfer of any undertaking or any right, power, liability or obligation to the Authority by or under this Act and may make such orders as may be necessary to make any powers and duties exercised by the Government, in relation to anything transferred to the Authority by virtue of this Act, exercisable by and on behalf of the Authority.
