

PARLIAMENT OF CEYLON

3rd Session 1954-55



National Housing Act, No. 37 of 1954

Date of Assent: July 19, 1954

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AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT OF A NATIONAL HOUSING FUND, FOR THE PROMOTION OF HOUSING AND BUILDING DEVELOPMENT BY THE ESTABLISHMENT OF BUILDING SOCIETIES AND BY THE DECLARATION OF BODIES OF PERSONS AS HOUSING BODIES AND HOUSING COMPANIES, FOR THE GRANT OF ASSISTANCE BY GOVERNMENT FOR SUCH DEVELOPMENT, AND FOR MATTERS CONNECTED THEREWITH.

[Date of Assent: July 19, 1954.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the National Housing Act, No. 37 of 1954, and the provisions of this Act, other than this section and section 69, shall come into operation on such date (hereinafter referred to as "the appointed date") as the Minister may appoint by Order published in the *Gazette*, and the provisions of this section and section 69 shall come into operation when this Act becomes an Act of Parliament.

Short title
and date of
operation.

2. Each of the objects specified hereunder is hereby declared to be a housing object for the purposes of this Act:—

Housing
objects.

- (a) the construction of buildings for residential purposes and for any other purpose connected with or incidental to any of the objects hereinafter specified;
- (b) the manufacture, importation or supply of materials required for the construction of such buildings;
- (c) the provision of roads, water, electricity, gas, and sewerage;
- (d) the administration, management or control of buildings and building schemes;
- (e) the provision of amenities for the inhabitants of any area in which any housing scheme has been carried out including transport and other services;

- (f) any other prescribed object ;
- (g) any object reasonably connected with or ancillary to any of the objects specified in paragraphs (a) to (f) of this sub-section ;
- (h) the development of land for the carrying out of any of the objects hereinbefore specified; and
- (i) the grant of assistance for the purpose of enabling the carrying out of any of the objects hereinbefore specified by the lending of money in any manner whatsoever or by the undertaking of guarantees or by promoting, effecting, insuring, guaranteeing, underwriting, participating in the managing and carrying out of any issue, public or private, of Government or other loans or of shares, stock, debentures or debenture stock of any body corporate and by the lending of money for the purpose of any such issue.

Housing powers.

3. Each of the powers specified hereunder is hereby declared to be a housing power for the purposes of this Act :—

- (a) the power to acquire, or to receive by way of gift or otherwise, any immovable or movable property and to hold, manage, sell, surrender, exchange, lease or otherwise dispose of such property, for the purpose of carrying out any housing object;
- (b) the power to borrow money for that purpose;
- (c) the power to charge rent or fees for any buildings or any services provided by the carrying out of any housing object; and
- (d) the power to enter into such contracts and to make such arrangements or to do all such acts and things as may be necessary or expedient for the purpose of carrying out any housing object.

PART I.

NATIONAL HOUSING FUND.

Establishment
of National
Housing Fund.

4. A Fund to be called the National Housing Fund shall be established for the purposes of this Act.

5. (1) The Commissioner shall administer the National Housing Fund. All payments out of the Fund shall be made by the Commissioner.

Administration
and
accounts of
National
Housing Fund.

(2) The accounts of the National Housing Fund shall be audited annually by the Auditor-General. The accounts for each year together with a report of the Auditor-General thereon shall be laid before Parliament.

6. (1) The Minister may from time to time, under the authority of a resolution of the House of Representatives, raise a loan not exceeding such sum as may be specified in the resolution for the purposes of the National Housing Fund. Such loan shall be raised in such manner and on such terms as may be prescribed.

Loans for
purposes of
National
Housing Fund.

(2) All sums raised by way of loan by the Minister shall be credited to the National Housing Fund and all sums due as principal and interest on such loans shall be a charge on that Fund.

7. (1) There shall be paid into the National Housing Fund—

Payments into
and out of the
National
Housing Fund

- (a) all such sums of money as may have been, prior to the appointed date, voted by Parliament, or by resolution of the House of Representatives, for the Ministry for the purposes of housing;
- (b) all such sums of money as may, on or after that date, from time to time be voted by Parliament, or by resolution of the House of Representatives, for the purposes of the Fund; and
- (c) all such other sums of money, deposits, dividends and profits as are required or stated by this Act to be credited or forfeited to that Fund.

(2) There shall be paid out of the National Housing Fund—

- (a) all loans granted by the Commissioner under this Act;
- (b) all payments, expenses, costs and other sums which are declared by this Act to be a charge on that Fund; and
- (c) all such sums as are authorised to be so paid out by the Minister.

PART II.**ADMINISTRATIVE ARRANGEMENTS.**

**Appointment of
Commissioner
for National
Housing.**

8. (1) There shall be appointed, by name or by office, a person to be or to act as the Commissioner for National Housing.

(2) In the exercise, discharge or performance of the powers, functions or duties assigned to or imposed on him under this Act, the Commissioner shall be subject to the general or special directions of the Minister.

**Appointment
of Assistant
Commissioners
for National
Housing and
staff.**

9. (1) There shall be appointed—

(a) such number of persons, by name or by office, to be or to act as Assistant Commissioners for National Housing; and

(b) such number of other officers and servants, as may be deemed necessary for the purposes of this Act.

(2) In the exercise, discharge or performance of the powers, functions or duties assigned to or imposed on him under this Act, an Assistant Commissioner shall be subject to the general or special directions of the Commissioner.

**Formation of
building
societies.**

PART III.**BUILDING SOCIETIES.**

10. Any two or more persons associated solely for the purpose of establishing a society for the raising by the subscriptions of the members a stock or fund for making advances to members for the carrying out of any housing object referred to in paragraphs (a) to (h) of section 2 may—

(1) by subscribing their names to an instrument of association approved by the Commissioner; and

(2) by registering such instrument with the Commissioner,

form an incorporated building society with limited liability.

11. The Commissioner may in his discretion approve or refuse to approve of the instrument of association of any building society. An appeal shall lie to the Minister as hereinafter provided against the refusal of the Commissioner to approve of such instrument.

Approval of
instrument of
association
of a building
society.

12. (1) The instrument of association of a building society must state—

- (a) the name of the society, with " Limited " as the last word of the name;
- (b) the object of the society;
- (c) the powers of the society for the purpose of carrying out its object;
- (d) that the liability of its members is limited;
- (e) the extent to which the liability of its members is so limited;
- (f) the manner in which, and the terms upon which, the stock or fund of the society is to be raised; and
- (g) the address of the principal office of the society.

Requirements
of instrument
of association
of a building
society.

(2) The instrument of association of a building society must, if the society is to be terminated or dissolved on a particular date or in particular circumstances, state that date or those circumstances and the manner in which the society is to be so terminated or dissolved.

(3) The instrument of association of a building society shall make provision—

- (a) in respect of all matters for which provision is required to be so made by regulations which are hereby authorised to be made for that purpose under this Act; and
- (b) in respect of all such other matters as the Commissioner may deem necessary or expedient for the purpose of enabling it to function as a building society and to carry out its objects and to exercise its powers.

(4) The instrument of association of a building society shall make provision for the management of the business of the society by a Board of Directors.

(5) The powers of a building society as stated in its instrument of association may include the power to hold land and mortgages over land, to make advances to members out of the stock or fund of the society and to borrow money, and such other powers as may be necessary for the purpose of carrying out its object.

**Registration of
instrument of
association.**

13. (1) The instrument of association of a building society shall, after it has been approved by the Commissioner, be delivered to the Commissioner who shall retain and register such instrument upon payment of the prescribed fee.

(2) All sums paid as fees under sub-section (1) shall be credited to the National Housing Fund.

**Effect of
registration.**

14. (1) On the registration of the instrument of association of a building society, the Commissioner shall certify under his hand that the building society is incorporated and that the society is limited.

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the instrument of association together with such other persons as may from time to time become members of the building society shall be a body corporate by the name contained in such instrument by which it may sue or be sued, capable forthwith of exercising, discharging and performing all the powers, functions and duties assigned to or imposed on the society by such instrument or by or under this Act, and having perpetual succession (except as otherwise provided in such instrument) and a common seal.

(3) The instrument of association shall, when registered, bind the building society and the members thereof to the same extent as if they had been signed by each member, and contained covenants on the part of each member to observe all the provisions of the instrument.

(4) All money payable by any member to the building society under its instrument of association shall be a debt due from him to the society.

**Conclusiveness
of certificate
of incorporation.**

15. A certificate of incorporation given by the Commissioner under this Part in respect of any association shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent or incidental thereto have been

complied with, and that the association is a building society authorised to be registered and duly registered under this Act.

16. (1) A building society may alter the provisions of its instrument of association.

Alteration of
instrument of
association.

(2) The alteration shall not take effect until it has been approved by the Commissioner.

(3) The Commissioner may in his discretion approve or refuse to approve of the alteration. An appeal shall lie to the Minister as hereinafter provided against the refusal of the Commissioner to approve of such alteration.

(4) The Commissioner may of his own motion alter the instrument of association of any building society; and any alteration so made by the Commissioner shall take effect as though it had been made by the Society and approved by the Commissioner.

Appeals to
Minister.

17. Any person who is aggrieved by the refusal of the Commissioner to approve of the instrument of association of a building society or any alteration thereof may appeal against such refusal to the Minister whose decision on such appeal shall be final and conclusive.

Copies of
instrument of
association to
be given to
members.

18. (1) A building society shall, on being so required by any member, send him a copy of its instrument of association upon payment of the prescribed fee. All sums paid as fees under the preceding provisions of this section shall be credited to the fund of the society.

(2) Where any alteration is made in the instrument of association of a building society, every copy of the instrument issued after the alteration has taken effect as hereinbefore provided in this Act shall be in accordance with the alteration.

Definition of
member of a
building
society.

19. (1) The subscribers of the instrument of association of a building society shall be deemed to have agreed to become members of the society, and on its registration shall be entered as members in its register of members which it is hereby required to keep and maintain.

(2) Every other person who agrees to become a member of a building society, and whose name is entered in its register of members, shall be a member of the society.

Contracts.

20. (1) Contracts on behalf of a building Society may be made in the prescribed manner.

(2) A contract made according to this section shall be effectual in law and shall bind the Society and all other parties thereto and their legal representatives.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorised under this section to be made.

Bills of Exchange and promissory notes.

21. A bill of exchange or promissory note shall be deemed to have been made, exercised, or endorsed on behalf of a building society, if made, executed, or endorsed in the name of, or by or on behalf or on account of, the society by any person or persons duly authorised thereto as hereinafter provided.

Persons authorised to act on behalf of a building society.

22. No persons other than the Directors and persons thereunto expressly authorised by the Board of Directors and acting within the limits of the authority so conferred on them shall have any authority to make, draw, accept or endorse any promissory note, bill of exchange, cheque or order for the payment of money in the name or on behalf of a building society or to enter into any contract so as to impose thereby any liability on the society or otherwise to pledge the credit of the society.

Execution of deeds abroad.

23. The Board of Directors of a building society may, by writing under the seal of the society, empower any person, either generally or in respect of any specific matter, as its attorney, to execute deeds on its behalf at any place not situate in Ceylon.

Receipts when valid.

24. A receipt signed by any person authorised in writing by the Board of Directors of a building society to give receipts, shall be an effectual discharge for moneys paid to the society.

Company law not to apply to building societies unless so applied by Order of the Minister.

25. (1) The provisions of the Companies Ordinance, No. 51 of 1938, as subsequently amended, (other than the provisions of that Ordinance which are made applicable to a building society under this Act), or of any other written law relating to companies, shall not apply to a building society.

(2) Notwithstanding anything in sub-section (1), the Minister may, whenever it shall seem to him expedient to do so, by Order published in the *Gazette* declare, as respects any particular building society or building societies generally, that any such provisions of the Companies Ordinance, No. 51 of 1938, as

subsequently amended, as are not for the time being applicable to such society or societies or the provisions of any other written law relating to companies, shall apply to such society or societies, and accordingly so long as that Order remains in force the provisions so applied shall *mutatis mutandis* apply in the case of such society or societies, as the case may be, in the manner and to the same extent as they apply in the case of a Company.

26. The Minister may, whenever it shall seem to him expedient to do so, by Order published in the *Gazette* declare, as respects any particular building society or building societies generally, that all or any of the provisions of sections 13 to 38 (both inclusive) of the Housing Loans Act, No. 26 of 1949, as subsequently amended, shall apply to loans granted by such society or societies ; and accordingly so long as that Order remains in force the provisions so applied shall *mutatis mutandis* apply in the case of such loans in like manner and to the same extent as they apply in the case of loans granted by the Housing Loans Board.

Power of
Minister to
apply by
Order certain
provisions of
the Housing
Loans Act to
loans granted
by building
societies.

PART IV. HOUSING BODIES.

27. (1) The Minister may, upon application made in that behalf, by Order published in the *Gazette* declare that any body of persons specified in the Order shall be a housing body for the purposes of this Act.

Declaration
of housing
bodies.

(2) No Order shall be made by the Minister under sub-section (1) in respect of any body of persons which is a building society or building company.

28. (1) For the purpose of constructing houses and providing amenities and services for its members or employees, any housing body may carry out any such housing object, and may exercise any such housing and other powers, as may be necessary for that purpose; and any houses constructed by that body may be let on such terms as would enable the tenant of each such house to be its owner after making a certain number of monthly payments as rent.

Power of
housing bodies
to carry out
certain housing
objects.

(2) The provisions of sub-section (1) shall have effect notwithstanding anything in the memorandum or articles of association, or in the written law, charter or other instrument, by which a body of persons which is a housing body for the purposes of this Act has been established.

BUILDING COMPANIES

Declaration of building companies.

29. (1) The Minister may, upon application made in that behalf, by Order published in the *Gazette* declare that any company specified in the Order shall be a building company for the purposes of this Act.

(2) No Order shall be made by the Minister under sub-section (1) in respect of any company unless the object or objects of the company as stated in its memorandum of association consists or consist solely of any housing object or objects.

Powers of building companies to carry out housing objects.

30. (1) For the purpose of carrying out any housing object or objects stated in its memorandum of association, any company which is declared to be a building company under this Act shall have and may exercise any such housing and other powers as may be necessary for that purpose.

(2) The provisions of sub-section (1) shall in their application in the case of a company which is declared to be a building company under this Act have effect notwithstanding anything to the contrary in any written law relating to companies or in the memorandum or articles of association of the company.

PART V.

RECOVERY OF POSSESSION OF HOUSES BY BUILDING COMPANIES, BUILDING SOCIETIES AND HOUSING BODIES.

Houses to which this Part applies.

31. This Part shall apply to a house which is provided by any building company, building society or housing body (hereinafter in this Part referred to as the "landlord") for occupation by any other person (hereinafter in this Part referred to as the "occupier"), whether upon payment of rent or free of rent or upon terms enabling the occupier thereof to become its owner after making a certain number of specified payments as rent.

Obligation to vacate houses to which this Part applies.

32. (1) The occupier of any house to which this Part applies and his dependants shall not be entitled to occupy such house after the date of the lawful termination of his occupation thereof; and accordingly the occupier shall on that date vacate the house, deliver possession thereof to his landlord, and together with his dependants, if any, depart from the land or premises in which the house is situated.

(2) Where any house to which this Part applies is provided by the landlord for occupation by any person in the employment of that landlord, that person's

occupation of such house shall be deemed, for the purposes of this Part, to be lawfully terminated on the date of the lawful termination of the employment of that person.

(3) Where in any case referred to in sub-section (2) the employment of the occupier is terminated without notice, the reference in that sub-section to the date of the lawful termination of his employment shall be deemed to be a reference to the date fourteen days after the actual date of termination.

33. (1) In any case where the occupier of any house to which this Part applies fails to comply with the provisions of sub-section (1) of section 32, it shall be lawful for the landlord to file, in the Court of Requests of the division in which the house is situated, an application praying for the recovery of possession of the house, and for the ejectment of the occupier and his dependants, if any, from the land or premises in which the house is situated. Every such application shall be supported by an affidavit setting forth the time and manner of the termination of the occupation of the occupier.

Application
to court for
recovery of
possession
and service
of rule *nisi*.

(2) On receipt of an application under sub-section (1), the court shall cause to be served on the occupier a copy of the application and affidavit and a rule *nisi* requiring him—

- (a) to appear on a date specified in such rule, not being earlier than three, or later than seven, clear days after the date of the service of the rule; and
- (b) to show cause why he should not deliver possession of the house as required by section 32 and depart from the land or premises on which it is situated, together with his dependants, if any.

(3) A rule *nisi* under sub-section (2) shall be deemed to have been duly served on the occupier if it is delivered to him by the Fiscal or by any person authorised by the Fiscal, or where it cannot be so delivered, if it is posted by the Fiscal, or person authorised as aforesaid on some conspicuous part of the house to which the rule relates.

34. (1) If any occupier upon whom a rule *nisi* is served under this Part appears before the court on the date specified in the rule and, by affidavit or by statement on oath or affirmation, raises any defence,

Adjournment
of hearing.

which in the opinion of the court necessitates an adjournment of the hearing, the court shall immediately settle and record the issue or issues raised and shall, having regard to the circumstances of the case, appoint as early a date as possible for the hearing of evidence; and in such case the Chief Clerk of the court shall thereupon issue a summons to every such witness as may be required by the parties commanding his attendance at the time and place specified in the summons.

(2) Where any date is appointed under sub-section (1) for the hearing of any case, the hearing shall not again be adjourned for any later date—

- (a) unless all the parties to the case consent to such adjournment; or
- (b) unless the court is satisfied, upon evidence furnished on oath or affirmation or by affidavit, that such adjournment is necessary by reason of the absence, otherwise than by collusion, of a witness who knows and is able to prove facts material to the case.

(3) On the date appointed under sub-section (1) for the hearing of the case or on such other date, if any, to which such hearing may be adjourned under sub-section (2), the court shall hear and determine the issues raised and give judgment thereon, notwithstanding anything to the contrary in any other written law.

Issue and execution of writ for delivery of possession.

35. (1) If any occupier upon whom a rule *nisi* has been served under this Part, does not appear on the date specified in such rule or on such other date, if any, to which the hearing may be adjourned under this Part or, having appeared, fails to show good and valid cause why he should not deliver possession as required by section 32 of the house specified in the rule and depart from the land or premises on which it is situated, together with his dependants, if any, the rule *nisi* shall be made absolute; and the court shall forthwith issue, and if need be re-issue a writ of possession to the Fiscal of the district requiring and authorising him before a date specified in the writ, not being earlier than three or later than seven clear days from the date of the issue of such writ, to deliver possession of the house to the landlord or to any other person appointed by the landlord for the purpose and to eject the occupier and his dependants, if any, from the land or premises on which the house is situated.

Such writ shall be sufficient for the said Fiscal or any police officer authorised by him in that behalf to enter the house with such assistants as the Fiscal or such officer shall deem necessary and to give possession accordingly, and to eject the occupier and his dependants, if any, from the house and from such land or premises:

Provided, however, that where the court is satisfied that it is expedient, for any reasonable cause as hereinafter defined, that the issue of the writ should be postponed, the court may direct that such writ shall not be issued unless the occupier fails to deliver possession of the house and to depart from such land or premises, together with his dependants, if any before a date specified in that behalf by the court.

(2) In the preceding Proviso, " reasonable cause " means—

- (a) the illness of the occupier or any of his dependants; or
- (b) the failure of the landlord in any case referred to in section 32 (2) to pay any wages lawfully due to the occupier or to grant to him any benefit or privileges which he is entitled under any other written law to receive from the landlord in his capacity as an employer; or
- (c) the failure of the landlord in that capacity to issue to the occupier any discharge certificate or identification certificate which should properly be given to him; or
- (d) the failure of the landlord in any case where the house is let on terms enabling the occupier to become its owner after making a certain number of specified payments as rent, to repay to the occupier any sum for the repayment of which provision is made in the event of the termination of his occupation in the agreement entered into between the landlord and the occupier; or
- (e) any other cause which is good and sufficient in the opinion of the court.

36. Subject to the provisions of section 833A of the Civil Procedure Code, any person who is dissatisfied with any final judgment, or any order having the effect of a final judgment, pronounced or made by a Court of Requests under this Part may, before the expiry of a period of fourteen days (exclusive of Sundays and

public holidays) from the date of such judgment or order, appeal to the Supreme Court against such judgment or order; and the provisions of any other written law relating to appeals to the Supreme Court from judgments or orders of Courts of Requests shall apply in the case of any appeal preferred under the preceding provisions of this section.

Provisions of this Act to apply exclusively in all actions for ejection from houses to which this Part applies.

Costs, charges and stamp duties.
Cap. 189.
Cap. 86.

Forms.
Cap. 87.

Exclusion of application of section 13 of Act, No. 29 of 1948.

Commissioner may carry out housing objects for the Government.

37. No action for the recovery of the possession of any house to which this Part applies or for the ejection of the occupier from the land or premises in which the house is situated, shall be taken except under the provisions of this Part.

38. For the purpose of the application of the provisions of the Stamp Ordinance in respect of the duties on law proceedings, and of the provisions of the Civil Procedure Code in respect of costs and charges, proceedings under this Part shall be deemed to be a money case of the value of fifty rupees, and an application under section 33 of this Act shall be deemed to be a plaint in a money case of that value.

39. The forms prescribed in the Schedule to the Small Tenements Ordinance shall, so far as they are applicable, be used for the purposes of this Act, with such modifications as the court may direct or as the circumstances of the case may require.

40. Nothing in section 13 of the Rent Restriction Act, No. 29 of 1948, shall apply to or restrict the institution or maintenance of any proceedings under this Part in respect of any house to which this Part applies.

PART VI.

CARRYING OUT OF HOUSING OBJECTS BY THE COMMISSIONER.

41. (1) The Minister may, from time to time, direct the Commissioner to carry out, on behalf of the Government, any housing object of any class or description referred to in paragraphs (a) to (h) of section 2.

(2) The costs incurred by the Commissioner in carrying out any housing object on behalf of the Government under sub-section (1), including all sums payable under any contracts entered into or any arrangements made by him for that purpose, shall be a charge on the National Housing Fund.

42. (1) The Commissioner may, with the approval of the Minister, carry out any housing object in or upon any land by agreement with all the owners of that land, or in the absence of such agreement, by agreement with the majority of such owners, and on such terms as to the apportionment among, and payment by, such owners of the costs incurred by the Commissioner in carrying out that object as may be specified in the agreement.

(2) Regulations may be made under this Act providing—

- (a) for the summoning of meetings of owners of land for the purposes of sub-section (1);
- (b) for the service of notices of such meetings on such owners and for the manner in which such service shall be effected;
- (c) for the procedure to be followed at such meetings; and
- (d) for all matters necessary for the purpose of enabling effect to be given to the provisions of that sub-section.

(3) Where any agreement under sub-section (1) is entered into in relation to any land, every owner of that land shall, notwithstanding that he is not a party to the agreement, be bound by the agreement in like manner and to the same extent as though he were a party thereto.

43. The costs incurred by the Commissioner in carrying out any housing object in or upon any land under the last preceding section, including all sums payable under any contracts entered into or arrangements made by him for that purpose, shall be a charge on the National Housing Fund. All sums paid or recovered as such costs by the Commissioner from the owners of such land shall be credited to that Fund.

Commissioner
may carry out
housing objects
with the
consent of the
owners of land.

Costs of
Commissioner
in carrying out
any housing
object under
section 42.

PART VII.

FINANCIAL ASSISTANCE BY GOVERNMENT FOR CARRYING OUT HOUSING OBJECTS.

44. (1) The Commissioner may, in accordance with regulations which are hereby authorised and required to be made for that purpose under this Act, grant loans from the National Housing Fund to any person for the carrying out of any housing object. Such regulations may make provision for and in respect of all such matters as may be deemed necessary or expedient for the purpose including the terms and conditions subject to which such loans may be granted.

Power of
Commissioner
to grant loans
from National
Housing Fund.

(2) All sums recovered as principal and interest on any loans granted from the National Housing Fund shall be credited to that Fund.

**Applications
for loans.**

45. Every application for a loan from the National Housing Fund shall be made to the Commissioner on such form as the Commissioner may provide for the purpose, and shall contain the particulars required to be stated by the applicant, and shall be accompanied by copies of such plans, estimates, specifications, and other documents as may be required by the Commissioner.

**Government
guarantee
in respect
of loans.**

46. (1) The Minister of Finance may, in accordance with regulations which are hereby authorised and required to be made for that purpose under this Act, guarantee the repayment of the principal and interest due on any loan (other than a loan from the National Housing Fund) for the carrying out of any housing object. Such regulations may make provision for and in respect of all such matters as may be deemed necessary or expedient for that purpose including the terms and conditions subject to which such guarantees may be undertaken.

(2) The payment of any sum of money guaranteed by the Minister of Finance under sub-section (1) is hereby charged on the Consolidated Fund.

**Priority of
charge created
by loan granted
by the
Commissioner.**

47. Where the repayment of any loan granted by the Commissioner under this Part is secured by a mortgage of land, that land shall, on and after the date of the mortgage, be charged with the repayment of the loan with interest thereon in priority to every other debt, mortgage or charge affecting such land, except a prior duly registered mortgage debt due to a creditor who in good faith advanced the money before the loan was granted by the Commissioner.

**Power of
Minister to
apply certain
provisions of
the Housing
Loans Act to
loans granted
by the
Commissioner.**

48. The Minister may, whenever it shall seem to him expedient to do so, by Order published in the *Gazette* declare that all or any of the provisions of sections 13 to 38 (both inclusive) of the Housing Loans Act, No. 26 of 1949, as subsequently amended, shall apply to any particular loan, or loans generally, granted by the Commissioner under this Part; and accordingly so long as that Order remains in force the provisions so applied shall *mutatis mutandis* apply in the case of such loan or loans in like manner and to the same extent as they apply in the case of loans granted by the Housing Loans Board.

PART VIII.

COMPULSORY ACQUISITION OF LAND FOR CARRYING OUT HOUSING OBJECTS AND DISPOSITION OF CROWN LAND.

49. Where the Minister certifies that any land (other than Crown land) should be acquired by Government for the purpose of being made available for the carrying out of any housing object and such certificate is published in the *Gazette*, that purpose shall be deemed to be a public purpose, and that land may be acquired under the Land Acquisition Act, No. 9 of 1950, and be made available for that purpose to the Commissioner, or to any other person by being disposed of under the succeeding provisions of this Act.

Compulsory
acquisition
of land

50. (1) A disposition of any Crown land—

Disposition of
Crown land.

- (a) which has been made available by the Government acting on the advice of the Land Commissioner for the purpose of carrying out any housing object ; or
- (b) in or upon which any such object has been carried out by the Commissioner on behalf of the Government under this Act; or
- (c) which was acquired by Government with a view to being made available for that purpose,

may be made for that purpose under this Act by the appropriate authority with the prior approval of the Minister and subject to such conditions as the Minister may determine and to such further conditions as are, or are required to be, imposed by or under this Act.

(2) In determining the conditions subject to which a disposition of Crown land should be made under this Act the Minister shall have regard primarily to the interests of the public generally including those of persons requiring housing accommodation, and shall in particular have regard to the following considerations of policy, that is to say, that it is desirable, except in special circumstances, that any houses constructed in or upon that land should be let at a reasonable rent to individuals who are citizens of Ceylon and that they should be so let on such terms as will enable the occupiers thereof to become the owners of such houses after making a certain number of monthly payments as rent.

(3) A disposition of any Crown land under this Act shall, in addition to such conditions as may be imposed by the Minister, be subject to the condition

that the grantee deposits in the National Housing Fund such sum as may be determined by the Commissioner and that the sum so deposited shall be forfeited to the Fund if there is a breach of any condition to which such disposition is subject.

(4) Without prejudice to the discretion vested in the Minister to determine the conditions subject to which a disposition of Crown land may be made under this Act, regulations may be made prescribing the conditions subject to which any such disposition may be made. Regulations so made may provide—

- (a) that title to such land shall revert to the Crown if the land is not used for the purpose for which the disposition was made or if it is used for any other purpose;
- (b) that title to such land shall not pass to the grantee until the purpose for which the disposition was made has been carried out; and
- (c) for all such matters as may be necessary or expedient for ensuring that the land is used for that purpose.

(5) A disposition of Crown land under this Act shall be effected by an instrument of disposition signed and executed by the appropriate authority.

(6) Nothing in the Crown Lands Ordinance, No. 8 of 1947, shall affect or be deemed or construed to affect any disposition of Crown land under this Act.

**Reservation
of minerals.**

51. No disposition of any Crown land under this Act shall be deemed to confer any right to any mineral, mineral product, or mineral oil in, under, or upon that land unless otherwise expressly provided in the instrument of disposition; and, save as so expressly provided all such minerals, mineral products, and oil shall, notwithstanding any such disposition, be deemed to remain and shall remain the absolute property of Her Majesty.

**Covenants
and conditions
to run with
the land.**

52. Where the rights under the instrument of disposition of any Crown land under this Act are not personal to the grantee but may be assigned by act *inter vivos* or may pass on his death to his heirs or devisees, the burden of any covenants or conditions inserted in that instrument shall run with the land and shall be binding upon the grantee and upon all persons claiming that land through, from, or under the grantee.

Reversion of
title to the
Crown.

53. Upon the production before a court of competent jurisdiction of a certificate from the Commissioner to the effect that any Crown land which has been disposed of under this Act has not been used for that purpose or has been used for any other purpose or that there has been a failure to comply with any condition of the disposition, the Crown shall be entitled to a decree cancelling the disposition of such land and declaring the land to be vested in the Crown free from all encumbrances.

54. Where in the instrument of disposition of any Crown land under this Act provision is made to the effect that such disposition may be cancelled or determined—

- (a) in the event of a failure to comply with any condition of such disposition ; or
- (b) in the event of any moneys due to the Crown under such instrument remaining unpaid for any period of time specified therein,

and where there is such a failure or where such moneys remain unpaid for the period so specified, as the case may be, the appropriate authority may by endorsement on such instrument cancel such disposition, and such disposition shall be determined accordingly :

Provided, however, that such endorsement shall not be made on such instrument until the grantee under such instrument has been afforded an opportunity of showing cause against the proposed cancellation.

55. Where the instrument of disposition of any Crown land under this Act is cancelled, the Government Agent of the province, or the Assistant Government Agent of the district, in which that land is situated may in writing order any person in possession or occupation of that land to vacate that land within the time specified in the order.

Notice to be
issued to party
in occupation
to vacate land.

56. Where a person on whom an order under section 55 is served fails to vacate the land to which the order relates within the time allowed by the order, he may be ejected from that land in accordance with the procedure prescribed by sections 120 to 127 (both inclusive) of the Land Development Ordinance which shall apply in relation to that land as though the instrument of disposition of that land were a grant under that Ordinance and that land were a holding under that Ordinance, and such order were a notice under section 119 of that Ordinance.

Ejection
where occupant
fails to vacate
land.

Cap. 320.

No legal claim
for compensation,
etc., to be
founded on
cancellation of
instrument of
disposition.

Dispositions
executed by
grantee.

Rectification
of errors, etc.
in instruments
of disposition.

Authentication
of copies of
instruments of
disposition.

Cap. 11.

Definition of
"appropriate
authority".

Expenses of
disposition of
Crown land.

57. Neither the grantee under the instrument of disposition of any Crown land under this Act nor any other person shall be entitled to any sum by way of compensation, damages or otherwise by reason of the cancellation of such instrument under this Part of this Act; and no claim for any such sum shall be entertained by any court.

58. Where in the instrument of disposition of any Crown land under this Act it is provided that any disposition of that land shall not be effected by the grantee under that instrument without the prior consent of the Commissioner, any disposition of that land executed by such grantee without such consent shall be void and inoperative for all purposes.

59. Where the instrument of disposition of any Crown land under this Act contains any clerical or other error or requires amendment in respect of the description of that land or in respect of the inscription or recital of the name or designation of the grantee under such instrument or of any other material fact, such error may be rectified or such amendment may be made by an endorsement on such instrument signed by the appropriate authority and such grantee; and any endorsement so signed shall be sufficient for all purposes to rectify the error or to effect the amendment; and the instrument on which any such endorsement is made shall have effect as though it had been originally executed as so rectified or amended.

60. (1) A copy of the instrument of disposition of any Crown land under this Act shall be authenticated by the signature of an officer authorised in that behalf by the appropriate authority and shall be deposited for purposes of record at the office of the Registrar of Lands of the district in which that land is situated and at any other office which the Minister may from time to time appoint.

(2) Any such copy as is referred to in sub-section (1) shall, if authenticated in the manner specified in that sub-section, be primary evidence, within the meaning of section 62 of the Evidence Ordinance, of the instrument of which it purports to be a copy.

61. For the purposes of this Part, the expression "appropriate authority", means the Commissioner or any officer authorised by him in that behalf.

62. (1) All expenses incurred in the disposition of any Crown land under this Act shall be a charge on the National Housing Fund.

(2) All sums realised by the disposition of any Crown land under this Act shall be credited to the National Housing Fund. Any sums so credited shall, if the Minister so directs, be paid out of the Fund into the Consolidated Fund.

PART IX.

EXEMPTION FROM INCOME TAX AND GENERAL PROVISIONS.

63. (1) The income accruing to any person by way of rent from any new house shall be exempt from income tax under the Income Tax Ordinance in respect of the year of assessment commencing on the first day of April, 1955, and each of the seven years of assessment immediately succeeding.

Exemption
from income
tax of rent
from new
houses.
Cap. 188.

(2) In this section the expression "new house" means a house the construction of which is, after due notice to the Commissioner, commenced on or after the appointed date. For the purpose of this sub-section "due notice", in relation to the construction of any house, means at least thirty days notice prior to the date of the commencement of the construction of that house.

(3) Any dispute which arises as to whether or not a house is a new house shall be referred to the Commissioner whose decision thereon shall be final.

64. No person on whom any power is conferred by this Act shall exercise that power in contravention of the provisions of the Municipal Councils Ordinance No. 29 of 1947, the Urban Councils Ordinance No. 61 of 1939, the Town Councils Ordinance No. 3 of 1946, or of any other written law.

Powers under
this Act not
to be exercised
in contravention
of other
written law.

65. A certificate issued under section 53, or to the effect that a specified sum of money was due to the Crown or to the Commissioner from a specified person under this Act, shall, if it purports to be signed by the Commissioner be *prima facie* proof of the facts stated therein, and shall be admissible as evidence of such facts in any court of law without proof of the signature of the Commissioner.

Certificate
from the
Commissioner.

66. (1) Upon the production of a certificate, issued by the Commissioner under this Act to the effect that a specified sum of money was due to the Crown or to him on a specified date from a specified person, before a District Court having jurisdiction in

Recovery of
moneys due
to the Crown
or the
Commissioner

Cap. 86.

the district in which that person resides or in which any property movable or immovable owned by that person is situate, the court shall direct a writ of execution to issue to the Fiscal authorising and requiring him to seize and sell all and any of the property movable and immovable of that person or such part thereof as may be necessary for the recovery of that sum; and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to such seizure and sale.

(2) Where the Commissioner issues a certificate referred to in sub-section (1), he shall at the same time issue to the person specified in the certificate a notification thereof by personal service, registered post, or telegraph, but the non-receipt of such notification by that person shall not invalidate proceedings under this section.

(3) Nothing in the preceding provisions of this section shall affect or be deemed or construed to affect the right of the Crown or the Commissioner to recover moneys due to the Crown or the Commissioner, as the case may be, under this Act in any other manner or by any other procedure applicable in that behalf.

Signature of documents by Commissioner on behalf of the Government.

67. The Commissioner is hereby authorised to sign and execute all documents required to be signed or executed in the exercise, discharge or performance by him under this Act of any powers, functions or duties on behalf of the Government.

Offences by building societies.

68. (1) If any building society contravenes or fails to comply with any provision of this Act or of any regulations made thereunder or of its instrument of association, the society shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding one hundred rupees, and in the case of a continuing offence, to an additional fine not exceeding fifty rupees for every day during which the offence continues.

(2) All sums paid or recovered as fines under this Act shall be credited to the National Housing Fund.

Regulations.

69. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1), the Minister may make regulations for or in respect

of all matters for which regulations are authorised or required by this Act to be made, all matters in this Act stated or required to be prescribed and all matters for which no provision or no effective provision is made by this Act.

(3) No regulation made by the Minister under this Act shall have effect until it is approved by the Senate and the House of Representatives and notice of such approval is published in the *Gazette*.

70. (1) No loan shall be granted under this Act, and no disposition of any Crown land shall be made under this Act, to individuals who, or to companies or firms or other associations of persons in which the majority of members, are not citizens of Ceylon except with the prior approval of the Cabinet:

Loans and dispositions of land to be for the benefit of citizens of Ceylon.

Provided, however, that any such loan may be granted or any such disposition may be made, to any such individuals, companies, firms or other associations of persons without the prior approval of the Cabinet for the purpose only of the erection of houses which are to be occupied exclusively by citizens of Ceylon.

(2) For the purposes of this section, the expression "members" includes partners.

Provided however that any such loan may be granted or any such disposition made to any such individual or body corporate for the purpose of the erection of houses for exclusive occupation by citizens of Ceylon.

71. (1) In this Act unless the context otherwise requires—

Interpretation.

"body of persons" means any body of persons corporate or unincorporate;

"building" includes a house;

"building company" means a company which is declared to be a building company by Order under this Act;

"building society" means a building society incorporated and registered under this Act;

"carry out", in relation to a housing object, with its grammatical variations, includes the promotion of that object and the exercise of all such housing and other powers as may be necessary for carrying out that object;

“ Commissioner ” means the Commissioner for National Housing, and includes an Assistant Commissioner ;

“ Company ” means a company incorporated and registered under the Companies Ordinance, No. 51 of 1938;

“ construct ”, in relation to any building, includes the conversion of a building into two or more flats;

“ disposition ”, with its grammatical variations, means any transaction of whatever nature affecting land or the title thereto, and includes any conveyance, transfer, sale, lease, grant, surrender or exchange of land;

“ flat ” means a separate and self-contained set of premises constructed for use for residential purposes and forming part of building from some other part of which it is divided horizontally;

“ grantee ” means the person to whom any Crown land or right or interest in such land is disposed of by an instrument of disposition under this Act, and includes any person claiming such land or right or interest under, through or from that person;

“ housing body ” means any body of persons which has been declared to be a housing body by Order of the Minister under this Act;

“ house ” includes a flat;

“ housing object ” means any object declared to be a housing object by section 2 of this Act;

“ housing power ” means any power declared to be a housing power by section 3 of this Act;

“ instrument of disposition ” means any instrument or document whereby any disposition of Crown land is effected and includes a grant or lease relating to Crown land; and

“ person ” includes any body of persons.

(2) An instrument of disposition shall be deemed to be an instrument affecting land within the meaning of the Registration of Documents Ordinance.

Cap. 101.

Cap. 106.

72. The Building Societies Ordinance is hereby repealed.