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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART IV (A) - PROVINCIAL COUNCILS

Provincial Council Notifications

NORTH WESTERN PROVINCIAL COUNCIL

North Western Provincial Council Housing and Construction Statute No. 04. of 2012 of the North Western Province

The above mentioned Statute passed by the Provincial Council of the North Western Province on 16th October, 2012 and assented by the Governor of North Western Province on 24th October, 2012 is hereby published for the information of the public.

P. B. M. SIRISENA,

Secretary,

North Western Provincial Council.

Council Office,
North Western Provincial Council,
Kurunegala,
26th November, 2012.

NORTH WESTERN PROVINCIAL HOUSING AND CONSTRUCTION STATUTE NO. 04 OF 2012 OF THE NORTH WESTERN PROVINCIAL COUNCIL

MINISTRY OF ROAD DEVELOPMENT, ELECTRICITY, HOUSING & CONSTRUCTION AND FISHERIES

A Statute to provide for the effective and efficient implementation of Housing and Construction Projects in the North Western Province ; to provide for the discharge of Statutory Powers and Functions connected therewith ; To provide for the Establishment of the North Western Provincial Housing and Construction Development Fund ; and to provide for matters connected therewith or incidental thereto.

Be it enacted by the Provincial Council of the North Western Province of the Democratic Socialist Republic of Sri Lanka as follows :-

1. This Statute may be cited as the North Western Provincial Housing and Construction Statute No. 04 of 2012 of the North Western Provincial Council and shall come into operation on such date as may be appointed by the Governor of the North Western Province. Short title and the date of operation.

2. Objects of this Statute are as follows :-

- (i) to carry out housing and construction activities in the North Western Province in compliance and in agreement with the National Housing Policy ;
- (ii) to establish the Housing and Construction Development Fund ;
- (iii) to establish the North Western Provincial Department of Housing and Construction.

PART I

CONSTITUTION AND FUNCTIONS OF THE NORTH WESTERN PROVINCIAL DEPARTMENT OF HOUSING AND CONSTRUCTION

Establishment of the North Western Provincial Department of Housing and Construction

3. There shall be established a Department which shall be called the North Western Provincial Department of Housing and Construction (hereinafter referred to as the “Department”) to accomplish the objects of this Statute and to discharge powers and functions in relation thereto.

Department to be a legal entity.

4. (i) The Department shall be a body corporate with perpetual succession and a common seal and may sue and be sued and may show cause in all other legal actions by the name assigned to it and shall have the powers to discharge all functions in the field of housing and construction.

(ii) Administrative functions of the Department shall be subject to the provisions of the Establishment Code and Financial Regulations of the Central Government and of the Provincial Council.

Head of the Department.

5. There shall be a Provincial Commissioner of Housing to execute the powers and functions of the North Western Provincial Department of Housing and Construction who shall be a Class II Officer of the Sri Lanka Administrative Service and shall be appointed to the post by the Governor of the Province with the concurrence of the Provincial Minister in-charge of the subject. The Provincial Commissioner of Housing shall be subject to the General Administration and supervision of the Secretary to the Provincial Ministry.

Delegation of powers.

6. Provincial Commissioner of Housing shall be the Chief Executive Officer of the Department and there shall be a staff to assist the Commissioner for the purpose of giving effect to the provisions of this Statute. The Commissioner and the staff presently in service shall be deemed as the staff appointed for the purpose of this Statute. The Commissioner may delegate to the staff any of his powers and functions vested in him under the provisions of this Statute as may be necessary.

Salaries and wages of the staff.

7. The salaries and wages of the staff of the North Western Provincial Department of Housing and Construction shall be paid out of the Provincial Council Fund.

Functions of the Department.

8. The functions of the Department are as follows:-

- (i) to bring about a development in the field of Housing and Construction in the North Western Province in compliance with National Policy and to maintain the Housing and Construction Fund ;
- (ii) to implement, coordinate, supervise and to follow up provincial Housing Development Programmes and Projects including flats, official quarters or aided self-help housing projects and provision of housing loans and building materials ;
- (iii) to give effect to the provisions of the Protection of Tenants Act and Rent Act within the North Western Province ;
- (iv) to carry out construction activities in respect of subjects indicated under 5.3 of the First list of Ninth Schedule of the 13th Amendment to the Constitution ;
- (v) to formulate planes for the setting up of housing schemes; acquire lands ; obtain Court Orders and to act accordingly in order to mitigate the shortage of Housing ;
- (vi) to implement Housing Projects and provide loan facilities and assistance in the form of money and materials for the low income families in the Province ;
- (vii) to acquire, develop and redevelop lands for the purpose of attaining any objects of the Department ;
- (viii) to alienate lands to persons for housing constructions ; to engage in all activities relating to all aspects of housing development ; to promote such activities and to register and coordinate institutions engaged in said activities and take follow up actions ;

- (ix) to initiate, supervise and follow up both small and medium scale housing schemes and to maintain existing housing schemes ;
- (x) to do all other things which are necessary or may be desirable for the achievement of all or any of the objects of the Department.

PAPRT II

ESTABLISHMENT OF THE NORTH WESTERN PROVINCIAL HOUSING AND
CONSTRUCTION FUND

9. (1) There shall be established a fund which shall be called the North Western Provincial Housing and Construction Fund (hereinafter referred to as the “Fund”) and the Fund shall be administered under the Department. Establishment of the Fund.

(ii) There shall be paid into the Fund such monies as may be voted by the Provincial Council from the Annual Budget for the purpose of the Fund.

10. The object and the function of the Fund shall be to facilitate the achievement of objects of the Department through implementation, coordination, supervision and following up of Housing and Construction Projects which the Department may envisage and refer to the Fund for implementation in order to develop the field of housing and construction in the North Western Province. Objects and functions of the fund.

11. The Fund shall be a body corporate with perpetual succession and a common seal and may sue and be sued and may show cause in all other legal actions by the name assigned to it and shall have the powers to acquire, hold and engage properties, lands, vehicles, machinery and equipment for the purpose of the Fund. The Fund to be a legal entity.

12. The staff of the Fund may be appointed from the staff of the Department. In the event where the services of experts become necessary for the purpose of the Fund, such services may be obtained on payment of fees as may be determined on the recommendation of the Board of Management with the approval of the Chief Secretary of the North Western Province. Staff of the Fund and services of experts.

13. The Fund shall be administered by a Board of Management consisting of seven members as follows who shall be appointed by the Minister and the Board of Management shall hereinafter be referred to as the “Board”:- Board of Management.

- (i) Secretary to the Ministry of the Provincial Minister in-charge of the subject of Housing and Construction ;
- (ii) Secretary to the Ministry of the Provincial Minister in-charge of the subject of Finance or his representative nominated by him ;
- (iii) Deputy Chief Secretary (Finance) of the Provincial Council of the North Western Province ;
- (iv) North Western Provincial Commissioner of Co-operative Development ;
- (v) Three experts in the fields of management, planning and law nominated by the Provincial Minister in-charge of the subject of Housing and Construction.

14. The Secretary to the Provincial Ministry of the Provincial Minister in-charge of the subject of Housing and Construction shall be the *ex-officio* Chairman of the Fund. Chairman of the Fund.

15. The North Western Provincial Commissioner of Housing and Construction shall be the *ex-officio* Secretary of the Fund and the Secretary of the Fund shall be the Convener of the Meetings of the Fund and he shall have no voting rights at such meetings. Secretary of the Fund.

Appointments
for the purpose
of the Board of
Management.

16. The Board of Management may appoint Committees and Consultative Committees and may assign to them special subjects or responsibilities or functions.

Powers of the
Fund.

17. The Board of Management of the Fund shall for the purpose of achieving objects of the Fund, have the powers —

- (i) to purchase or otherwise take into possession and hold any movable or immovable property ;
- (ii) to open, maintain and close Bank Accounts, to borrow with or without security, to receive and collect contributions, gifts and local/international donations ;
- (iii) to do all other things deemed necessary or desirable for the achievement of objects of the Fund.

Term of office
of the Board of
Management.

18. The term of office of appointed members of the Board of Management shall be three (03) years. Re-appointment of Members who vacate their office upon the completion of the term shall be at the discretion of the Minister. The *ex-officio* members of the Fund shall hold office until they hold the respective posts and when he/she ceases to hold such post his/her *ex-officio* membership of the Board of Management shall cease and the successor to such post shall be appointed to the Board of Management in place of the predecessor.

Resignation/
removal of
members of the
Board of
management.

19. Any member other than *ex-officio* members of the Board of Management may resign from the office by a letter addressed to the Minister. When the Minister opines that it is necessary to remove a member of the Board of Management, the Minister shall have the power to remove any member other than those *ex-officio* members and appoint another person to hold such office for the unexpired period of the term of office of his predecessor.

Disqualification
from being a
member of the
Board of
Management.

20. A person shall be disqualified from being appointed or continuing as an appointed member of the Board of Management —

- (i) if he is declared to be of unsound mind, insolvent or bankrupt or is convicted by any court under the Penal Code or under the Bribery and Corruption Act ;
- (ii) if he is or becomes a Member of Parliament or a Member of a Provincial Council or a Local Government Institution.

Function of the
Secretary of the
Fund.

21. The Secretary shall be responsible for the day today administration of the Fund. The Secretary, subject to the provisions of this Statute or any other written Law governing the Fund shall —

- (i) organize all services and handle legal matters necessary for the achievement of objects of the Fund ;
- (ii) perform and execute all such acts and things entrusted to him by the Board of Management.

Chairman of the
meetings of the
Board of
Management.

22. The Chairman shall preside over every meeting of the Board of Management in the even of absence of the Chairman, a member temporarily elected from and among the other members of the Board of Management may preside over such meetings.

23. The allowances to the Board of Management shall be approved by the Governor of the North Western Province on the recommendation of the relevant Provincial Minister.

Allowances to the Board of Management.

24. (i) The Board of Management shall meet at least once in every month. The Chairman shall have the powers to convene a special meeting of the Board of Management as and when it is deemed necessary or expedient.

Powers and duties of the Committee.

(ii) The Chairman may direct the Secretary to convene a special meeting within 7 days from the receipt of a request to that effect from four or more of the membership of the Board of Management.

(iii) Making resolutions at the meetings of the Board of Management shall be by a simple majority of the members present and voting. In the event of a tie, the Chairman or the person who chairs the meeting at the time shall exercise a casting vote.

(iv) Subject to the provisions of this Statute, the Board may make rules regarding the procedure in regard to its meetings and the transaction of business at such meetings. The Secretary shall keep the minutes of each and every meeting of the Board in writing and all members present shall place their hand thereto.

(v) No act or proceeding of the Board shall be invalid by reason only of any defect in the appointment of the chairman or any member of the Board.

(vi) The quorum of the meetings of the Board shall be three members and the existence of a vacancy in the Board shall not invalidate the holding of meetings and passing resolutions at such meetings of the Board.

25. There shall be paid into the Fund —

Constitution of the Fund.

- (i) such sums of money as may be voted from the annual Budget and from time to time by the North Western Provincial Council for the purpose of this Statute ;
- (ii) all sums of money as may be allocated from time to time by the Treasury ;
- (iii) all sums of money as may be provided by Members of Parliament under decentralized budget and by Members of the Provincial Council under provincial investments ;
- (iv) all sums of money received as proceeds of exhibitions, trade stalls and lotteries ;
- (v) such sums of money received for the execution of the Rent Act, No. 7 of 1972 ;
- (vi) all accrued interests or profits ;
- (vii) all sums of money received by the Fund in the exercise, performance and discharge of its powers, duties and functions ;
- (viii) all sums of money received as gifts, donations and contributions and all movable or immovable properties transferred to the Fund by any lawful local or foreign source ;
- (ix) all sums of money, movable or immovable properties transferred to the Fund by any Line Ministry and institutions coming thereunder, State departments or any other institution ;
- (x) all sums of money provided to the Fund by Local Government Authorities;
- (xi) all sums of money received from any source deemed fit by the Board of Management.

26. There shall be paid out of the Fund all sums of money required to defray any expenditure incurred by the Board in the exercise, discharge and performance of its powers, duties and functions under this Statute and the sums of money required to be paid out of the Fund by or under this Statute or any regulation made thereunder.

Bank Account
and investments
of the Fund.

27. (i) The Board shall open and maintain a Current Account in a State Bank for the purpose of the Fund and all sums of money received to the Fund shall be credited to the said account.

(ii) All moneys in the Fund which are not immediately required by the Board under this Statute shall be invested in a State Bank as may be authorized by the Board of Management.

Authority to
incur expenses.

28. The moneys of the Fund may be utilized for the purpose of achieving the objects of the Fund and for the exercise or discharge of powers and functions under this Statute as may be authorized by the Board of Management.

Accounts of the
Board.

29. The Board shall cause proper accounts to be kept of the income and expenditure and of all transactions of the Fund for each financial year and shall prepare a Statement of Accounts with regard to its project affairs.

Financial year
etc.

30. The Financial Year of the Board shall be from January 01st to December 31st in each year.

Audit of
accounts of the
fund.

31. The Board shall cause the annual statement of accounts to be prepared in respect of each financial year and shall refer same to the Internal Audit Division of the Provincial Council of the North Western Province for audit.

Powers of the
Auditor General
to audit accounts
of the fund.

32. The Auditor General shall have the power to audit the accounts of the Fund every year.

Expenditure for
audit.

33. A sum of money as determined by the Board may be paid out of the fund to defray the expenditure incurred for the purpose of auditing the accounts of the Fund.

Annual reports
to be submitted
to the provincial
Council.

34. The Secretary of the Fund shall on the approval of the Board of Management submit to the Minister the statement of accounts audited by the Auditor General together with a report on the activities carried out by the Fund in the financial year under review and the Minister shall present same in the Provincial Council for approval before the elapse of 06 months from the expiration of the financial year.

PART III

GENERAL

Seal of the Fund.

35. There shall be a common seal for the Fund and it shall be under the custody of the Secretary of the Fund.

Use of the seal
of the Fund.

36. The seal shall not be affixed to any instrument whatsoever except in the presence of the Chairman, Secretary and the Treasurer of the Board who shall sign on the instrument in proof of their presence.

Instruments
affixed the seal
on.

37. The Secretary of the Fund shall maintain a register of the instruments or documents on which the seal of the Fund is affixed.

Power of the
Minister in
relation to the
Board.

38. The Minister may give such general or specific directions from time to time as to the exercise, discharge and performance of powers, duties and functions and the Board of Management and the Department shall give effect to such directions..

39. The Minister may make regulations in respect of the all matters which are stated or required by this Statute to be prescribed or for which regulations are required by this Statute to be made. Minister to make regulations.

40. (i) Every regulation made by he Minister shall be published in the *Gazette*. Regulations to be published in the *Gazette*.

(ii) Every regulation shall as soon as convenient after its publication in the *Gazette*, be brought before the Provincial Council for approval.

(iii) Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.

(iv) Notification of the date on which a regulation made by the Minister is deemed to be rescinded shall be published in the *Gazette*.

41. All members and employees of the Fund shall be deemed to be Public Servants within the meaning and for the purpose of the Penal Code during their tenure of office. Members and employees of the Fund to be deemed as Public Servants.

42. In the event of any inconsistency among Sinhala, Tamil and English texts of this Statute, the Sinhala Text shall prevail. Sinhala text to prevail in case of inconsistency.

43. In this Statute unless the context otherwise requires — Interpretation.

“Provincial Council” means, the Provincial Council of the North Western Province ;

“Minister” means, the Minister in-charge of the subject of Housing and Construction of the Provincial Council of the North Western Province ;

“Department” means, the North Western Provincial Department of Housing and Construction ;

“Commissioner” means, the Commissioner of the North Western Provincial Department of Housing and Construction ;

“Fund” means, the Housing and Construction Fund of the Provincial Council of the North Western Province ;

“Board of Management” means, the Board of Management of the Housing and Construction Fund of the Provincial Council of the North Western Province ;

“Chairman” means, the Chairman of the Housing and Construction Fund of the Provincial Council of the North Western Province ;

“Secretary” means, the Secretary of the Housing and Construction Fund of the Provincial Council of the North Western Province ;

“State Bank” means, the State Mortgage and Investment Bank, Bank of Ceylon, People’s Bank National Savings Bank and the Regional Development Bank.