

Malawi

## Malawi Housing Corporation Act Chapter 32:02

Legislation as at 31 December 2014

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# Malawi

## Malawi Housing Corporation Act Chapter 32:02

There are multiple commencements

Provisions	Status
Section 1â2, section 3(1), 3(2)(a), 3(2)(b), 3(2)(c), 3(2)(e), 3(2)(f), 3(2)(g), 3(2)(h), section 4, section 5â16	commenced on 1 January 1964.
Section 3(2)(d)	commenced on 1 February 1965. <i>Note: G.N. 36/1965</i>

*[This is the version of this document as it was at 31 December 2014.]*

*[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]*

**An Act to provide for the establishment of a Malawi Housing Corporation and for purposes connected therewith**

### 1. Short title

This Act may be cited as the Malawi Housing Corporation Act.

### 2. Interpretation

In this Act, unless the context otherwise requires—

"**Corporation**" means the Malawi Housing Corporation established under [section 3](#).

"**member**" includes the Chairman of the Corporation.

### 3. Establishment of the Corporation and powers thereof

(1) There shall be established in accordance with this Act a body to be called the Malawi Housing Corporation.

(2) The Corporation shall have power—

(a) to undertake the management of such houses, classes of houses and housing estates as the Minister may entrust to the Corporation:

(b) to undertake the development and construction of houses and housing estates:

Provided that in respect of the development of housing estates the Corporation shall consult with the Planning Committee appointed under the Town and Country Planning Act for the area in which the housing estates are situated or, where there is no such Planning Committee, the Commissioner for Town and Country Planning, on the design and layout of the housing estates;

*[26 of 1988]*

- (c) to enter into agreements with contractors or agents for the development, construction, maintenance or supervision of houses or housing estates;
- (d) to build or to permit or to assist the building, on any land owned, leased or controlled by the Corporation, of premises other than dwelling houses where such premises are considered by the Corporation to contribute to the improvement or development of a housing estate;
- (e) to acquire and dispose of interests in movable property;
- (f) to purchase, hold, manage, lease or otherwise dispose of any interests in or attaching to land:

Provided that a lease to the Corporation under section 5 of the Land Act shall not be disposed of by assignment;

*[Cap. 57:01]*

- (g) to make loans to persons for the construction of dwelling houses upon such terms and conditions as may be provided for in by-laws made under [section 16](#);
- (h) to do all such things as are necessary, incidental or conducive to the performance of the foregoing powers.

*[26 of 1988]*

#### **4. Status of the Corporation**

The Corporation shall be a body corporate with perpetual succession and a common seal, and may in its corporate name sue and be sued.

#### **5. Constitution of the Corporation**

- (1) The Corporation shall consist of a Chairman, Deputy Chairman, and four other members all of whom shall be appointed by the Minister. The Deputy Chairman shall preside the meetings of the Corporation in the absence or inability to act of the Chairman. The Chairman, or, in his absence or inability to act, the Deputy Chairman, and any three other members shall form a quorum.

- (2) Subject to this section, each member of the Corporation shall hold office for two years:

Provided that—

- (a) any person so appointed shall, on ceasing to be a member, be eligible for reappointment;
- (b) any person so appointed may at any time by notice in writing to the Minister resign his office.

*[8 of 1980]*

- (3) Decisions of the Corporation shall be taken by a majority of votes of members present and voting:

Provided that—

- (a) the person lawfully acting as Chairman at any meeting of the Corporation shall have a casting as well as an original vote;
- (b) no member of the Corporation shall take part in the consideration or discussion of or vote on any decision of the Corporation in respect of any matter in which he has any pecuniary interest, direct or indirect.

- (4) The validity of any proceedings of the Corporation shall not be affected by any vacancy amongst the members thereof, or by any defect in the appointment of a member thereof.

- (5) The members of the Corporation shall not be paid any remuneration except such allowances as may be prescribed by any by-laws made under [section 16](#).

- (6) The Corporation may, subject to this Act, make Standing Orders providing for the proper conduct of the business and of the meetings of the Corporation.
- (7) The Minister shall have power at any time to terminate the appointment of any member of the Corporation.

*[16 of 1970]*

## **6. Disqualification of members of the Corporation**

No person shall be eligible for appointment as a member of the Corporation who—

- (a) an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in the Commonwealth;
- (b) is of unsound mind;
- (c) is serving a sentence of imprisonment;
- (d) has been convicted of any offence involving dishonesty and been sentenced to imprisonment (by whatever name called) therefor in any part of the Commonwealth and has not received a free pardon; or
- (e) being a person possessed, of professional qualifications, is disqualified (otherwise than at his own request) in any part of the Commonwealth from practising his profession by the order of any competent authority made in respect of him personally.

## **7. Financial policy of the Corporation**

- (1) The Corporation shall be self-accounting and shall so manage its business that, taking one year with another—
  - (a) its revenue is sufficient for meeting all expenditure properly chargeable to revenue;
  - (b) sufficient provision is made for depreciation of assets.
- (2) Except in so far as is required by subsection (1) the making of profits shall not be an object of the activities of the Corporation.

## **8. Advances by Government**

The Government may from time to time make to the Corporation advances of moneys required for the proper carrying out of this Act. The moneys so advanced and any interest thereon shall constitute a liability of the Corporation and shall be charged on the property and annual revenues of the Corporation present and future.

## **9. Repayment of, and interest on, advances**

- (1) The Corporation shall make to the Government, at such times and in such manner as the Minister may direct, payments of such amounts as he may so direct in or towards repayment of advances made to the Corporation under [section 8](#) and payment of interest on what is outstanding for the time being in respect of such advances at such rate as he may so direct, and different rates may be directed as respects different advances and as respects interest for different periods.
- (2) The Minister shall lay before the National Assembly a statement of any payment due from the Corporation under this section which is not duly paid.

## **10. Borrowing powers**

- (1) Subject to this section, and any law generally regulating the borrowing powers of the Government and statutory corporations constituted under any law of Malawi, the Corporation may raise loans

whether by bank overdraft or otherwise for meeting any of its obligations or discharging any of its functions.

- (2) The power of the Corporation to raise loans shall be exercisable only with the approval of the Minister.
- (3) Where any such loan shall be raised by means of stock, the provisions of any borrowing powers Act that may be applicable and in force in Malawi with regard to the issuing of stock, the provisions to be made for the payment of interest thereon, and for the redemption thereof at the time or times fixed for repayment, and the proceedings to be taken in case of default, shall apply.

## 11. Consequential provisions on transfer of functions

The Minister may by Regulation make provision consequential on the assumption by the Corporation of any functions under this Act for—

- (a) the transfer to the Corporation of property and liabilities held or incurred for the purposes of the said functions;
- (b) enabling any proceedings pending with respect to any such functions, property or liabilities to be carried on by or against the Corporation;
- (c) for continuing in force anything done by the Minister in relation to such functions;
- (d) such other matters supplementary to the foregoing as appear to the Minister necessary or expedient.

## 12. Acquisition of land

If the Corporation requires any customary land for the purposes of carrying into effect any of the provisions of this Act, it may apply for a grant, lease or other disposition in accordance with section 5 of the Land Act.

*[21 of 1970]*

*[Cap. 57:01]*

## 13. Employees of the Corporation

- (1) For the purposes of carrying out its functions under this Act, the Corporation may, subject in each case to the directions of the Minister, appoint a General Manager and such other officers or servants as the Minister considers necessary.
- (2) The General Manager and all other officers and servants employed for the purpose of the discharge of the functions of the Corporation shall be employees of the Corporation and the employment of all such employees, in respect of remuneration and conditions of service, shall be in accordance with regulations made by the Minister and not otherwise.
- (3) The Corporation may employ any public officer on such terms and conditions as may be approved by the Minister responsible for the Ministry in which such officer is serving.
- (4) The Corporation may, in its absolute discretion, advance money, by way of repayable loan, to any employee thereof for the purchase, or acquisition, by such employee, of a motor car, bicycle, or other like vehicle, for the private use of such employee.
- (5) Any advance made pursuant to subsection (4) shall be in accordance with and subject to such general terms and conditions as the Minister may approve and, in particular, subject to any such

approved terms and conditions as to the repayment of such advance, or the possession or use of such vehicle by such employee.

*[5 of 1971]*

*[24 of 1972]*

#### **14. Power of Minister to give directions**

In exercise of any function conferred upon the Corporation by any of the provisions of this Act the Corporation shall be subject at all times to the general or special directions of the Minister.

#### **15. Accounts, audit and reports**

- (1) The Corporation shall—
  - (a) keep proper accounts;
  - (b) keep proper records relating to the accounts; and
  - (c) prepare, in respect of each financial year, a statement of accounts in a form prescribed by the Minister.
- (2) The accounts of the Corporation shall be audited annually by auditors appointed by the Corporation with the approval of the Minister.
- (3) Within three months after the end of the financial year, the Corporation shall—
  - (a) prepare a general report of its proceedings during the financial year; and
  - (b) transmit to the Minister—
    - (i) that report, together with
    - (ii) a certified copy of the audited accounts of the Corporation,

and the Minister shall lay on the table of the National Assembly copies of that report and a certified copy.

#### **16. By-laws**

The Corporation may, subject to the prior approval of the Minister, make by-laws regulating any of the following matters—

- (a) the procedure governing the allocation of the Corporation's houses to applicants and the assessment of rents to be paid;
- (b) the rates of interest, charges and conditions to be contained in agreements made by the Corporation in respect of premises sold upon deferred terms of payment;
- (c) the rates of interest, charges and conditions attaching to loans to persons for the construction of dwelling houses;
- (d) the allowances to be paid to members of the Corporation.