

OFFICE OF THE PRESIDENT

No. 1234

13 July 1994

NO. 8 OF 1994: HOUSING AMENDMENT ACT, 1994.

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:

GENERAL EXPLANATORY NOTE:

** ** Words between asterisks indicate omissions from existing enactments.

<< >> Words between pointed brackets indicate insertions in existing enactments.

ACT

To amend the Housing Arrangements Act, 1993, so as to insert certain definitions and to substitute or delete others; to extend the application of the Act throughout the Republic; to further regulate the establishment and composition of provincial housing boards and certain committees in each of the provinces; to make further provision for the designation of officials to perform certain functions; to make transitional arrangements regarding the abolition of regional housing boards and committees in the former provinces, the performance of certain work and the redistribution of certain moneys; to make the Housing Act, 1966, applicable throughout the Republic, for certain purposes; and to provide for matters connected therewith.

(English text signed by the President.)
(Assented to 5 July 1994.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Amendment of section 1 of Act 155 of 1993

1. Section 1 of the Housing Arrangements Act, 1993 (hereinafter referred to as the principal Act), is hereby amended-

(a) by the deletion of the definition of "Administrator";

(b) by the insertion after the definition of "Housing Development Board" of the following definition:

" <<'member of the executive council' means the member of the executive council of a province responsible for housing matters in the province in question;>>";

(c) by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means the Minister **for National** <<of>> Housing;";

(d) by the insertion after the definition of "National Housing Fund" of the following definition:

"<<'provincial board' means a provincial housing board established under section 11;>>"; and

(e) by the deletion of the definition of "regional board".

Insertion of section 1A in Act 155 of 1993

2. The following section is hereby inserted in the principal Act after section 1:

"Application of Act

<<1A. The provisions of this Act shall apply throughout the Republic.>>

Amendment of section 6 of Act 155 of 1993

3. Section 6 of the principal Act is hereby amended by the substitution for paragraph (e) of subsection (2) of the following paragraph:

"<<(e) he or she-

(i) is nominated as a candidate for election as a member of the National Assembly;

(ii) is nominated as a senator; or

(iii) is a member of the Executive Council of a province.>>".

Substitution of section 11 of Act 155 of 1993

4. The following section is hereby substituted for section 11 of the principal Act:

"Establishment of provincial boards

<<11. (1) The member of the executive council may, with the concurrence of the other members of the executive council of which he or she is a member, by notice in the Gazette establish a provincial board for the province in question.

(2) A provincial board shall consist of not more than 18 members appointed by the member of the executive council with the concurrence of the other members of the executive council of which he or she is a member: Provided that if the number of members so appointed is less than 18 the number of members appointed shall be divisible by three.

(3) In appointing any person as a member of a provincial board the member of the executive council shall-

(a) have due regard to the qualifications or expertise of such person in the field of housing or any related field; and

(b) ensure that-

(i) one-third of such members shall be nominated by the sectors or sub-sectors supplying or financing housing goods and services in the province;

(ii) one-third of such members shall be nominated by various organisations and community-based groups in civil society representing the interests of consumers of housing goods and services in the province;

(iii) one-third of such members shall be nominated by those parties regulating housing in the province and the political parties which are represented in the executive council of the province.

(4) A provincial board-

(a) shall perform such functions of the Board as the Minister may determine after consultation with the member of the executive council;

(b) may of its own accord, and shall at the request of the member of the executive council, advise the member of the executive council on any matter pertaining to housing in the province.

(5) A provincial board shall perform its functions-

(a) subject to such conditions, qualifications and exclusions as the Minister may, after consultation with the member of the executive council and with the concurrence of the board, determine in general or in a particular case; and

(b) with due observance of the national policy in respect of housing.

(6) The first meeting of a provincial board shall be held at such time and place as the member of the executive council shall determine, and all meetings thereafter shall be held at such times and places as the chairperson of the provincial board shall determine.

(7) The provisions of section 7(2), (3), (4) and (5) shall apply mutatis mutandis in respect of any meeting of a provincial board: Provided that the reference to 'Minister' in section 7(4) shall be construed as a reference to the member of the executive council.

(8) The provisions of sections 5(2), (3), (4) and (5), 6 and 8 shall apply mutatis mutandis in respect of a provincial board: Provided that any reference in those sections to 'Minister' shall be construed as a reference to the member of the executive council.>>".

Substitution of section 12 of Act 155 of 1993

5. The following section is hereby substituted for section 12 of the principal Act:

"Appointment of committees

12. (1) The **Administrator** <<member of the executive council>> may, and shall at the request of the Minister, after a **regional board** <<provincial board>> has been established, appoint one or more committees, which shall-

(a) manage and administer the assets of the board situated in the **region or part of the region** <<province>> for which the **regional** <<provincial>> board concerned has been established; and

(b) subject to the instructions of the board approved by the Minister, perform such functions of the board or the Director-General as the Minister may determine.

(2) The members of a committee shall be persons referred to in section **7(1)** <<(1)>> of the Public Service Act, **1984** (Act No. 111 of 1984) <<1994,>> who are in the employment of the provincial administration concerned and are designated by the **Administrator** <<member of the executive council.>>

(3) The **Administrator** <<member of the executive council>> shall designate one of the members of a committee as the **chairman** <<chairperson>> and another member as the **vice-chairman** <<vice-chairperson>> of the committee."

Amendment of section 14 of Act 155 of 1993

6. Section 14 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The administrative functions of a ****regional**** <<provincial>> board or committee shall be performed by officers and employees in the employment of the provincial administration ****of the province in which the relevant regional board or committee has its seat**** <<concerned>> and who are designated by the ****Administrator**** <<member of the executive council.>>".

Substitution of expression in Act 155 of 1993

7. The principal Act is hereby amended by the substitution for the expressions "chairman", "he", "his", "regional board" and "vice-chairman", wherever they occur, of the expressions "chairperson", "he or she", "his or her", "provincial board" and "vice-chairperson", respectively.

Transitional arrangements

8. (1) (a) As from the date of the first meeting of a provincial housing board established under section 11(1) of the Housing Arrangements Act, 1993 (Act No. 155 of 1993), a regional housing board, established under that section before the commencement of this Act, and having jurisdiction in the province for which that provincial housing board has been established, shall cease to have jurisdiction in such province.

(b) When, as a result of paragraph (a), a regional housing board contemplated in that paragraph no longer has any area of jurisdiction, it shall cease to exist.

(2) The administrative functions of a provincial housing board established under section 11(1) of the Housing Arrangements Act, 1993, shall, until the effective administration contemplated in section 237(1)(a)(ii) of the Constitution has been established for the province in question, be performed free of charge and on an agency basis by officers and employees of the provincial administration which immediately before the commencement of the Constitution performed governmental functions within the area of the province in question, which officers and employees shall be designated for that purpose by the Director-General of that provincial administration.

(3) (a) As from the date of the first meeting of a committee appointed after the commencement of this Act under section 12(1) of the Housing Arrangements Act, 1993, a committee appointed under that section before the commencement of this Act and which operates in the province for which such first-mentioned committee has been appointed, shall cease to operate in such province.

(b) When, as a result of paragraph (a), a committee appointed before the commencement of this Act in terms of section 12(1) of the Housing Arrangements Act, 1993, no longer has any province within which to operate, it shall cease to exist.

(4) Whenever a provincial housing board or a committee has been established or appointed after the commencement of this Act under section 11 or 12 of the Housing Arrangements Act, 1993, the moneys which, before the commencement of this Act, were made available under section 13(1) of the first-mentioned Act for utilisation in connection with the functions of a regional housing board or committee in relation to that part of the region for which that regional housing board was established which falls within the province for which that provincial housing board has been established shall be returned to the Director-General of Local Government and National Housing for credit to the National Housing Fund or fund concerned and thereupon such moneys shall be made available by the Director-General in accordance with that section to be utilised in connection with the performance of the

functions of that provincial housing board or first-mentioned committee, as the case may be.

Application of Act 4 of 1966 in Republic

9. The provisions of the Housing Act, 1966 (Act No. 4 of 1966), shall, for the purposes of executing the national policy in respect of housing as determined by the Minister of Housing throughout the Republic, apply throughout the Republic.

Short title

10. This Act shall be called the Housing Amendment Act, 1994.