



LAWS OF SARAWAK

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Chapter 52

HOUSING DEVELOPMENT CORPORATION ORDINANCE, 2002

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**HOUSING DEVELOPMENT CORPORATION
ORDINANCE, 2002**

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ORDINANCE, 2002**

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LAWS OF SARAWAK

Chapter 52

**HOUSING DEVELOPMENT CORPORATION
ORDINANCE, 2002**

An Ordinance to establish a Housing Development Corporation to facilitate the provision of adequate housing accommodation in Sarawak and for related matters.

[1st January, 2003]

Enacted by the Legislature of Sarawak—

**PART I
PRELIMINARY**

Short title and commencement

1. This Ordinance may be cited as the Housing Development Corporation Ordinance, 2002, and shall come into force on the 1st day of January, 2003.

Interpretation

2.—(1) In this Ordinance—

“appointed date” means the date appointed under section 1 as the date of commencement of this Ordinance;

“Board” or “Board of Directors” means the Board of Directors of the Corporation constituted under section 5;

“Chairman” means the Chairman of the Corporation, and includes a Deputy Chairman appointed under section 5(2)(b);

“Chief Executive Officer” means the Chief Executive Officer appointed under section 15, and includes any person appointed by the Board to temporarily discharge his duties;

“Commission” means the Housing and Development Commission established under section 3 of the repealed Ordinance;

“Corporation” means the Housing Development Corporation established by section 3;

“dealing” shall, subject to section 36, have the same meaning as assigned to it in the Land Code [*Cap. 81 (1958 Ed.)*], and includes a caveat;

“financial institution” means—

(a) a bank or any financial institution licensed under the Banking and Financial Institutions Act 1989 [*Act 372*];

(b) an Islamic bank licensed under the Islamic Banking Act 1983 [*Act 276*]; or

(c) a licensed offshore bank, licensed under the Offshore Banking Act 1990 [*Act 443*],

or any modification or substitution of those Acts for the time being in force;

“flat” means a horizontal stratum of any building or part thereof, whether such stratum or part is on one or more levels or is partially or wholly below the surface of the ground, and includes a parcel within a building subdivided or intended to be subdivided under the Strata Titles Ordinance, 1995 [*Cap. 18*];

“Fund” means the Housing Development Fund established under section 22(1);

“Government” means the Government of the State of Sarawak;

“house” means any building, premises or structure used for living accommodation or human occupation, and includes a flat;

“housing accommodation” means any building, premises or tenement used or intended or designed for human habitation or occupation;

“housing developer” means a housing developer licensed under the Housing Developers (Control and Licensing) Ordinance, 1993 [*Cap. 5*];

“housing estate” means—

(a) any area developed to provide housing accommodation, with amenities and facilities for the enjoyment or convenience of residents or occupiers of houses within such area;

(b) any area having basic infrastructures, services and facilities provided by the Corporation for the development of housing accommodation; and

(c) any area approved by the Government as a site for re-settlement of persons affected by any project or scheme initiated by the Government or any federal authority;

“local authority” means any local authority constituted under or named in the First Schedule to the Local Authorities Ordinance, 1996 [*Cap. 20*];

“member” means any member of the Board of Directors appointed under section 5(2) and (3), and includes the Chairman, the Deputy Chairman, a temporary Chairman, and an alternate member, nominated under section 5(5);

“Minister” means the Minister for the time being charged with the responsibility for housing in the Government;

“Registrar” shall have the same meaning as assigned to it in the Land Code [*Cap. 81 (1958 Ed.)*];

“repealed Ordinance” means the Housing and Development Ordinance, 1971 [*Ord. No. 17/71*];

“Secretary” means the Secretary of the Board of Directors appointed under section 9(1), and includes any person appointed by the Board to discharge temporarily the functions of the Secretary;

“shophouse” means any premises used wholly or partly for trade, business or commerce, and includes any building used partly for those purposes and partly as living accommodation;

“State land” shall have the same meaning assigned to that expression in the Land Code [*Cap. 81 (1958 Ed.)*].

(2) References in this Ordinance to a flat, house or other living accommodation shall be construed to include references to the land appurtenant to such flat, house or other living accommodation.

PART II

ESTABLISHMENT OF THE CORPORATION

Establishment and incorporation of the Housing Development Corporation

3.—(1) There is established a body which shall be known as the “Housing Development Corporation” which shall be a body corporate with perpetual succession and a corporate seal and shall, by that name, be capable of—

(a) suing and being sued;

(b) entering into contracts, and acquiring, owing, holding, leasing, dealing or disposing of property, both movable and immovable; and

(c) doing and suffering such other acts or things as bodies corporate may lawfully do and suffer.

(2) The Corporation shall have a corporate seal and such seal may from time to time be broken, changed, altered and made anew as to the Corporation seems fit, and, until a seal is provided under this section, a stamp bearing the inscription "Housing Development Corporation" may be used as the corporate seal.

(3) The Corporation shall, for the purposes of any written law relating to land, be deemed to be a native.

Instrument, etc., to be executed or issued by the Corporation

4.—(1) All deeds, documents and other instruments requiring the seal of the Corporation shall be sealed with the corporate seal of the Corporation in the presence of the Chairman or Deputy Chairman and the Chief Executive Officer or the Secretary or any other person authorized by the Corporation in that behalf, who shall sign every such deed, document or other instrument to which such seal is affixed, and any deed, document or instrument purporting to be sealed with the corporate seal and signed as herein provided, shall, until the contrary is proved, be deemed to have been validly executed by the Corporation.

(2) Any contract, deed or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed on behalf of the Corporation by any person generally or specifically authorized by the Board of Directors for that purpose subject to such restriction or limit as to value or otherwise as may be imposed in such authorization.

Board of Directors for the Corporation

5.—(1) There shall be a Board of Directors constituted as provided in this section, which shall be responsible for providing directions for the general administration and supervision of the affairs, functions, business and other activities of the Corporation.

(2) The Board of Directors shall comprise the following:

(a) a Chairman;

(b) a Deputy Chairman who shall be the Permanent Secretary to the Ministry having responsibility for housing;

(c) not less than three and not more than five other ordinary members; and

(d) four *ex officio* members who shall be—

(i) the State Financial Secretary or his nominee;

(ii) the Permanent Secretary to the Ministry having responsibilities for land or his nominee;

(iii) the Permanent Secretary to the Ministry having responsibilities for local authorities; and

(iv) the Director of Lands and Surveys or his nominee.

(3) The Chairman and the ordinary members referred to in subsection (2)(c) shall be appointed by the Majlis Mesyuarat Kerajaan Negeri.

(4) The members of the Board of Directors, other than *ex officio* members, shall hold office for a term not exceeding three years, and may be eligible for re-appointment.

(5) A member of the Board, other than the Chairman or Deputy Chairman or an *ex officio* member may, with the approval of the Minister, nominate an alternate member, who in the absence or incapacity of the member, may attend any meeting of the Board and shall have all the powers and duties conferred by this Ordinance.

(6) The Majlis Mesyuarat Kerajaan Negeri may, at any time and without assigning any reason, revoke or terminate the appointment of any member of the Board other than an *ex officio* member.

(7) A member of the Board may resign his position by notice in writing addressed to the Majlis Mesyuarat Kerajaan Negeri.

(8) Members of the Board may be paid such remuneration, allowances or granted such benefits or privileges as the Chief Minister may determine from time to time.

Disqualification from membership of Board of Directors, etc.

6.—(1) A person shall be disqualified from being appointed or being a member of the Board of Directors—

(a) if he has been convicted by a court of law of—

(i) any offence involving fraud or dishonesty;

(ii) any offence under any law relating to corruption;

or

(iii) any other offence for which he has been sentenced to imprisonment for a term of not less than six months and has not received a free pardon;

(b) if he is an undischarged bankrupt; or

(c) if he is of unsound mind or is otherwise incapable of performing his duties.

(2) The seat of a member other than a Deputy Chairman or an *ex officio* member, shall become vacant—

(a) on his death;

(b) if he fails to attend three consecutive meetings of the Board without the permission in writing of the Minister;

(c) if he is absent from Sarawak without the approval of the Minister for more than three months;

(d) if he becomes subject to any of the disqualifications specified in subsection (1);

(e) on the revocation or termination of his appointment as a member; or

(f) if he shall resign his seat.

(3) Where any member ceases to be a member by reason of any of the provisions of this Ordinance, a person may be appointed by the Majlis Mesyuarat Kerajaan Negeri in his place for the residue of the term for which such person might have held office if he had not ceased to be a member.

Proceedings of the Board of Directors

7.—(1) All meetings of the Board of Directors shall be presided by the Chairman or in his absence, by the Deputy Chairman.

(2) No meetings of the Board of Directors shall be held or conducted unless a quorum comprising not less than five members, including the Chairman or Deputy Chairman, is present.

(3) The Board may act or proceed with the discharge of its functions notwithstanding any vacancy in its membership.

(4) The Board may establish or form any committee, comprising any of the members or officers or employees of the Corporation and such other persons as the Board may deem fit, and may delegate to such committee such functions and powers as the Board considers fit and proper.

Provided that no delegation hereunder shall preclude the Board itself from performing at any time any of the functions or powers so delegated.

(5) Subject to the approval of the Minister, the Board of Directors may make standing orders to regulate its own procedures or the procedures of any committee established under subsection (4), and in particular, the holding and conduct of its meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes and the production and inspection thereof by members or other persons.

Disclosure of interest in contract by member of the Board of Directors

8. If any member of the Board has any beneficial interest in any land or building situate in an area comprised in any development or redevelopment plan or in any other project of the Corporation, or has any beneficial interest in any company or undertaking with which the Corporation proposes to enter into any contract, or has interest in any such contract, he shall disclose to the Board the precise nature and extent thereof, and this disclosure shall be recorded by the Secretary in the minutes of the Board, and such member shall take no part in any deliberation or decision of the Board relating to such plan, project or contract.

Appointment of Secretary

9.—(1) The Board of Directors shall, with the approval of the Minister, appoint a Secretary who shall hold office for such period as the Board may determine and on such terms and conditions as it may determine.

(2) The Secretary shall keep all minutes and records of meetings of the Board and any of its committees and shall have custody of the corporate seal of the Corporation.

(3) The Secretary may attend meetings of the Board, but shall have no right of voting on any issue, matter or resolution before, or under consideration, by the Board.

(4) If the Secretary is temporarily absent from Sarawak, or is temporarily unable to perform his duties by reason of illness or otherwise, another person may be appointed by the Board to act in the place of the Secretary during any such period of absence from duty.

PART III
FUNCTIONS AND RESPONSIBILITIES OF
THE CORPORATION

Functions and responsibilities of the Corporation

10.—(1) The functions and responsibilities of the Corporation shall be as follows:

(a) to develop, build, erect and complete houses for sale or sublease to such categories of persons and at such locations in Sarawak, as may be approved by the Minister;

(b) to develop or provide sites, with adequate infrastructures, services and facilities, for the building of houses or housing accommodation by such categories of persons as may be approved by the Minister;

(c) to build or erect, for sale, sublease or exchange, shophouses in any housing estates, to cater for the needs and convenience of residents or persons living or working within such housing estates;

(d) to execute, carry out or implement, such plans or schemes for the development of housing estates, prepared or drawn up by the Government or any other governmental authority in Malaysia;

(e) to improve, renovate, repair or upgrade, upon such terms and conditions as the Board may determine, any houses or flats previously built or constructed by the Corporation or the Commission, or to improve, upgrade or repair facilities or amenities in housing estates developed by the Corporation or the Commission;

(f) to acquire, purchase, sell, sublease, rent or license any buildings built, owned or acquired by the Corporation at such price, rent or fees as may be approved by the Board in consultation with the Minister;

(g) to undertake such studies, surveys, investigations or research as may be necessary to enable the Corporation to carry out or discharge any of its functions;

(h) subject to the approval of the Minister, to draw up and implement schemes to provide loans or other forms of financial assistance, to purchasers of houses or property built, developed or owned by the Corporation;

(i) subject to the approval of the Minister, to grant loan or financial assistance on terms and conditions to be determined by the Corporation, for the building, repair, renovation, improvement of houses to be built, or built or situated on such locality or area as the Minister may determine;

(j) to manage, preserve, repair, renovate or administer any building or property wholly or partly belonging to or owned by the Corporation;

(k) to prepare, draw up, or determine standards, quality, criteria of design, workmanship or engineering works for various categories of buildings or houses to be built, erected, completed or acquired by the Corporation;

(l) to make, manufacture or design any materials, tools or equipment needed for the building or construction of houses or infrastructure, amenities or facilities in any housing development undertaken by the Corporation; and

(m) to do all such other matters and things as are necessary for the exercise or performance of all or any of the functions and responsibilities of the Corporation.

(2) In addition to the functions and responsibilities stipulated in subsection (1), the Corporation may undertake such other functions as the Majlis Mesyuarat Kerajaan Negeri may, by direction published in the *Gazette*, assign.

Powers of the Corporation

11.—(1) The Corporation shall have powers to do all things necessary or convenient to be done for or in connection with the performance of its functions and responsibilities.

(2) Without prejudice to the generality of subsection (1), the powers of the Corporation shall include the power—

(a) to develop, enhance, improve, deal with, sell, sublease, and to enter into contract, arrangement or scheme for the development and sale of any assets or property of the Corporation, movable and immovable, in such manner as the Board may think expedient;

(b) to engage or undertake in any activity, either alone or in joint venture with other company, corporation or institution, to better carry out, discharge or execute the functions or responsibilities of the Corporation;

(c) to provide technical advice or assistance, including training and training facilities, for the development or improvement of skills, technical know-how and knowledge, to housing developers, building contractors, sub-contractors, suppliers or the officers and employees of the Corporation;

(d) to provide services for the management and maintenance of buildings and, in particular, the management and maintenance of buildings or flats owned or acquired by the Corporation;

(e) to grant loans to officers and employees of the Corporation for any purpose specifically approved by the Board;

(f) subject to section 24(1), to borrow or raise loans or obtain credit facilities from the State Government or the Government of Malaysia or any financial institution and to issue or provide such securities as may be required for the purposes of raising or obtaining such loans or borrowings;

(g) subject to the Corporation having the requisite licence or permit, to undertake a scheduled business under the Banking and Financial Institutions Act 1989 [*Act 372*];

(h) to provide recreational facilities and promote recreational activities for, and activities conducive to, the welfare of officers and employees of the Corporation;

(i) to provide training or educational courses for officers and employees of the Corporation and to award scholarships or otherwise pay for such training or courses;

(j) to levy or impose fees or charges for services provided by the Corporation; and

(k) to do anything incidental to any of its powers.

Formation of companies

12.—(1) The Corporation may, from time to time, with the written approval of the Minister, incorporate or establish companies by such name as the Corporation may determine, to carry out and have the charge, conduct and management, on behalf of the Corporation, of any project, scheme or enterprise as may be decided by the Corporation in the discharge of its functions and responsibilities and the exercise of its powers.

(2) Any company incorporated or established by the Corporation may be wholly owned by the Corporation or may be a subsidiary or related or associated company of the Corporation.

Directions from Minister

13.—(1) The Minister may give to the Corporation or its Board of Directors such directions not inconsistent with this Ordinance relating to the performance of the Corporation's functions and the Corporation shall give full effect to all such directions expeditiously.

(2) The Corporation shall furnish the Minister with such returns, accounts and other information as he may, from time to time, require.

Duty to furnish Minister with information

14. The Board of Directors shall, upon request by the Minister, furnish him with such information or document relating to the activities of the Corporation or the proceedings, decision or action of the Board, as the Minister may, from time to time, require.

PART IV

APPOINTMENT OF OFFICERS AND EMPLOYEES,
THEIR POWERS, FUNCTIONS AND DUTIES

Chief Executive Officer

15.—(1) The Board of Directors shall, with the approval of the Minister, on such terms and conditions as it may determine, appoint a Chief Executive Officer.

(2) Where no appointment of the Chief Executive Officer is made under subsection (1) or the Chief Executive Officer is absent from the State or unable, through illness or any other cause, to discharge his duties, the Deputy Chief Executive Officer or any other officer of the Corporation shall, under the authority and direction of the Board, exercise the duties of the Chief Executive Officer, and be paid such remuneration or allowances as may be determined by the Board.

(3) The Chief Executive Officer shall be responsible for—

(a) the proper administration and management of the Corporation in accordance with the policies and direction laid down by the Board;

(b) the supervision and control over the implementation of all decisions and policies of the Corporation as may be determined by the Board;

(c) the general control and supervision of all officers and employees of the Corporation;

(d) the issue of policy guideline and to provide elucidation of decisions of the Corporation to officers and employees of the Corporation; and

(e) the orderly, expeditious and prompt execution of all programmes, plans, schemes, projects and directives of the Corporation as directed by the Minister under section 13(1).

(4) The Chief Executive Officer shall also perform such other duties as the Board may, from time to time, direct.

Appointment of other officers, employees, agents and consultants

16.—(1) Subject to such regulations as may be made under section 17, the Board may, from time to time, appoint and employ on such terms and conditions as the Board may think fit such number of other officers and employees as may be necessary for the Corporation to discharge or undertake its functions and responsibilities and to exercise the powers conferred by this Ordinance.

(2) The Board may appoint and employ such consultants and agents to transact any business or to do any act required to be transacted or done in the discharge of its functions or for the better carrying into effect the purposes of this Ordinance.

Regulations with respect to discipline, etc.

17.—(1) The Board may, from time to time, with the approval of the Majlis Mesyuarat Kerajaan Negeri, make regulations with respect to the conduct and discipline of officers and employees of the Corporation.

(2) The regulations made under this section may include provisions for—

(a) the interdiction with reduction in salary or in other remuneration; and

(b) the suspension without salary or other remuneration, of an officer or employee of the Corporation during the pendency of disciplinary proceedings against him.

(3) The regulations made under this section shall create and classify the disciplinary offences and provide for such disciplinary punishments as the Board may deem appropriate, and the punishment so provided may extend to dismissal or reduction in rank.

(4) The regulations made under this section may, in prescribing the procedure for disciplinary proceedings, provide for an opportunity for representations to be made by the person against whom the disciplinary proceedings are taken before a decision is arrived at by the Board on the disciplinary charge laid against such person.

Continuation and completion of disciplinary proceedings

18.—(1) Where on the appointed day, any disciplinary proceeding is pending or existing against any officer or employee of the Commission who has become an officer or employee of the Corporation, such proceedings shall be continued and completed by the Board under this Ordinance.

(2) An order, ruling or direction made or given by any committee established by the Board to conduct disciplinary proceedings shall be treated as an order, ruling or direction of the Board and have the same force or effect as if it had been made or given by the Board pursuant to the authority vested in the Board under this Ordinance.

Imposition of surcharge

19.—(1) If the Board is satisfied that any person who is or was in the employment of the Corporation—

(a) is or was responsible for any improper payment of moneys from the Fund or for any payment of such moneys which is not duly vouched;

(b) is or was responsible for any deficiency in, or for the destruction of, any moneys, securities, stores or other property of the Corporation;

(c) being or having been an accounting officer, fails or has failed to keep proper accounts or records; or

(d) has failed to make any payment, or is or was responsible for any delay in the payment, of moneys from the Corporation to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the Corporation,

and if a satisfactory explanation is not furnished to the Board within a period specified by the Board, with regard to the failure to collect, improper payment, payment not duly vouched, deficiency or destruction, or failure to keep proper accounts or records, or failure to make payment, or delay in making payment, the Board may surcharge against the said person a sum not exceeding the amount of any such amount not collected, such payment, deficiency, or loss or the value of the property destroyed, as the case may be; and with regard to the failure to keep proper accounts or records, or the failure to make payment, or the delay in making payment, the Board may surcharge against the said person such sum as the Board may think fit.

(2) The Board shall notify the person surcharged of its decision made under subsection (1).

(3) The Board may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and notify the person concerned accordingly.

(4) The amount of any surcharge imposed under subsection (1) and not withdrawn under subsection (3) shall be a debt due to the Corporation from the person against whom the surcharge is imposed and may be sued for and recovered in any court at the suit of the Corporation and may also be recovered by deduction—

(a) from the salary of the person surcharged if the Board so directs; or

(b) from the pension or any retirement benefits of the person surcharged if the Board so directs,

by equal monthly instalments not exceeding one-fourth of the total monthly salary or pension, as the case may be, of the person.

Protection from personal liability

20. No suit or other legal proceeding shall lie personally against any member of the Board or any officer or employee of the Corporation or any other person acting under the direction of the Board for anything which is done in good faith or intended to be done in the execution or purported execution of this Ordinance.

Public servants

21. All members of the Board and its committees, and all officers and employees of the Corporation shall be deemed to be public servants within the meaning of the Penal Code [Act 574].

PART V

FINANCIAL AND ACCOUNTING PROVISIONS

Fund of the Corporation

22.—(1) There shall be established, for the purposes of this Ordinance, a Fund for the Corporation to be known as “the Housing Development Fund” to be managed, administered and controlled by the Board of Directors.

(2) The Fund of the Corporation shall consist of—

(a) all moneys received by the Corporation in the discharge of its functions and responsibilities;

(b) money transferred from the Housing and Development Fund established under section 46 of the repealed Ordinance and any bank account of the Commission;

(c) all moneys received by the Corporation by way of grants from the Government;

(d) all moneys derived from the disposal, lease or hire of, or any other dealing with, any property vested in or acquired by the Corporation;

(e) all moneys derived as income from investment by the Corporation;

(f) all moneys borrowed by the Corporation under this Ordinance; and

(g) all other moneys lawfully received by the Corporation.

Expenditure and preparation of estimates

23.—(1) The expenditure of the Corporation up to such amount as may be authorized by the Majlis Mesyuarat Kerajaan Negeri for any financial year shall be defrayed out of the Fund.

(2) Before the beginning of each year, the Corporation shall submit to the Majlis Mesyuarat Kerajaan Negeri an estimate of the expenditure for the following year in such form and containing such particulars as the Majlis may direct, and the Majlis shall, before the beginning of that following year, notify the Corporation through the Minister of the amount authorized for expenditure generally or of the amounts authorized for each description of expenditure.

(3) The Corporation may at any time submit to the Majlis Mesyuarat Kerajaan Negeri a supplementary estimate for any one financial year as the Majlis may allow.

Power to borrow

24.—(1) The Corporation may, from time to time for the purposes of this Ordinance, raise loans from the Government or with the consent of the Majlis Mesyuarat Kerajaan Negeri, from any other source.

(2) The Corporation shall not provide guarantee or security to secure the debt or liabilities of any company formed or established under section 12, or for any other person or party, without the prior approval of the Majlis Mesyuarat Kerajaan Negeri.

Grants

25. For the purposes of enabling the Corporation to carry out its functions under this Ordinance, the Majlis Mesyuarat Kerajaan Negeri may, from time to time, make grants-in-aid to the Corporation of such sums of money as the Majlis may determine out of moneys to be provided by the Dewan Undangan Negeri.

Bank accounts and application of revenue

26.—(1) The Corporation shall open and maintain an account or accounts with such bank or other financial institutions as the Board of Directors thinks fit; and every such account shall be operated upon as far as practicable by cheque signed by such person or persons as may, from time to time, be authorized by the Board.

(2) The moneys of the Corporation shall be applied only in payment of discharge of the expenses, obligations and liabilities of the Corporation and in making any payment that the Corporation is authorized or required to make.

Investment

27. The Corporation may, with the approval of the Minister, invest any of its funds available for investment in the following manner:

(a) by depositing in—

- (i) Bank Negara Malaysia; or
- (ii) any financial institutions;

(b) by investing in bonds, debentures, commercial notes, money market instruments, certificates of deposits and promissory notes and bills of exchange within the meaning of the Bills of Exchange Act 1949 [**Act 204**];

(c) by investing in accordance with the Trustee Act 1949 [**Act 208**];

Provided however, where the Corporation invests in or upon titles to immovable property in Malaysia in accordance with section 4(1)(c) of the Trustee Act 1949 [**Act 208**], such immovable property may or may not yield any income at the time of such investment.

Annual report

28. The Corporation shall, as soon as possible after the close of each financial year, submit to the Majlis Mesyuarat Kerajaan Negeri an annual report on the activities of the Corporation during that financial year, and the Chief Minister shall present a copy of the report to the Dewan Undangan Negeri.

Accounts of the Corporation

29.—(1) The Corporation shall keep proper accounts and other records of its own and shall prepare in respect of each financial year a statement of its accounts in a form approved by the Majlis Mesyuarat Kerajaan Negeri.

(2) The accounts of the Corporation shall be audited by the Auditor-General or by a qualified auditor appointed annually by the Corporation with the approval of the State Financial Authority, and the auditor shall make a report on the accounts examined by him.

(3) As soon as the accounts of the Corporation have been audited in accordance with subsection (2), a copy of the statement of accounts together with a copy of any report made by the auditor shall be submitted to the Majlis Mesyuarat Kerajaan Negeri, for its examination and approval, and thereafter, the Chief Minister shall present to the Dewan Undangan Negeri a copy of every such statement and report.

Financial and accounting procedures

30. The Statutory Bodies (Financial and Accounting Procedure) Ordinance, 1995 [*Cap. 15*] shall apply to the Corporation.

PART VI
LAND FOR HOUSING DEVELOPMENT

General provisions on land for housing

31. For the purpose of carrying out its functions and responsibilities under this Ordinance, the Corporation may—

(a) acquire or purchase land, including land lawfully held under native customary rights;

(b) build or provide houses belonging to the Corporation in exchange for land required or suitable for the provision of housing accommodation or creation of housing estates;

(c) enter into agreement or arrangement with housing developers for the building of houses on any area or site designated or reserved by the State Planning Authority as a condition for approval of subdivision or development of land under Part X of the Land Code [*Cap. 81 (1958 Ed.)*]; and

(d) enter into joint venture with any housing developer for the development of land for the provision of housing accommodation.

Vesting of land

32.—(1) The Majlis Mesyuarat Kerajaan Negeri may, subject to such terms and conditions as it may deem fit to impose, by order published in the *Gazette*, vest in the Corporation any State land or other property as may be considered necessary to enable the Corporation to carry out its functions and responsibilities under this Ordinance.

(2) The Registrar shall cause to be issued to the Corporation a document of title for any land vested in the Corporation pursuant to subsection (1) and shall stipulate in such document of title the conditions of such vesting.

Compulsory acquisition of land

33. Where any land, not being State land, is needed for the purposes of the Corporation to carry out its functions and responsibilities under this Ordinance, such land may be acquired in accordance with Part IV of the Land Code [*Cap. 81 (1958 Ed.)*] as land required for a public purpose, and any declaration required under that Code that such land is so needed may be made notwithstanding that compensation is to be paid out of the Fund established under section 22.

Protection of Government

34.—(1) Where the Government has granted loans to the Corporation and until such loans are fully repaid, the Government shall be deemed to have a beneficial interest over any land registered in the name of the Corporation, and upon presentation to the Registrar of a certificate signed by the State Financial Secretary certifying that the Corporation is indebted to the Government in respect of loans advanced by the Government to the Corporation, the Registrar shall cause a caveat to be lodged against any land of the Corporation specified in such certificate.

(2) Any caveat lodged by the Registrar pursuant to subsection (1) shall not be removed or withdrawn by the Registrar until and unless he receives from the State Financial Secretary, a statement stating that:

(a) the loans stipulated in the certificate referred to in subsection (1) has been fully repaid; or

(b) he consents to the removal or withdrawal of the caveat.

Surrender of land

35.—(1) The Corporation may, or if so directed by the Majlis Mesyuarat Kerajaan Negeri shall, surrender to the Government any land which is no longer required by the Corporation for the purposes of discharging its functions and responsibilities under this Ordinance.

(2) Where the Corporation is required by the Majlis Mesyuarat Kerajaan Negeri to surrender any land to the Government, the Corporation may be paid compensation for any improvements which the Corporation has made to the land since its vesting in or acquisition by, the Corporation. Such compensation shall be assessed by a valuer appointed by the Director of Lands and Surveys.

Restrictions on dealings

36.—(1) In the alienation of land or when issuing title for any land under the Land Code [*Cap. 81 (1958 Ed.)*] or subsidiary parcel within any subdivided building under the Strata Titles Ordinance, 1995 [*Cap. 18*], there shall be imposed, as special condition of such title, restrictions or limitation on dealing over the land or subsidiary parcel or the terms upon which any such dealing may be permitted by the Corporation.

(2) The Minister may make rules governing dealing of any land or subsidiary parcel referred to in subsection (1) and the Registrar shall give full effect and force to such rules, and in regard thereto, the Registrar shall have authority to lodge a caveat against such land or subsidiary parcel to prevent any dealing which contravenes such rules or any restrictions or limitations imposed pursuant to subsection (1).

Transfer or transmission of house, etc.

37.—(1) On the death of the owner of any house or subsidiary parcel or land within a housing estate which was acquired from the Corporation, the same may, notwithstanding any restrictions on dealings under section 36, be transferred or transmitted to—

(a) his spouse; or

(b) any of his children who has the qualification or eligibility to purchase such property from the corporation.

Provided that on the date of such transfer or transmission, there is no debt or money lawfully due and owed by the estate of the deceased owner to the Corporation.

(2) Any transfer or transmission referred to in subsection (1) shall not be deemed as “dealing” of the house, subsidiary parcel or land under this Ordinance.

(3) For the purpose of subsection (1), “spouse” shall mean any person who is lawfully married to the deceased owner at the time of his demise, and “children” shall include any adopted child or step child of the deceased owner.

PART VII

REPEAL AND TRANSITIONAL PROVISIONS

Repeal of the Housing and Development Ordinance, 1971

38. On the appointed day—

(a) the Housing and Development Ordinance, 1971 [*Ord. No. 17/71*] shall cease to have effect; and

(b) the Housing and Development Commission (in this Part referred to as “the Commission”) being a body corporate established under the repealed Ordinance shall likewise cease to exist.

Continuance of orders, directions, etc.

39. All orders, directions, appointments, notifications, regulations and rules made under the provisions of the repealed Ordinance and in force immediately before the appointed day shall, insofar as they are not inconsistent with the provisions of this Ordinance, be deemed to have been made under this Ordinance and shall continue in force until other provisions shall be made under this Ordinance or until the date upon which they expire.

Transfer of powers, rights, duties and liabilities

40. Subject to this Ordinance, all powers, rights, privileges, duties, liabilities or obligations which immediately before the appointed day were those of the Commission shall as from that day devolve on the Corporation.

Transfer of property

41.—(1) Subject to this Ordinance, all land and any interests in land immediately before the appointed day vested in the Commission shall, on that day, vest in the Corporation.

(2) Subject to this Ordinance and to any direction of the Minister, all property and assets other than land which immediately before the appointed day were vested in the Commission or in any person on behalf of the Commission shall on that day vest in the Corporation.

Existing contracts, etc.

42. Subject to this Ordinance, all deeds, agreements, transfer or transmission, instruments and working arrangements subsisting immediately before the appointed day and affecting any of the property transferred under section 41 or the sale, purchase, acquisition or other dealing of any house, land or property, shall be of full force and effect against or in favour of the Corporation and enforceable as fully and effectually as if, instead of the Commission or any person acting on behalf of the Commission, the Corporation had been named therein or had been a party thereto.

Continuance of litigation

43.—(1) Subject to this Ordinance, any proceedings before any court, arbitrator or tribunal or cause of action pending or existing immediately before the appointed day by or against the Commission or any person acting on behalf of the Commission, may be continued or instituted by or against the Corporation as it might have been by or against the Commission or such person as if this Ordinance had not been passed.

(2) Any appeal brought or any leave to appeal applied on or after the appointed day against a decision given in any legal proceedings before that day may be brought by or against the Corporation as it might have been brought by or against the Commission as if this Ordinance had not been passed.

Transfer of the Fund

44. Subject to this Ordinance, all moneys standing in, and due to be paid to, the Fund set up under section 46 of the repealed Ordinance shall on the appointed day be transferred to the Fund.

Continuance of officers and employees

45. Every person who immediately before the appointed day was employed as an officer or employee of the Commission on that day shall be deemed to be employed as such officer or employee, as the case may be, of the Corporation upon the same terms and conditions of service as those obtaining immediately before the appointed day.

Pending disciplinary proceedings

46. All disciplinary proceedings which, immediately before the appointed day, were pending against any officer or employee of the Commission may, on or after that date, be continued against the officer or employee by the appropriate authority of the Corporation established by this Ordinance.

Prevention of anomalies

47.—(1) If any difficulty arises with respect to the foregoing transitional provisions of this Ordinance the Minister may, by order, make such modifications in those provisions as may appear to him necessary for preventing anomalies:

Provided that the Minister shall not exercise the powers conferred by this section after the expiration of two years from the appointed day.

(2) In this section, “modifications” include amendments, additions, deletions, substitutions, adaptations, variations, alterations and non-application of any provision of this Part.

Exemption

48. Except as provided in this Ordinance, the Housing Developers (Control and Licensing) Ordinance, 1993 [*Cap. 5*] shall not apply to the Corporation.

Rules

49.—(1) The Board may, with the approval of the Majlis Mesyuarat Kerajaan Negeri, make rules for the purpose of carrying out into effect for the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, the rules may—

(a) prescribe the qualification and categories of persons entitled to purchase houses built, or land within housing estates, developed by the Corporation or the restriction or limitation on the number or category or type of houses which a person may purchase from the Corporation;

(b) prescribe minimum standards for size, workmanship, quality, design and other criteria for housing accommodation provided or built by the Corporation;

(c) provide for standard agreements or other documents to be entered into by the Corporation and purchasers of its houses or other property, or for the sublease of such houses or other property;

(d) regulate the investment of moneys or funds of the Corporation;

(e) make provision for the promotion or advertisement for the sale, sublease or disposal of houses, by the Corporation;

(f) regulate the procedure for application for purchase of houses from the Corporation including prescribing forms for such application;

(g) prescribe conditions for the granting of financial assistance by the Corporation for the purchase of its houses and other property or for the renovation, extension and improvement of houses of any category of persons or in any particular area or locality; and

(h) prescribe anything which is authorized or required to be, or which may be prescribed under this Ordinance.

(3) The Rules made under this section may provide penalties for the contravention thereof:

Provided that such penalties shall not exceed a fine of five thousand ringgit or imprisonment of three years or fine and imprisonment not exceeding those limits.

[List of Amendments]

HOUSING DEVELOPMENT CORPORATION

35

LAWS OF SARAWAK

Chapter 52

**HOUSING DEVELOPMENT CORPORATION
ORDINANCE, 2002**

LIST OF AMENDMENTS

Amending Law	Short Title	In force from
	-Nil-	

Sarawak LawNet

Sarawak LawNet



DICETAK OLEH PERCETAKAN NASIONAL MALAYSIA BERHAD, KUCHING, SARAWAK
BAGI PIHAK DAN DENGAN KUASA PERINTAH KERAJAAN SARAWAK