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EXTRAORDINARY

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PART IV (A) - PROVINCIAL COUNCILS

Provincial Councils Notifications

EASTERN PROVINCE PROVINCIAL COUNCIL

I, Mohamed Casim Mohamed Sheriff, Secretary to the Provincial Council of the Eastern Provincial Council do hereby Order publish the Eastern Province Provincial Housing Authority Statute No. 02 of 2013 as described in the Schedule hereto, sought the Assent of the Governor of the Eastern Province on 13.02.2014 as required under Article 154 H (1) of the Constitution of the Democratic Socialist Republic of Sri Lanka and shall come into operation on the day on which the Assent is sought.

M. C. M. SHERIFF,
Secretary to Provincial Council of the
Eastern Provincial Council.

Provincial Council Secretariat,
Eastern Provincial Council,
Trincomalee,
20.02.2014.

Eastern Province Provincial Housing Authority Statute No. 02 of 2013

A STATUTE TO PROVIDE FOR THE ESTABLISHMENT OF THE EASTERN PROVINCIAL HOUSING AUTHORITY, PROVINCIAL HOUSING PLANNING IMPLEMENTATIONS AND MONITORING, STAFF APPOINTMENT AND FOR THE MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO. THIS STATUTE INCONSISTENT WITH THE NATIONAL HOUSING ACT (CHAPTER 401)

Be it enacted by the Eastern Province Provincial Council of the Democratic Socialist Republic of Sri Lanka as follows;

01. This Statute may be cited as the 'Eastern Provincial Council Housing Authority Statute No. 02 of 2013' and shall come into operation on such date as the Governor assents.

Short title and
date of
operation



PART I

ESTABLISHMENT OF THE EASTERN PROVINCE PROVINCIAL HOUSING AUTHORITY

Establish of a
Provincial
Housing
Authority

02. (1) There shall be established a Provincial Housing Authority which shall be called as the Eastern Province Provincial Housing Authority (hereinafter referred to as the "Housing Authority").

(2) The Housing Authority shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in that name.

(3) The Housing Authority may in consultation with the Chief Secretary, recommendation from the Board of Ministers and approval by the Governor establishes and maintains branch offices, when the Provincial Minister in charge of the subject of housing deems necessary.

Members of the
Housing
Authority

03. (1) The Housing Authority shall consist of the following members;

(a) five members (hereinafter referred to as "appointed members") who shall be appointed by the Provincial Minister in charge of the subject of Housing from among persons who appear to the Provincial Minister to have wide experience, and shown capacity, in civil engineering, commerce, finance or administration; and

(b) four other ex-officio members who shall be-

(i) The Secretary to the Provincial Ministry of Housing of the Eastern Province.

(ii) Deputy Chief Secretary, Finance of the Eastern Province.

(iii) If, on the day on which this Statute came into effect, not created a post of Director for the Department of Housing of the Eastern Province and such appointment is not made, until the day on which such appointment is made, the Director of Buildings of the Eastern Province.

(iv) Provincial Director, Department of Buildings where no Provincial Director, Department of Housing of the Eastern Province is created and appointed.

(v) Deputy Chief Secretary, Planning of the Eastern Province.

(2) The Provincial Minister in charge of the subject of Housing will nominate and appoint a Chairman among the appointed members of the Housing Authority.

(3) A person shall be disqualified from being appointed or continuing as a member of the Housing Authority if he is or become a Member of Parliament or Provincial Council or any Local Authority and is ceased to be a citizen of Sri Lanka.

(4) Before appointing a person to be a member of the Housing Authority, the Provincial Minister shall satisfy himself that such person has no financial or other interest as is likely to affect prejudicially the discharge by such person of his functions as a member of the Housing Authority. The Provincial Minister shall also satisfy himself, from time to time, that no member of the Housing Authority has any such interest. Any person who is appointed by the Minister, or whom the Minister proposes to appoint, as a member of the Housing Authority shall whenever requested by the Minister so to do, furnish to the Provincial Minister such information as the Minister considers necessary for the performance by him of his duties under this subsection.

(5) Every appointed member of the Housing Authority shall subject to the provisions of subsections (7) and (8), hold office for such term not exceeding three years reckoned from the date of his appointment as the Provincial Minister may at the time of appointment determine, and unless he has been removed from office under subsection (7) shall be eligible for reappointment.

Provided that a member appointed by the Provincial Minister to fill a vacancy in the office of an appointed member of the Authority shall unless he vacates office earlier, hold office for the unexpired portion of the term of office of the member whom he succeeds.

(6) Subject to the provisions of subsection (8), the term of office of the Chairman shall be the period of his membership of the Housing Authority.

(7) The Provincial Minister may, by order remove any appointed member from office assigning reason thereof.

(8) A member of the Housing Authority in respect of whom an order under subsection (7) is made by the Provincial Minister shall vacate his office.

(9) An appointed member of the Housing Authority may at any time resign his office as a member by a letter in that behalf addressed to the Provincial Minister in charge of Housing.

(10) Where any member of the Housing Authority is temporarily unable to perform the duties of his office on account of ill health, other infirmity, absence from Sri Lanka or any other cause, then;

- (a) if he is an appointed member, the Provincial Minister may having regard to the provisions of the subsection 3 (1) (a) appoint another person to act in place of that member; or
- (b) if he is an ex-officio member nominated under subsection 3(1)(b), the officer succeed to that post shall act in place of that member.

(11) Where the Chairman of the Housing Authority is temporarily unable to perform the duties of his office due to ill health, other infirmity, absence from Sri Lanka or any other cause, the Provincial Minister may appoint any other appointed member to act as Chairman.

(12) All or any of the members of the Housing Authority may be paid such allowances, and other expenses out of the funds of the Housing Authority.

Provided that the allowances and other expenses shall be paid with the recommendation of the Board of Ministers in consultation with the Chief Secretary and approval from the Governor.

04. (1) The Chairman of the Housing Authority shall preside at every meeting of the Housing Authority at which he is present. In the absence of the Chairman at any meeting of the Housing Authority, the members present elect any member among them and who shall preside at such meeting.

Proceeding of
the Housing
Authority

(2) The Housing Authority shall meet whenever it considers necessary.

(3) The person presiding at any meeting of the Housing Authority shall, in addition to his own vote, have a casting vote.

(4) The quorum for any meeting of the Housing Authority shall be Two-third of the total members.

(5) The Housing Authority may act notwithstanding any vacancy among its members and any act or proceeding of the Housing Authority shall not be or be deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment or nomination of a member thereof.

(6) Subject to the provisions of this Statute, the Housing Authority may make rules for the procedure in regard to the meeting of the Housing Authority and the transaction of business at such meetings.

Seal of the
Housing
Authority

05 (1) The seal of the Housing Authority shall be in the custody of the Chairman of the Housing Authority.

(2) The seal of the Housing Authority may be altered in such manner as may be determined by the Housing Authority.

(3) The seal of the Housing Authority shall not be affixed to any instrument or document except in the presence of two members of the Housing Authority one of whom shall be the Chairman of the Housing Authority. Both such members shall sign such instrument or document in token of their presence.

PART II

POWERS DUTIES AND FUNCTIONS OF THE HOUSING AUTHORITY

Powers, duties
and functions of
the Housing
Authority.

06. (1) The powers, duties and functions of the Housing Authority shall be ;

- (a) To implement, co-ordinate, supervise and monitor the Provincial Housing Development Programme and Projects including aided self help housing project other than the National Housing Projects.
- (b) To formulate and submit Provincial Housing Development plan and to submit to the Provincial Minister in charge of Housing for approval.
- (c) to enter into, perform and carryout directly or by way of joint venture all such contracts or agreements as may be necessary for the purpose of carrying out any provincial housing development project with the approval of the Provincial Minister in-charge of the Housing Development subject to the provisions under Section 16 of the Provincial Councils Act No. 42 of 1987.
- (d) to undertake the completion of housing or to grant housing loan or provision of building materials to any person in default to complete such house.
- (e) to implement provincial housing development plan approved by the Provincial Minister in – charge for Housing.
- (f) to acquire and hold any movable or immovable property or dispose of any movable or immovable property acquired and held;
- (g) to provide roads, water, electricity, gas, sewerage and other infrastructure as necessary to any Housing area;
- (h) to charge fees for any services provided by the Housing Authority;
- (i) to manufacture, import and supply of materials required for the construction of Houses;
- (j) to accept gifts, grants, donations or subsidies whether in cash or otherwise and to apply them for carrying out any of the objects of the Housing Authority;

(k) to nominate staff of the Housing Authority for the participation of trainings, skill development programmes, workshops or seminars locally or overseas compliance to the Rule made by the Government or Eastern Provincial Council or any directive from any other authority governing such nominations.

(l) to do all such an other acts or things as are incidental to or consequential upon the exercise, performance and discharge of its powers, duties and functions under this Statute.

(2) In the exercise, performance and discharge of its powers, duties and functions under subsection (1), it shall be the duty of the Housing Authority to formulate or implement any programme of development work relating to housing planning in consultation with any Government Agency or public corporation, as the case may be, whose rights, interests or functions may be affected by the proposed work.

(3) It shall be lawful to the Housing Authority to construct houses or any other structure in this Statute compliance to and adhere to the Provisions of any Law and any Rules, Regulations and By-Laws published by any Local Authority or Urban Development Authority or any other Institution

07. (1) The Provincial Minister may, from time to time give general or special directions to Housing Authority to exercise, discharge and perform its powers, functions and duties within its authority and the Authority shall give effect to such directions.

Directions of the Provincial Minister

(2) The Provincial Minister may, from time to time, direct in writing the Authority to furnish him, in such form as he may require, returns, accounts and other information with respect to the property and business of the Housing Authority and the Housing Authority shall carry out every such direction.

08. The Housing Authority may delegate in writing to the Chairman or any officer of the Housing Authority any of its powers, duties and functions under this Statute

Delegation of powers &c. by the Housing Authority

PART III

STAFF OF THE HOUSING AUTHORITY

09. (1) The Housing Authority shall, with the approval in writing of the Provincial Minister, appoint a General Manager of the Housing Authority.

General Manager of the Housing Authority

(2) The General Manager shall, subject to the general direction of the Housing Authority on matters of policy, be charged with the direction of the business of the Housing Authority, the organization and execution of the powers, functions and duties of the Housing Authority and the administrative control of the employees of the Housing Authority.

(3) The General Manager may, with the approval in writing of the Housing Authority, delegate in writing to any other employee of the Housing Authority such of his powers, functions, or duties as he may from time to time consider necessary, and any employee to whom any such powers, functions or duties are so delegated shall exercise them subject to the general or special directions of the General Manager.

(4) The General Manager may not be removed from office without the prior approval of the Provincial Minister in charge of the subject of Housing.

10. (1) The Secretary, in consultation with the Chief Secretary and approval from the Governor, shall,

Appointment &c. of the staff of Housing Authority

- (a) create necessary cadre and appoint staff for the efficient discharge of duties and functions of the Housing Authority.
- (b) determine the wages and salaries of such staff.
- (c) determine the terms and conditions of the service of such staff; and
- (d) establish and regulate provident funds or schemes for the benefit of such staff and make contribution to any such fund or scheme.

(2) At the request of the Housing Authority any officer in the public service may temporarily be released and appointed to the staff of the Housing Authority for such period as may be determined by the Housing Authority subject to the governing provisions provided in the Establishment Procedural Regulation for Eastern Provincial Public Service.

PART IV

FINANCE

Fund of Housing Authority

11. (1) There shall be established a Housing Authority Fund (hereinafter called and referred to as the Authority Fund)

(2) The following receipts of the Housing Authority shall first be paid to the Provincial Fund and thereafter credited to the Authority Fund.

- (a) all such sums of money as may be voted from time to time by the Provincial Council for the purpose of this Statute;
- (b) sums of money received by way of Gift from individuals and non Governmental Organizations for the purpose of this Statute ;
- (c) all sums of money as may be received by the Housing Authority in the exercise, performance and discharge of its powers, duties and functions.
- (d) all sums accruing to the credit of the Housing Authority;

(3) The Housing Authority shall maintain and operate the Authority Fund subject to the provisions of this Statute.

(4) The Housing Authority may utilize the funds of the Authority for the purpose of defraying any expenditure incurred in the management of the affairs of the Authority, the transaction of business of the Housing Authority, the payment of remuneration to the staff appointed under the provisions of Section 10 of this Statute, allowances and other expenses to the members of the Housing Authority and any other expenditure in the exercise of the powers and performance of the duties and functions of the Housing Authority under this Statute and other written law, and for such other purposes as the Authority may authorize from time to time.

(5) The funds of the Housing Authority shall be appropriated by the Eastern Provincial Council as provided under Section 19 of the Provincial Councils Act No. 42 of 1987 and such sum may be paid out of the Provincial Fund in such installments as the Provincial Minister in charge of the subject of Finance may in consultation with the Governor determine and such sums shall be credited to the Authority Fund established under subsection (1).

(6) The maintenance and operation of the Authority Fund shall be subject to the provisions of Part III of the Provincial Councils Act No. 42 of 1987.

12. The Housing Authority may, with the consent of the Provincial Minister and in accordance with the provisions provided under Section 21 of the Provincial Councils Act No. 42 of 1987 borrow such sums as the Housing Authority may require for meeting the obligations of the Housing Authority in discharging its duties under this Statute.

Borrowing powers of Housing Authority

13. (1) The financial year of the Housing Authority shall be the calendar year.

Financial year and the audit of accounts of the Housing Authority

(2) The Housing Authority shall cause proper books of accounts to be kept of the income and expenditure Assets and Liabilities and all other transaction of the Housing Authority.

(3) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the Housing Authority, subject to the conditions that the concurrence of the Government and the Auditor General shall be obtained prior to entrusting the responsibility for auditing the accounts of the Housing Authority.

PART V

GENERAL

14. The Housing Authority shall place Financial and Administrative reports of the year completing the Calendar year before the Provincial Council of the Eastern Province not later than three months of the following year.

Placing annual reports before the Eastern Provincial Council

15. (1) The Housing Authority may make rules in respect of the management of the affairs of the Housing Authority and all or any of the matters for which rules are authorized or required by this Statute to be made.

Power of Housing Authority to make rules

(2) No rule made by the Housing Authority under this Statute shall have effect until it has been approved by the Provincial Minister, confirmed by Eastern Provincial Council and notification of such confirmation is published in the Gazette.

16. (1) Where any immovable property is required to be acquired for the purpose of business of the Housing Authority and the Provincial Minister approves of the proposed acquisition, that property shall be deemed to be required for a public purpose, and may accordingly be acquired under the provisions of the Land Acquisition Act and be vested in the Housing Authority. Any sum payable for any such acquisition shall be paid by the Housing Authority.

Acquisition of immovable property under the Land Acquisition Act

(2) Where any state land within the Eastern Province is required for the purpose of any business of the Housing Authority, the Provincial Minister may take steps in terms of clause 1-1:2 of Appendix II of the 13th Amendment to the Constitution, to make available to the Provincial Council of the Eastern Province such state land to be administered, controlled and utilized by the said Provincial Council through the Housing Authority.

17. It shall be lawful for the Chairman of the Housing Authority or any officer generally or specially authorized by him in writing, after giving at least three day's notice in writing to the owner or occupier or any land or premises, to enter upon such land or premises and there do such acts as may be reasonably necessary for the purposes of carrying out any work of the Housing Authority, or of making any investigation or examination, or the discharge of any function, of the Authority.

Power to enter any land or premises

Offences

18. Every person who contravenes or fails to comply with any provision of this Statute or any rules, order, direction or requirement made or given thereunder shall be guilty of an offence under this Statute, and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either descriptions for a term not exceeding two years or to both such fine and imprisonment.

Interpretation

19. In this Statute, unless the context otherwise requires;

“Board of Ministers” means the Board of Ministers established in the Eastern Provincial Council in terms of Article 154F of the Constitution.

“Chief Secretary” means the Chief Secretary appointed to the Eastern Provincial Council in terms of Section 31 of the Provincial Councils Act No. 42 of 1987.

“Government agency” means a Government Department or a public corporation;

“Housing development” means the construction of new houses or the maintenance or improvement of existing houses;

“Housing” means construction of a building or buildings or structure for the use of or adaptation to use wholly or principally for human habitation.

“Improvements of houses” includes the doing of any other work in respect of houses beyond ordinary repairs essential to placing any existing houses in a proper state or repair;

“Local authority” means any Municipal Council, Urban Council, Pradeshiya Sabhas and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding or similar to the powers, duties and functions exercised, performed and discharged by such Council.

“Public corporation” means any corporation, board or other body which was or is established by or under any written law other than the Companies Act, with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise;

“Secretary” means the Secretary to the Provincial Ministry of the Eastern Province under whose purview the subject Housing is assigned.

Tamil text to prevail in case of inconsistency

20. In the event of any inconsistency between the Tamil and Sinhala texts of this Statute, the Tamil text shall prevail.