



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

URBAN SETTLEMENT DEVELOPMENT
AUTHORITY ACT, No. 36 OF 2008

[Certified on 23rd October, 2008]

Printed on the Order of Government

Published as a Supplement to Part II of the Gazette of the Democratic
Socialist Republic of Sri Lanka of October 24, 2008

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 5

Price: Rs. 17.00

Postage : Rs. 10.00

*Urban Settlement Development Authority
Act, No. 36 of 2008*

[Certified on 23rd October, 2008]

L. D.—O. 37/2006.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN URBAN SETTLEMENT DEVELOPMENT AUTHORITY TO FORMULATE NATIONAL POLICY IN RELATION THERETO AND TO ENSURE THE IMPLEMENTATION OF SUCH POLICY; TO PROVIDE FOR THE IMPROVEMENT OF THE LIVING CONDITIONS OF PERSONS LIVING IN UNDERSERVED URBAN SETTLEMENTS BY UPGRADING AVAILABLE HOUSING UNITS OR BY PROVIDING BETTER HOUSING FACILITIES AND ACCESS TO MINIMUM URBAN SERVICES IN ORDER TO ENSURE A SUSTAINABLE URBAN SETTLEMENT DEVELOPMENT; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Urban Settlement Development Authority Act, No. 36 of 2008 and shall come into operation on such date as may be appointed by the Minister by Order published in the *Gazette*.

Short title and
date of
operation.

PART I

ESTABLISHMENT AND CONSTITUTION OF THE URBAN SETTLEMENT
DEVELOPMENT AUTHORITY

2. (1) There shall be established an Institution which shall be called the Urban Settlement Development Authority (hereinafter referred to as the "Authority").

Establishment of
the Urban
Settlement
Development
Authority.

(2) The Authority shall, be 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 by such name.

(3) The head office of the Authority shall be located in the Colombo District.

Constitution of
the Board of
Directors.

3. The management and administration of the affairs of the Authority shall be vested in a Board of Directors (hereinafter referred to as the "Board") which shall consist of—

(a) the following *ex-officio* members, namely:—

- (i) the Secretary to the Ministry of the Minister in charge of the subject of Finance or his representative;
- (ii) the Secretary to the Ministry of the Minister in charge of the subject of Local Government or his representative;
- (iii) the person holding the office for the time being, as the Chairman of the Urban Development Authority established under section 2 of the Urban Development Authority Law, No. 41 of 1978, or his representative;
- (iv) the person holding the office for the time being, as the Chairman of the National Housing Development Authority established under section 2 of the National Housing Development Authority Act, No. 17 of 1979, or his representative;

(b) the following members appointed by the Minister ensuring however that there is adequate gender representation (hereinafter referred to as the "appointed members") :—

- (i) three members to represent the interests of the local authorities of urban areas;
- (ii) four members from among persons who appear to the Minister to have knowledge and experience in urban settlement development.

4. A person shall be disqualified from being appointed, or continuing, as a member of the Board, if—

Disqualification
for being a
member.

- (a) he is or becomes, a member of Parliament or any Provincial Council ;
- (b) he is not or ceases to be a citizen of Sri Lanka;
- (c) he is under any law in force in Sri Lanka or in any other country, found or declared to be of unsound mind;
- (d) if he is serving or has served, a sentence of imprisonment imposed by any Court in Sri Lanka or any other country;
- (e) if he holds or enjoys any right or benefit under any contract made by, or on behalf of the Authority; or
- (f) if he has any financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Authority.

5. (1) An appointed member of the Board may resign his office by letter addressed to the Minister and such resignation shall be effective from the date on which it is accepted by the Minister.

Removal and
resignation of
members.

(2) The Minister may for reasons assigned remove an appointed member of the Board from office.

(3) Where an appointed member of the Authority dies, resigns or is removed from office, the Minister shall, having regard to the provisions of section 3, appoint another member in his place.

(4) A member appointed under subsection (3) shall hold office for the unexpired part of the term of office of the member whom he succeeds.

Term of office
of members.

6. Subject to the provisions of subsections (1) and (2) of section 5, the term of office of an appointed member of the Board shall be three years and such member shall be eligible for reappointment.

Remuneration or
allowance of
members.

7. The members of the Board shall be paid such remuneration or allowances at such rates as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Chairman of the
Board.

8. (1) The Minister may appoint a Chairman from among the appointed members of the Board.

(2) The terms of office of the Chairman shall be three years and he shall be eligible for reappointment.

(3) If the Chairman is by reason of illness or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint an appointed member of the Board to act in his place in addition to his normal duties as an appointed member.

(4) The Chairman shall not engage in any paid employment outside the duties of his office, without the approval of the Minister.

(5) The Chairman may resign from the office of Chairman by letter addressed to the Minister and such resignation shall be effective from the date on which it is accepted by the Minister.

(6) The Minister may from reasons assigned remove the Chairman from the office of Chairman.

(7) Subject to the provisions of subsections (5) and (6), the term of office of the Chairman shall be the period of his membership of the Board.

Meetings of the
Board.

9. (1) The Chairman shall, if present, preside at every meeting of the Board. In the absence of the Chairman from any such meeting, a member elected by the members present, shall preside at such meeting.

(2) The quorum for any meeting of the Authority shall be five members.

(3) The Chairman or other member presiding at any meeting of the Authority, shall in addition to his own vote, have a casting vote.

(4) Subject to the preceding provisions of this section, the Authority may regulate the procedure in regard to the meetings of the Authority and the transaction of business at such meetings.

10. (1) There shall be appointed by the Authority a Committee which shall be called the "Advisory Committee".

Establishment of
a Advisory
Committee.

(2) The Authority may seek advice of the Advisory Committee in approving and dealing with any such matter pertaining to the formulation and execution of proposals, plans, projects and action programs of the Authority.

(3) The Advisory Committee shall consist of a Chairman and not more than fourteen members ensuring that there is adequate gender representation.

(4) The Board shall set out the rules applicable thereto and determine the functions thereof.

11. No act, decision or proceeding of the Authority, shall be deemed to be invalid by reason only of the existence of any vacancy of the Board or any defect in the appointment of any member thereof.

Acts not
invalidated by
reason of a
vacancy.

12. (1) The Seal of the Authority may be determined and devised by the Board and may be altered in such manner as may be determined by the Board.

Seal of the
Authority.

(2) The Seal of the Authority shall be in the custody of such person as the Board may decide from time to time.

(3) The Seal of the Authority shall not be affixed to any instrument or document except with the sanction of the Board and in the presence of the Chairman and one member who shall sign the instrument or document in token of their presence:

Provided that, where the Chairman is unable to be present at the time when the Seal of the Authority is affixed to any instrument or document, any other member authorized in writing by the Chairman in that behalf shall be competent to sign such instrument or document in accordance with the preceding provision of this subsection.

(4) The Authority shall maintain a register of the instruments and documents to which the Seal of the Authority has been affixed.

13. In the exercise of its powers and the discharge of its functions, the Board shall comply with such general or special directions as may from time to time be issued to it by the Minister:

Provided that compliance by the Board with any general or special direction so issued shall be subject to the provisions of any other law for the time being in force.

14. (1) The Board may delegate, any of the powers and functions of the Board, to the Chairman.

(2) The Chairman to whom any of the powers and functions of the Board have been delegated under subsection (1) shall exercise and discharge the powers and functions so delegated, subject to the general or special directions of the Authority.

Board to exercise its powers under the direction of the Minister.

Delegation of powers and functions of the Board.

15. The powers and functions of the Authority shall be—

Powers and functions of the Authority.

- (a) to formulate and execute proposals, plans, projects and action programs also giving due consideration to such as may be received from communities of the urban settlements to improve living conditions of such settlements;
- (b) to implement related programs of development work which will improve the living conditions of the urban settlement engaging wherever possible the involved communities to the optimum level;
- (c) to implement housing credit schemes;
- (d) to provide financial grants to individuals in slum and shanty communities for improving their housing conditions subject to financial procedure of the Government;
- (e) to carry out in partnership with local authorities and local communities and institutions, surveys and studies to identify housing, infrastructure facilities and service needs of urban settlements and develop and maintain with regular updates a data base of such information;
- (f) to undertake implementation of urban housing development projects approved by the Government;
- (g) to work towards the upgrading of slum and shanty Communities and to undertake the development of such settlement areas;
- (h) to promote and secure the participation of local authorities and local communities in the planning and implementation of housing and settlement projects intended to benefit the resident population;

- (i) to carry out all acts necessary to select and settle people on urban land planned for settlement development within the framework of the existing national policy;
- (j) to enter into any contract with any person for the execution of urban settlement development projects;
- (k) to carry out building, engineering and other operations and undertake any work in connection with housing and infrastructure development and provision of urban services;
- (l) to further the general welfare and social and cultural progress of the community within any urban settlement area and to administer the affairs of such area;
- (m) to promote and secure the participation of private capital in the improvement of living conditions in any urban settlement area;
- (n) to acquire, hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of any movable or immovable property acquired or held by it; to grant, subject to any other provisions of this Act, freehold rights in any immovable property to individuals in slum and shanty communities to improve their housing conditions;
- (o) to call upon any Government agency or private institution to undertake urban settlement development projects in consultation or participation with the Authority;
- (p) to manage lands, flats, houses and other living accommodation and buildings or other property vested in or belonging to the Authority;

- (q) to charge rents or fees for any building, flat, house or other living accommodation or for any services or facilities provided by the Authority;
- (r) to manage and make available schemes of supervised credit to urban dwellers to purchase flats, houses or other living accommodation;
- (s) to accept from within or outside Sri Lanka gifts, grants, donations or subsidies, whether in cash or otherwise and to apply them for carrying out any of the objectives of the Authority;
- (t) with the concurrence of the Minister in charge of the subject of Finance, to borrow or raise money or secure obligations from sources either in Sri Lanka or abroad by the issue of debentures, debenture stock, bonds, mortgages or with any other securities upon such terms as the Authority may determine; and
- (u) to enter into partnerships with other government and non-governmental institutions and to establish subsidiaries to execute any of the functions of the Authority.

PART II

FINANCE

16. (1) The Authority shall have its own Fund. There shall be credited to the Fund of the Authority—

- (a) all such sums of money as may be voted from time to time by Parliament for the use of the Authority;
- (b) all sums of money received by the Authority in the exercise, performance and discharge of its powers, duties and functions;

Fund of the Authority.

10 *Urban Settlement Development Authority
Act, No. 36 of 2008*

- (c) all such sums of money as may be received by the Authority by way of loans, donations, gifts or grants from any sources whatsoever, whether in or outside Sri Lanka;
- (d) all revenue derived by the Authority from any property vested in or administered by the Authority;
- (e) all such sums of money collected by the Urban Settlement Development Authority as service charge from the property developers to finance low cost housing programs; and
- (f) all revenue derived by the Authority for services provided by the Authority.

(2) All sums of money required to defray any expenditure incurred by the Authority in the exercise, performance and discharge of its powers, duties and functions shall be charged on the Fund.

(3) The initial capital of the Authority shall be five thousand million rupees. The amount of the initial capital shall be paid out of the Consolidated Fund in such installments as the Minister in charge of the subject of Finance may in consultation with the Minister determine and such sums shall be credited to the Fund established under subsection (1).

Financial year
and the Audit of
accounts.

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

(2) The provisions of Article 154 of the Constitution relating to the auditing of accounts shall apply in relation to the audit of the accounts of the Authority.

(3) The provisions of Part II of the Finance Act, No. 38 of 1971, shall *mutatis mutandis* apply to the financial control of the Authority.

Urban Settlement Development Authority 11
Act, No. 36 of 2008

18. (1) The Board may, with the consent of the Minister or in accordance with the terms of any general authority given by him, borrow temporarily by way of overdraft or otherwise, such sums as the Board may require for meeting the obligations of the Authority or discharging its duties under this Act:

Borrowing
powers.

Provided that the aggregate of the amounts outstanding in respect of temporary loans raised by the Board under this subsection shall not at any time exceed such sum as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

(2) The Board may, with the consent of the Minister given with the concurrence of the Minister in charge of the subject of Finance, borrow money for the provision of the working capital of the Authority, otherwise than by way of temporary loan under subsection (1) by the issue of debentures. The debentures so created and issued shall be referred to as "Urban Settlement Development Authority Debentures".

(3) The Urban Settlement Development Authority Debentures shall be issued, transferred, dealt with, redeemed and cancelled in accordance with such terms as may be determined by the Board with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

(4) The Minister in charge of the subject of Finance shall guarantee the repayment of the principal and the payment of the interest on, any sum due on debentures issued or loans raised by the Authority.

PART III

STAFF OF THE AUTHORITY

19. (1) There shall be a Director-General of the Authority, appointed by the Minister who shall hold office for a period of three years. The Director General shall be the Secretary of the Board without right to vote.

Appointment of
the Director-
General.

(2) The Director-General shall, subject to the general and special direction and control of the Chairman, be charged with the direction of the business of the Authority, the organization and execution of the powers, functions and duties of the Authority and the administrative control of the employees of the Authority.

(3) The Director-General may with the approval of the Board, delegate in writing to any other employee of the Authority any of his powers, functions and duties as may from time to time be considered 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 Director-General.

Appointment of officers, servants and agents.

20. (1) The Authority may appoint such officers, servants and agents as it considers necessary for the efficient exercise, performance and discharge of its powers, duties and functions and exercise disciplinary control over the staff of the Authority.

(2) The officers, servants and agents shall be remunerated in such manner and at such rates and shall be subject to such conditions of service as may be determined by the Authority in consultation with the Minister in charge of the subject of Finance.

Appointment of public officers, officers of the Local Government Service to the staff of the Authority.

21. (1) At the request of the Board any officer in the public service may, with the consent of that officer and of Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Authority for such period as may be determined by the Board or with like consent be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991 shall, *mutatis mutandis*, apply to and in relation to, him.

(3) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 14 of the National Transport, Commission Act, No. 37 of 1991 shall, *mutatis mutandis*, apply to and in relation to, him.

(4) Any officer or servant of a public corporation may with the consent of such officer or servant and the Board of Directors of such corporation, be temporarily or permanently appointed to the staff of the Board on such terms and conditions, including those relating to the provident fund rights, as may be agreed upon by the Board of Directors of that corporation and the members of the Board.

(5) Where the Board employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(6) At the request of the Authority, any member of the Local Government Service or any other employee of a local Authority, may with the consent of such member, employee and the Local Government Service Commission or the Local Authority, as the case may be, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority or with like consent be permanently appointed to such staff on such terms and conditions including those relating to pension or provident fund rights as may be agreed upon by the Authority and the Local Government Service Commission or the respective local authority.

(7) Where any member of the Local Government Service or any employee of any local authority is appointed temporarily under subsection (6) to the staff of the Authority, he shall be subject to the same disciplinary control as any other member of such staff.

(8) At the request of the Authority, any employee of a public corporation may, with the consent of such employee and the Governing Board of such Corporation, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority or with like consent be permanently appointed to the staff of the Authority under such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Authority and the Governing Board of such Corporation.

PART IV

ACQUISITION OF IMMOVABLE AND MOVABLE PROPERTY AND SALE OF LANDS BELONGING TO THE AUTHORITY

Acquisition of property belonging to the local authority or public corporation.

22. (1) Where the Minister certifies that any land or interest in land vested in a local authority or a public corporation is required by the Authority for any purpose of the Authority, the Minister may by Order published in the *Gazette* vest such land or interest in such land in the Authority with effect from such date as shall be specified in the Order subject to such conditions if any as may be specified therein.

(2) An Order made by subsection (1) shall confer on the Authority absolute title to any land or interest in land and to any buildings and other structures on such land as specified in the Order with effect from the date specified therein free of all encumbrances, and no compensation shall be payable by the Authority in respect of such land or interest in such land or buildings or other structures therein.

(3) No Order affecting any immovable property of any local authority or public corporation shall be made by the Minister under subsection (2) without the consent of the Minister in charge of the subjects of Local Government given with the consent of such local authority or that public corporation.

23. (1) Where any immovable property of the State is required for the purpose of the business of the Authority such purpose shall be deemed to be a purpose for which a special grant or lease of such property shall be made under section 6 of the Crown Lands Ordinance (Chapter 454) and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Authority.

Requisition of State land.

(2) Where any movable property of a Government department or any public corporation is required for the purpose of the Authority the Minister may by Order published in the *Gazette* transfer to and vest in the Authority the possession and use of such movable property.

(3) No Order affecting any movable property of any Government department or public corporation shall be made by the Minister under subsection (2) without the consent of the Minister in charge of that department or public corporation.

24. Where the President upon a recommendation made by the Minister in charge of the subject of Urban Development, is of the opinion that any particular land in any urban area is urgently required for the purpose of carrying out an urban settlement development project which would meet the just requirements of the general welfare of the people, the President may by Order published in the *Gazette* declare that such land in the urban area is required for such purpose. The provisions of the Urban Development Projects (Special Provisions) Act, No. 2 of 1980 shall *mutatis mutandis* apply to and in relation to the acquisition of land in terms of this section.

Application of the Urban Development Projects (Special Provisions) Act, No. 2 of 1980.

25. Where any land or any interest in land in an urban area is required by the Authority for any of its purposes, that land or interest therein may be acquired under the Land Acquisition Act (Chapter 460) by the Government or the Authority and the provisions of that Act shall *mutatis mutandis* apply for the purposes of acquisition of that land

Application of the Land Acquisition Act.

or interest therein. Such land or interest therein shall for the purposes of the Land Acquisition Act be deemed to be required for a public purpose.

Alienation of
property.

26. (1) The Authority may, with the written approval of the Minister, alienate by way of sale, lease, rent or purchase any land or interest in land or building held by the Authority, subject to such terms and conditions including the use or uses for which the land or interest in land or building is alienated, as determined by the Minister:

Provided however, where any alienation is carried out by a grant or permit under the provisions of the Land Grants (Special Provisions) Act, No. 43 of 1979 or the Land Development Ordinance (Chapter 464), such grant or permit shall be issued by the President in terms of the provisions of such Act or Ordinance as the case may be.

(2) Without prejudice to the generality of the provisions of subsection (1) there shall be special conditions in the instrument of alienation to the effect that the alienation effected by the instrument of alienation may be cancelled or determined in the event of —

- (a) a failure to comply with any other condition specified in such instrument ;
- (b) any money due to the Authority under such instrument remaining unpaid for any such period as may be specified therein ;
- (c) the land or the interest in land, building is sold, gifted, leased or otherwise alienated without the written permission of the Director-General, except in case of an outright sale by the Authority.

(3) Nothing in the Crown Lands Ordinance (Chapter 454) shall affect or be deemed or construed to affect the alienation of any State land held by the Authority for the purpose of any urban housing development project or any related purpose.

27. Notwithstanding the provisions of any other written law to the contrary, no action shall lie against the Authority or any officer, servant or agent of the Authority, in respect of the cancellation or determination of an instrument of alienation under the provisions of section 26.

No action shall
lie against the
Authority.

PART V

PROVISIONS APPLICABLE TO LOANS

28. Every loan granted by the Authority to purchase or to construct a flat, housing unit or any other living accommodation shall be paid—

Loans.

- (a) by installment in such manner and within such period as may be specified by the Authority ; or
- (b) in any other manner as specified by the Authority.

29. (1) Every person—

Service of
Notice.

- (a) to whom a loan is granted by the Authority ;
- (b) who obtains probate by way of a testamentary disposition to the estate of a person to whom a loan has been granted by the Authority ;
- (c) who under section 36 is appointed to represent the estate of a deceased borrower ; or
- (d) to whom any right, title or interest in any property mortgaged to the Authority as security for a loan granted by the Authority or in any other description of security for such a loan passes, whether by voluntary conveyance or by operation of law,

shall in writing notify the Authority of an address to which all notices may be sent to him.

(2) Any notice to be served on any person under subsection (1) shall be deemed to be properly served on that person if it is sent by registered post addressed to that person to the address notified by him. The service of notice shall be deemed to be effected at the time at which the letter would be delivered in the ordinary course of post.

Settlement of
loan.

30. (1) Where on the security of any property a loan is granted by the Authority, that property shall not be sold, gifted, leased or otherwise alienated so long as the loan is fully settled, except with the written permission of the Director-General and in accordance with such conditions as he may impose.

(2) Notwithstanding anything to the contrary in any written law any alienation or dispossession of any property to which subsection (1) applies, shall, if it is in contravention of that subsection, be invalid and have no force or effect in law.

Priority of a
mortgage of a
loan granted by
the Authority.

31. Where a loan is granted by the Authority on the mortgage of any property, that property shall, on and after the date of registration of such mortgage be charged with the payment of the loan with interest as priority to every other debt, mortgage or charge affecting it except a debt which is secured by a mortgage duly registered prior to such date and which is due to a creditor who in good faith advanced the money before the loan was granted by the Authority.

Form of
mortgage of
land.

32. (1) Every mortgage of property executed in favour of the Authority as security for any loan shall be substantially in such form as approved by the Authority.

(2) Any such mortgage as is referred to in subsection (1) may include a covenant that a higher rate of interest than that on which the loan was granted shall be paid, if the borrower fails or neglects to make any payment due on account of interest, principal or otherwise under the mortgage in full and on the due date.

33. Where default is made in the payment of any sum due on any loan granted on the mortgage of property whether that sum is due on account of principal or interest or of both, default shall be deemed to be made in respect of the whole of the unpaid portion of that loan and the interest due thereon.

Default of
payment.

34. Where under the provisions of this Act default is made or is deemed to be made in respect of the whole of the unpaid portion of any loan and the interest due thereon, the Authority may at its discretion by Order in writing authorize any person specified in the Order, to enter upon any property mortgaged to the Authority as security for any loan in respect of which default has been made, to take possession of and to exercise the same powers in the control and management of such property as might have been exercised by the mortgagor if it had not made default.

Action for
default.

35. Subject to the provisions of section 36 the Authority may by Order in writing authorize any person specified in the Order to sell by public auction any property mortgaged to the Authority as security for any loan in respect of which default has been made in order to recover the whole of the unpaid portion of such loan and the interest due thereon up to the date of sale together with moneys and costs recoverable under section 42.

Sale of
property
mortgaged to
the Authority.

36. (1) Save as otherwise provided in subsection (2), the provisions of sections 34 and 35 shall apply in the case of any default, notwithstanding the fact that the borrower may have died or that any right, title or interest in the property mortgaged by the borrower as security for the loan may have passed by voluntary conveyance or by operation of law, to any other person.

Where
borrower is
dead.

(2) Where the borrower is dead and probate of his will or letters of administration to his estate have not been issued —

- (a) the District Court of the district in which the property mortgaged by the borrower as security for the loan is situated may, upon application made in that behalf by the Authority and after service of

notice of the application on such persons, if any, as the Court may Order, and if satisfied that the grant of probate or issue of letters of administration is likely to be delayed, appoint a person to represent the estate of the borrower for the purpose of this subsection ; and

- (b) the provisions of sections 34 and 35 shall not apply in the case of any default made by the borrower unless and until a representative of his estate is appointed under this subsection.

Publication of
notice to sell.

37. (1) Notice of every Order under section 35 authorizing the sale of any property shall be published in all three languages in the *Gazette* and in a daily newspaper in the Sinhala, Tamil and English languages and copies of such notice shall be served on the borrower, if he is alive and on every person who has in respect of that property notified his address under section 29.

(2) Where the language of any person on whom a copy of such notice is required to be served is either Tamil or English, then in addition to a copy of such notice a translation thereof in the language of that person shall be served on him.

Notice of sale.

38. Notice shall be published in the *Gazette* of the date, time and place of every sale which shall be published not less than fourteen days before the date fixed for the sale. Copies of such notice shall be —

- (a) served on the borrower, if he is alive, and on every person on whom the notice of the Order authorizing the sale is required to be served under section 37 ;
- (b) exhibited on or near the property which is to be sold ; and
- (c) affixed to the walls of the Pradeshiya Sabha and within the Grama Niladhari Division within the jurisdiction of which the property is situated.

39. (1) If the amount of the whole of the unpaid portion of the loan together with all interest due thereon according to the terms of the mortgage and of the moneys and costs, if any, recoverable by the Authority under section 42 is tendered to the Authority by the borrower or a person authorized by the borrower in that behalf before the date fixed for the sale of the property mortgaged to the Authority as security for the loan that property shall not be sold and no further steps shall be taken in pursuance of the Order under section 35 for the sale of that property.

(2) If the amount of the installment or other payment in respect of which default has been made together with any interest due thereon according to the terms of the mortgage and of the moneys and costs, if any, recoverable by the Authority under section 42 is tendered to the Authority by the borrower or a person authorized by the borrower in that behalf before the date fixed for the sale of the property mortgaged to the Authority as security for the loan, the Authority may in its discretion direct that such property shall not be sold and that no further steps shall be taken in pursuance of the Order under section 35 for the sale of that property.

40. The Authority may fix an upset price below which the property mortgaged to the Authority as security for the loan shall not be sold to any person other than the Authority.

41. The Director-General of the Authority or any person authorized in writing by him, may at a sale by public auction of any property mortgaged to the Authority as security for any loan bid for and purchase that property for and on behalf of the Authority.

42. (1) In addition to the amount due on any loan the Authority may recover from the borrower or any person acting in that behalf —

- (a) all the moneys expended by the Authority in accordance with the covenants contained in the

Payments made
before sale.

Fixing an upset
price.

Bid at a public
auction for the
Authority.

Additional costs
charged by the
Authority.

mortgage bond executed by the person to whom the loan was made in the payment of premium and other charges under any policy of insurance effected in respect of the property mortgaged to the Authority and in the payment of all other costs and charges authorized by the aforesaid covenants to be incurred by the Authority ; and

- (b) the cost of advertising the sale and selling the mortgaged property :

Provided that the amount recovered as costs under paragraph (b) of this subsection shall not exceed such percentage of the loan as may be prescribed.

(2) Where the Director-General on behalf of the Authority purchased the mortgaged property he shall pay out of the Fund of the Authority the costs referred to in paragraph (a) and (b) of subsection (1) and he shall after such moneys and costs are recovered from the borrower under that subsection, credit to the Fund the amount so recovered.

Payment of balance of proceeds after deduction of amount due to the Authority.

43. Where the mortgaged property is sold the Authority shall after deducting from the proceeds of the sale the amount due on the mortgage and the moneys and costs recoverable under section 42 pay the balance remaining, if any, either to the borrower or to any person legally entitled to accept the payment due to the borrower, or if the Authority is in doubt as to whom the money should be paid the money shall be paid into the District Court within whose jurisdiction the property is situated, to be drawn by the person entitled thereto.

Certificate of Sale.

44. (1) Where the mortgaged property is sold the Director-General on behalf of the Authority shall sign a Certificate of Sale and thereupon all right, title and interest of the borrower to and in the property shall vest in the purchaser, and thereafter it shall not be competent for any person claiming any right, title or interest of the borrower to and in the property, through or under any disposition whatsoever made or registered after the date of the mortgage

of the property to the Authority in any Court to move to invalidate the sale for any cause whatsoever or to maintain any right title or interest to or in the property as against the purchaser.

(2) The Certificate of Sale signed by the Director-General on behalf of the Authority under subsection (1) shall be conclusive proof, with respect to the sale of any property that all the provisions of this Part relating to the sale of the property have been complied with.

(3) The Certificate of Sale shall be in such form as may be approved by the Authority.

45. Where the mortgaged property is sold no action or other proceedings shall after expiry of three months after the date of sale be commenced in any court nor any defence be setup in respect sale of any application made by the purchaser in Court under section 46 for the purpose of invalidating the sale for any cause whatsoever, or of maintaining any right, title or interest to or in the property as against the purchaser.

Prescriptive period.

46. (1) The purchaser of any property sold in pursuance of the preceding provisions of this Part, shall, upon application made to the District Court within whose jurisdiction the property is situated and upon production of a certified copy of the certificate of sale issued in respect of that property under section 44, be entitled to obtain an Order for delivery of vacant possession of that property.

Order for delivery of possession.

(2) Every application under subsection (1) shall be made by way of petition and affidavit to which shall be annexed a certified copy of the Certificate of Sale of the property issued under section 44 and for the purpose of such application and on all proceedings held in consequence of such application made under that subsection by any person other than and person for and on behalf of the Authority stamp duties and other charges shall be payable at the respective rates at which such duties and charges are payable under any written law for the time being in force.

(3) Upon the presentation of the application referred to in subsection (1) the District Court shall forthwith order the delivery of possession of the property to the purchaser and shall issue a writ of possession to the Fiscal of the Court requiring and authorized him before a date specified in the writ to deliver the possession of the property to the purchaser or to any other person appointed by him for the purpose and to eject the occupier and his dependents if any from the property and every other person occupying such property or any portion thereof. In executing the writ issued to the Fiscal, or the police officer or any person authorized by the Fiscal or the police officer may use such force as may be necessary to enter the building in accordance with the directions of the District Court which issued the Order.

Cancellation of sale before resale by the Authority.

47. Where the property is purchased by the Authority, the Authority may at any time before the Authority resells the property, cancel the sale by an endorsement to that effect on a certified copy of the Certificate of Sale upon the debtor or any person on his behalf paying the amount due in respect of the loan for which the property was sold, including the costs of seizure and sale, and interest on the aggregate sum at a rate not exceeding the prescribed rate. Such an endorsement shall upon registration in the office of the Registrar of Lands operate to re-vest the land in the debtor as though the sale under this Part had not been made.

Re sale by the Authority.

48. (1) Where the property sold is purchased by the Authority and the sale is not cancelled under section 47 the Authority may at any time resell the property and transfer to the purchaser by endorsement on such copy of the Certificate of Sale as is certified by the Authority to be a true copy the right, title and interest to or in the property acquired by the Authority.

(2) An endorsement made under subsection (1) shall when it is registered in the office of the Registrar of Lands, vest in the purchaser specified in that endorsement the right, title and interest as is specified therein.

49. Nothing contained in sections 28 to 48 shall be deemed to preclude the Authority from recovering the amount due on any mortgage bond in accordance with the provisions of any other written law for the time being in force.

Authority not precluded from other methods of recovery.

PART VI

RECOVERY OF POSSESSION OF FLATS, LIVING ACCOMMODATION OR ANY OTHER BUILDING BELONGING TO THE AUTHORITY BY THE DIRECTOR GENERAL

50. (1) The provisions of this Part shall apply to every house, flat, living accommodation or any other building (hereinafter referred to as the "building") provided by the Authority for occupation by any person whether such occupation is upon the payment of any rent or otherwise.

Interpretation.

(2) Where a building is provided by the Authority for occupation by any person then, with reference to that building the expression "landlord" in this Part shall mean the Director-General appointed under section 19, and the expression "occupier" in this Part shall mean the person in occupation.

51. (1) The occupier of any building to which this Part applies and his dependents and every other person occupying such building or any portion thereof shall not be entitled to occupy such building or portion thereof after the date of lawful termination of the occupation of such building by the occupier, and accordingly the occupier shall on that date vacate the building and deliver possession thereof to his landlord and depart from the land or premises in which such building is situated together with his dependents and every other person occupying such land or premises or any portion thereof.

Obligation to vacate building to which this Part applies.

(2) Where any building to which this Part applies is provided by the landlord for occupation by any person in the employment of that landlord that person's occupation of

such building, shall be deemed for the purpose of this Part to be lawfully terminated on the date of the lawful termination of the employment of that person.

(3) Where in any case referred to in subsection (2) the employment of the occupier is terminated without notice the reference in that subsection to the date of the lawful termination of his employment shall be deemed to be a reference to fourteen days after the actual date of termination.

Application to
the Court for
recovery of
possession and
service of Order
nisi.

52. (1) In any case where the occupier of any building to which this Part applies fails to comply with the provisions of subsection (1) of section 51 it shall be lawful for the landlord to file in the Magistrate's Court having jurisdiction over the area in which the building is situated an application praying for the recovery of possession of the building and for the ejectment from the land and premises on which the building is situated, of the occupier his dependents and every other person occupying such land or premises or any portion thereof, and every such application shall be supported by an affidavit setting forth the time and manner of the termination of the occupation of the occupier.

(2) On receipt of an application under subsection (1) the Court shall cause to be served on the occupier a copy of the application and affidavit and an Order *nisi* requiring him—

- (a) to appear on a date specified in such Order, being a date not later than two calendar months after the date of service of the Order ; and
- (b) to show cause as to why he should not deliver possession of the building as required by section 51 and leave the land or premises on which it is situated, together with his dependents and every other person occupying such land or premises or any portion thereof.

(3) An Order *nisi* under subsection (2) shall be deemed to have been served on the occupier if it is delivered to him by the Fiscal or by any person authorized by the Fiscal or where it cannot be so delivered, if it is pasted by the Fiscal or person authorized as aforesaid on some conspicuous part of the building to which the Order relates.

53. (1) If any occupier on whom an Order *nisi* is served under this Part appears before the Court on the date specified in the Order and by affidavit or by statement on oath or affirmation raises any defense which in the opinion of the Court necessitates an adjournment of the hearing, the Court shall immediately settle and record the issue or issues raised and shall having regard to the circumstances of the case appoint a date as early as possible for the hearing of evidence and in such case the Registrar of the Court shall thereupon issue summons to every such witness as may be required by the parties commanding his attendance at the time and place specified in the summons.

Adjournment of
hearing.

(2) Where any date is appointed under subsection (1) for the hearing of any case, the hearing shall not again be adjourned for any later date—

- (a) unless all the parties to the case consent to such adjournment ; or
- (b) unless the Court is satisfied upon evidence furnished on oath or affirmation or by affidavit that such adjournment is necessary by reason of the absence otherwise than by collusion of a witness who knows and is able to prove facts material to the case.

(3) On the date appointed under subsection (1) for the hearing of the case or on such other date if any to which such hearing may be adjourned under subsection (2), the Court shall hear and determine the issues raised and give judgment thereon notwithstanding anything to the contrary in any written law.

Order of
ejection.

54. (1) If any occupier upon whom an Order *nisi* has been served under this Part, does not appear on the date specified in such Order or on such other date, if any, to which the hearing may be adjourned under this Part or having appeared fails to show good and valid cause why he should not as required by section 51, deliver possession of the building specified in the Order and depart from the land or premises on which it is situated together with his dependents and every other person occupying in such land or premises or any portion thereof the Order *nisi* shall be made absolute and the Court shall make an Order directing such person, his dependents and every other person occupying such land or premises to be ejected forthwith from such land or premises.

(2) No appeal shall lie against any Order of ejection made by a Magistrate under subsection (1).

Non-compliance
with the Order
of ejection.

55. (1) Where any person fails to comply with an Order made under section 54, the Magistrate shall on the application of the landlord issue a writ of possession to the Fiscal or a police officer to eject from the land or premises to which the Order relates all persons bound by the Order and to deliver possession of such land or premises to the landlord.

(2) The Fiscal or the police officer entrusted with the execution of the Order of ejection shall comply with the direction of the Magistrate's Court by which such Order was made and shall make a due return of the manner in which he executed such Order.

(3) In executing an Order of ejection the Fiscal or the police officer or any officer authorized by the Fiscal or the police officer may use such force as may be necessary to enter the land or premises to which that Order relates and to eject any person bound by the Order and to deliver possession of the land or premises in accordance with the direction of the Magistrate's Court which issued the Order.

56. (1) Nothing in this Part shall preclude any person who been ejected from a land or premises or a building, under the provisions of this Part or any person claiming to be the legitimate occupier thereof from instituting an action against the landlord for the vindication of his right to occupy such land or premises, within six months from the date of the Order of ejection.

Limitations of
actions to
vindicate right
of occupation.

(2) Where an action instituted under subsection (1) by any person against the landlord for vindication of his right to occupy any land or premises from which he has been ejected under this Act has been decided in favour of such person, such person shall be entitled to recover a reasonable compensation for the damage sustained by reason of his having been compelled to deliver up possession of such land and the building.

57. The provisions of this Part shall have effect notwithstanding anything to the contrary contained in any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Part of this Act and such other law, the provisions of this Part of this Act shall prevail :

Provisions of
this Part to
prevail.

Provided that this Part shall not prejudice the rights of the landlord to proceed under the provisions of any other law to recover possession of any land or premises or building or to establish title thereto or claim any relief in respect of such land, premises or building.

PART VII

GENERAL

58. (1) The Minister may from time to time give the Authority, general or special directions as to the exercise of the powers and the performance of the duties of the Authority and such directions shall be carried out by the Authority.

Directions of the
Minister.

(2) The Minister may from time to time direct the Authority in writing—

- (i) to furnish him such information in respect of the property, business and activities of the Authority, as he may require and the Authority shall carry out every such direction;
- (ii) to prepare annually a report of achievements highlighting variances from targets of the Authority, lessons learnt and views and observation of stakeholders and beneficiaries and to make public aware that the first Monday of October of every year is designated as World Habitat Day.

Exemption from the payment of stamp duty.

59. The Authority shall be exempt from the payment of stamp duty on any instrument or document executed by or on behalf of or in favour of the Authority to the extent as provided by the provisions of the Stamp Duty Act, No. 12 of 2006.

Regulations.

60. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act or, in respect of any matter which is required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulations.

(3) Every regulation made by the Minister shall as soon as convenient after publicaion in the Gazette, be brought before the Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of its disapproval but without prejudice to anything previously done thereunder.

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

61. It shall be lawful for the Chairman of the Board or any officer generally or specially authorized by him in writing, at any reasonable time, to enter upon any land or premises and then to do such acts as may be reasonably necessary for the purpose of carrying out or giving effect to any work of the Authority, or making of any survey, examination or investigation preliminary or incidental to the exercise of any power, or the discharge of any function of the Authority.

Enter and examine premises.

62. All directors, officers, servants and agents of the Authority shall be deemed to be public officers within the meaning and for the purpose of the Penal Code (Chapter 19).

All directors etc. deemed to be public officers.

63. The Authority shall be deemed to be a scheduled institution within the meaning of the Bribery Act (Chapter 26) and the provisions of that Act shall be construed accordingly.

Authority to be deemed to be a scheduled institution.

64. (1) Any expense incurred by the Authority in any suit or prosecution brought by or against the Authority before any court shall be paid out of the Fund of the Authority and any cost paid to be recovered by the Authority in any of such suit or prosecution shall be credited to the Fund of the Authority.

Recovery of expenses incurred by the Authority.

(2) Any expense incurred by any director, officer, servant or agent of the Authority in any suit or prosecution brought against such person before any court in respect of any act which is done or purported to be done by such person under this Act, or on the direction of the Authority, shall if the court holds that such act was done in good faith be paid out of the Fund of the Authority, unless such expense is recovered by such person in such suit or prosecution.

Rules.

65. (1) The Authority may make rules in respect of all or any of the matters for which rules are required by this Act to be made.

(2) No rule made by the Authority under this Act shall have effect until it has been approved by the Minister.

(3) Every such rule shall upon approval by the Minister be published in the *Gazette*.

Contravention of the provisions of this Act to be an offence.

66. Every person who contravenes or fails to comply with any provision of this Act or any regulation or rule made or issued there under shall be guilty of an offence and shall on conviction before a Magistrate be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

Sinhala text to prevail in case of inconsistency.

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

68. In this Act unless the context otherwise requires —

Interpretation.

“urban settlement area” means an area declared by the Minister as an Urban Development Area under the provisions of subsection (1) of section 3 of the Urban Development Authority Act, No. 41 of 1978 and includes any areas outside of such area requiring connectivity with proposals, plans, projects and action programmes of the Authority as shall be approved by the Minister.