

BUITENGEWONE

# OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA

# OFFICIAL GAZETTE

EXTRAORDINARY

OF SOUTH WEST AFRICA

UITGAWE OP GESAG

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**Goewermentskennisgewing**

**Government Notice**

**VERTEENWOORDIGENDE OWERHEID VAN DIE KLEURLINGE**

**REPRESENTATIVE AUTHORITY OF THE COLOURED**

No. 5 1984

No. 5 1984

**AFKONDIGING VAN ORDONNANSIE VAN WETGEWENDE VERGADERING VAN DIE KLEURLINGE**

**PUBLICATION OF ORDINANCE OF LEGISLATIVE ASSEMBLY OF THE COLOURED**

Die volgende Ordonnansie waartoe die Administrateur-generaal ingevolge die bepalings van die Proklamasie op Verteenwoordigende Owerhede, 1980 (Proklamasie AG. 8 van 1980), toegestem het, word hierby ingevolge Artikel 15 van die Proklamasie op die Verteenwoordigende Owerheid van die Kleurlinge, 1980 (Proklamasie AG. 14 van 1980), afgekondig:

The following Ordinance assented to by the Administrator-General in terms of the provisions of the Representative Authorities Proclamation, 1980 Proclamation AG. 8 of 1980), is hereby published in terms of section 15 of the Representative Authority of the Coloureds Proclamation, 1980 (Proclamation AG. 14 of 1980):

**NO. 4 VAN 1983: BEHUISINGSORDONNANSIE, 1983**

**No. 4 OF 1983: HOUSING ORDINANCE, 1983**

**HOUSING ORDINANCE, 1983**Ordinance  
No. 4 of 1983

*(Assented to by the Administrator-General on 16 March  
1984)*

*(Afrikaans text signed)*

**ORDINANCE**

**To provide for the supply of sub-economic or subsidised housing to members of the Coloureds population group; for the planning and implementation of, and control over, schemes for such housing; for the conversion of any such housing or schemes being provided or implemented, into economic housing or schemes for economic housing; for the continued implementation of and control over such schemes; and to provide for incidental matters.**

BE IT ORDAINED by the Legislative Assembly of the Coloureds with the consent of the Administrator-General previously obtained for the purposes of section 14(1)(a)(ii) of the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980), and communicated, to the Assembly by the Chairman of the Assembly, as follows:

**INTRODUCTORY PROVISIONS**

**1.** In this Ordinance, unless the context indicates otherwise -

Definitions.

- (i) "Administration" means the Administration for Coloureds; (1)
- (ii) "building society" means a permanent building society registered under the Building Societies Act, 1965 (Act 24 of 1965); (iv)
- (iii) "building society loan" means a loan referred to in section 12(1); (v)
- (iv) "Corporation" means the National Building and Investment Corporation of South West Africa established by the National Building and Investment Corporation of South West Africa Proclamation, 1978 (Proclamation AG. 60 of 1978); (viii)

- (v) "dwelling" means -
- (a) in relation to a scheme, a residential unit which has or will have the number of living rooms approved by the Executive Committee;
  - (b) in relation to a housing or building society loan, -
    - (i) where the borrower purchases, a residential unit approved by the Executive Committee, or by a building society in consultation with the Executive Committee, as the case may be;
    - (ii) where the borrower builds, a residential unit built or to be built in accordance with the plans or specifications approved by the Executive Committee or by a building society in consultation with the Executive Committee, as the case may be; (xvii)
- (vi) "Executive Committee" means the Executive Committee of the Coloureds; (xiv)
- (vii) "housing loan" means a loan referred to in section 8(1); (iii)
- (viii) "land" includes any real right in or over land; (vi)
- (ix) "local authority" means -
- (a) the Peri-Urban Development Board established by the Peri-Urban Development Board Ordinance, 1970 (Ordinance 19 of 1970);
  - (b) any Village Management Board constituted or deemed to be constituted under the Village Management Board Ordinance, 1963 (Ordinance 14 of 1963); or
  - (c) the council of a municipality which has been established or constituted, or deemed to be established or constituted under the Municipal Ordinance, 1963 (Ordinance 13 of 1963); (ix)
- (x) "official" means any person in or seconded to the service of the Representative Authority; (ii)
- (xi) "prescribed" means prescribed by regulation; (xvi)
- (xii) "regulation" means a regulation made and in force under this Ordinance; (x)
- (xiii) "Representative Authority" means the Representative Authority of the Coloureds; (xv)
- (xiv) "residential unit" means one or more rooms which can be occupied as a unit, irrespective of whether

it is a detached or semi-detached building or forms part of a building or block of buildings; (xviii)

- (xv) "scheme" means a scheme referred to in section 2; (xii)
- (xvi) "Secretary" means the Secretary of the Administration for Coloureds; (xi)
- (xvii) "this Ordinance" includes any regulation; (vii)
- (xviii) "urban area" means any area situated within the area of jurisdiction of a local authority. (xiii)

## PART I

### HOUSING SCHEMES

#### 2. Any scheme may include -

Limit of schemes.

- (a) a proposal for the acquisition, for residential purposes, of land in an urban area;
- (b) a proposal for the lay-out, replanning, subdivision or development of such land;
- (c) a proposal for the erection of one or more dwellings on such land, or for the acquisition of dwellings in an urban area;
- (d) a proposal for the establishment of the works which in the opinion of the Executive Committee are necessary for the proper control of such dwellings;
- (e) a proposal for the provision of services to such dwellings, or for the health or welfare of the occupants thereof; and
- (f) a proposal for the maintenance, alteration, extension, reconstruction, repair or conversion of such dwellings.

3. (1) The Executive Committee may, for the purpose of supplying sub-economic or subsidised housing, plan and implement schemes for such housing.

Planning, converting and implementing schemes.

(2) A scheme for sub-economic or subsidised housing may at any time be converted into, and implemented as, a scheme for economic housing.

(3) The Executive Committee may at any time purchase or otherwise acquire land or other immovable property in an urban area in order to implement a scheme.

## PART II

## SUPPLY OF HOUSING

4. (1) The Executive Committee may let any of the dwellings in a scheme on the terms and conditions it may from time to time determine.

Letting of housing in a scheme.

(2) In the case of a scheme for sub-economic or subsidised housing the Executive Committee shall determine the limits of the income of persons to whom the housing concerned may be let.

5. If the lessee of a dwelling forming part of a scheme fails to pay on due date the rent payable by him, the Secretary may -

Consequences of failure to pay rent.

(a) take steps to recover the amount of rent due by action in a competent court;

(b) after giving seven days notice -

(i) either by letter delivered either to the lessee personally or to an adult occupying the said dwelling;

(ii) if such letter cannot thus be delivered, by letter fixed to the outer or main door of the said dwelling; or

(iii) by registered letter addressed to the lessee at the place where the said dwelling is situated,

by means of a official authorised by him in writing and without having obtained judgement or an order of court, enter and take possession of the dwelling in respect of which the rent is due.

6. If any person satisfies the requirements laid down for renting a dwelling in a scheme for subeconomic or subsidised housing, but suitable housing is not available, the Executive Committee may grant financial assistance to him on the conditions which the Executive Committee determines in general or in his particular case, to enable him to rent housing for himself and his dependants.

Financial assistance to rent housing.

7. The Executive Committee may sell land or other immovable property in a scheme on the terms and conditions it may determine.

Sale of land or other immovable property in scheme.

8. (1) The Executive Committee may, on the conditions it may determine from time to time, grant loans to persons to enable them to purchase or build dwellings to house themselves and their dependants.

Housing loans.

(2) Every loan granted in terms of subsection (1) shall be secured by a first bond registered in favour of the Representative Authority over the property concerned.

9. Without derogating from the generality of the power in terms of section 8(1) to determine the conditions on which housing loans may be granted, the Executive Committee may, in particular, -

Particular powers relating to housing loans.

- (a) determine the categories of persons to whom loans may be granted and the income limits within which persons have to fall to qualify therefor, and different income limits may be determined in respect of different categories of persons or in respect of the areas where persons reside;
- (b) refuse to grant a loan where the applicant for such loan or his spouse is already the owner of a building suitable for residential purposes;
- (c) with the approval of the borrower, increase or reduce the period determined for repayment of the loan;
- (d) give permission that -
  - (i) an arrear instalment;
  - (ii) the interest accruing on the loan during the period that the dwelling in respect of which a loan was granted, is being built; or
  - (iii) the rates and taxes and other monies paid by the Administration to a local authority on behalf of the borrower,
    - be added to the amount owing by the borrower in respect of the loan, and in such a case -
    - (aa) the amounts of future instalments and interest payable by the borrower shall be adjusted accordingly; and
    - (bb) the entire consolidated debt shall be deemed to be secured by the bond securing the original housing loan;
- (e) where the amount actually owing by the borrower under a bond securing a loan, is less than the amount of the bond, grant a further loan not exceeding the difference between the amount of the bond and the amount actually owing, to the borrower to enable him to alter, extend, reconstruct, repair or convert the dwelling in respect of which the loan was granted,

and such further loan shall be deemed also to be secured by the bond as if it were part of the original housing loan;

- (f) where a loan granted to a borrower is less than the loan which could have been granted to him under this Part, grant a further loan not exceeding the difference between the amount that could have been granted and the amount that was granted to the borrower to enable him to alter, extend, reconstruct, repair or convert the dwelling in respect of which the loan was granted, and such further loan shall be secured by another bond over the property concerned having the same precedence as the first bond;
- (g) if any person who satisfies the requirements which a borrower has had to satisfy, agrees to taking over the interests and obligations of the borrower in respect of the loan, substitute such person for the borrower as mortgagor in respect of the existing bond, whereafter the provisions of this Part relating to loans shall be applicable to him as if the housing loan had originally been granted to him.

**10. (1)** It shall be a condition of each and every housing loan that, despite the fact that the total amount of the loan and all interest thereon have been repaid and that the bond which secured such loan has been cancelled on account of the said repayment, the person to whom the loan was granted or his successors in law shall not sell or otherwise alienate the immovable property over which the bond was registered, within a period of five years from the date of registration of the said bond, unless he has first offered it for sale to the Executive Committee.

Pre-emptive right.

(2) Such offer shall be made in writing, and shall be accepted or rejected by the Executive Committee within a period of sixty days after receipt thereof.

(3) (a) If such offer is accepted, the offeror shall be paid the price agreed upon by him and the Executive Committee.

(b) If an offeror and the Executive Committee fail within sixty days of acceptance of the offer to reach agreement on the price to be paid, the offeror shall be paid the price determined through arbitration in terms of the Arbitration Act, 1965 (Act 42 of 1965).

(4) The Executive Committee may at any time exempt any immovable property from the provisions of subsection (1).

(5) The Registrar of Deeds shall at the request of the Secretary -

- (a) make such endorsement on the title deed of immovable property and such entries in his registers as may be necessary to indicate that the provisions of subsection (1) are applicable to such property; and
- (b) cancel such endorsement and entries when such property is exempted in terms of subsection (4).

(6) No immovable property to which the condition referred to in subsection (1) is applicable, shall be transferred to any other person than the Representative Authority unless a certificate, signed by the Secretary, is submitted to the Registrar of Deeds to the effect that such property has in terms of the said subsection been offered for sale to the Executive Committee and that such offer has been rejected.

11. (1) If any person to whom a housing loan has been granted -

Consequences of non-compliance with condition of housing loan.

- (a) fails to pay on due date any amount owing in respect of or in connection with such loan;
- (b) has not applied the whole or a part of such loan for the particular purpose for which it was granted;
- (c) fails, with a view to the period determined for completion of the dwelling in respect of which such loan was granted, to make reasonable progress in connection with the construction of such dwelling;
- (d) becomes insolvent; or
- (e) fails to comply with any condition on which such loan was granted, or a part thereof paid out,

the Secretary may either -

- (i) recover from such person, by action in a competent court, any amount paid to him or to someone else on his behalf and not yet repaid, together with all interest thereon; or
- (ii) (aa) after forty-two days' notice has been given by registered letter addressed to such a person at his last-known place of residence or business; and
- (bb) if the immovable property mortgaged as security for such loan is occupied by any person other than the owner, after notice has been given to the occupier in the same manner,

by means of an official authorised by him in writing and without a judgement or order of Court having been obtained, enter such immovable property and take possession thereof.

(2) When immovable property has been repossessed in terms of subsection (1), the Executive Committee may, after a notice of intent to sell, published once a week for three consecutive weeks in a local newspaper circulating in the area where such property is situated, sell such property by public auction or public tender and transfer the said property to the purchaser and confer a good and binding title thereto, despite the fact that such property may also be mortgaged to a person other than the Representative Authority: Provided that if such property is thus mortgaged, it shall not be sold unless the Executive Committee gave notice to the mortgagee concerned at least three weeks before the date determined for the sale, of its intention to sell such property, by addressing a registered letter to him at his last-known place of residence or business.

(3) If there is an uncompleted dwelling on any immovable property repossessed in terms of subsection (1), the Executive Committee may complete such dwelling before selling such property in terms of subsection (2).

(4) The proceeds of the sale of immovable property in terms of subsection (2) shall be employed to pay -

- (a) all amounts due to the Representative Authority;
- (b) all expenses, if any, incurred by the Executive Committee in connection with the completion of a dwelling; and
- (c) all expenses incurred in connection with the sale of such property,

and the balance, if any, shall be paid to the person to whom the housing loan was granted or to any other person lawfully entitled to receive such balance.

(5) Where immovable property has been sold in terms of subsection (2), the Executive Committee may consent to the take-over by any purchaser of such property of the interests and obligations of the previous owner in respect of the housing loan, and in order to give effect thereto the purchaser shall be substituted for the previous owner as mortgagor in respect of the existing bond despite the fact that the previous owner has not consented to the take-over by the purchaser of such interests and obligations, and the provisions of this Part relating to loans shall be applicable thereto in respect of the purchaser as though the housing loan had originally been granted to him.

(6) The provisions of this section shall not be construed so as to prohibit the purchase by the Executive Committee of immovable property sold by public auction in terms of subsection (2).

### PART III

#### BUILDING SOCIETY LOANS

12. (1) The Executive Committee may assist a building society, in the manner hereinafter stipulated, in order that such building society may grant loans to persons to enable them to purchase or build dwellings to accommodate themselves and their dependants.

Building society loans.

(2) If the amount of a loan granted to any person by a building society -

(a) in the case where such a person purchases a dwelling, is not less than sixty per cent and not more than ninety per cent of -

(i) the purchase price of the dwelling; or

(ii) the valuation of the dwelling determined in terms of subsection (3),

whichever is the lesser; or

(b) in the case where such a person builds a dwelling, is not less than sixty per cent and not more than ninety per cent of -

(i) the purchase price of the land concerned plus the estimated cost of building the dwelling on such land; or

(ii) the provisional valuation of such land and of the dwelling to be built thereon, made in terms of subsection (3),

whichever is the lesser,

the Executive Committee may, subject to the provisions of this Part, either -

(i) grant an advance not exceeding one third of the total amount of the loan to the building society; or

(ii) by agreement with the building society, provide it with a guarantee, in the form approved by the Executive Committee, to the effect that it will bear so much of any loss suffered by the building society as the Representative Authority would have suffered if the Executive Committee had granted an advance to an amount equal to the amount thus guaranteed.

(3) A building society to which application is made for a loan, shall cause a valuation of the dwelling or a provisional valuation of the land as well as the dwelling to be built on it, as the case may be, to be made in accordance with the provisions of the Building Societies Act, 1965 (Act 24 of 1965), and shall submit to the Executive Committee a certified copy of the form containing the record of such valuation, as well as the application.

**13. If the Executive Committee is satisfied -**

- (a) that the building society is capable of exercising effective control over the use and repayment of a loan;
- (b) that the applicant requires the dwelling for the accommodation of himself and his dependants and that he satisfies the income requirements determined by the Executive Committee for borrowers in respect of the area where the dwelling is to be purchased or built;
- (c) that the applicant has no assets with which to purchase or build a dwelling and that the value of his assets is not forty per cent or more of the amount of the valuation made in terms of section 12(3);
- (d) that the amount of the loan is such that the monthly instalments for the repayment of capital and interest do not exceed the percentage of the borrower's personal monthly income determined by the Executive Committee;
- (e) that the loan does not exceed the maximum determined by the Executive Committee for loans in the area in which the dwelling is to be purchased or built; and
- (f) that the loan will be secured by a first bond over the land on which the dwelling is situated or is to be built, and that such land is situated in an urban area,

Circumstances under which advances may be granted and guarantees may be provided.

it may in terms of section 12(2) grant an advance or provide a guarantee on the conditions determined by it either in general or in respect of a particular case.

**14. The interest which a building society may charge a borrower in respect of a building society loan granted in terms of this Part, shall be at a rate approved by the Executive Committee: Provided that the Executive Committee may, on the conditions determined by it, approve the inclusion in the bond securing such loan of a stipulation in terms of which the building society is permitted to increase the interest rate in respect of a portion of such loan not yet repaid with no more than two per cent.**

Interest payable by borrowers.

15. (1) If a person satisfies the requirements which a borrower of a building society loan has had to satisfy, the building society concerned may, with the approval of the Executive Committee, consent to the take-over by such a person of the interests and obligations of the borrower in respect of such loan.

Take-over of interests and obligations of borrower.

(2) Where interests and obligations have thus been taken over by a person, he shall simultaneously with the transfer to him of the property concerned, register a new bond over such property to secure any amount still owing in respect of the building society loan, and the provisions of this Part relating to loans shall thereafter be applicable to him as if such loan had originally been granted to him.

16. If any loss is suffered by a building society in respect of a building society loan, without such building society being responsible therefor, such loss shall be borne by the Representative Authority or by the building society, or partly by the building society, to the degree and on the basis agreed to with such building society.

Losses suffered in connection with building society loans.

17. (1) If at any time the Executive Committee is of the opinion that the public interest or the interest of a particular borrower so justifies, it may approve the payment to a building society by the Representative Authority, or the payment to the firstmentioned building society by another building society, of any amount owing to the first-mentioned building society by virtue of a bond securing a building society loan, less the amount of capital or interest owing to the Representative Authority in respect of the advance made to the first-mentioned building society in terms of section 12(2), and on payment of such amount the first-mentioned building society shall cede its rights in terms of the said bond to the Representative Authority or the other building society, as the case may be.

Cession of bond by building society to Representative Authority or other building society.

(2) When a building society has in terms of subsection (1) ceded its rights in terms of a bond securing a building society loan to another building society, the provisions of this Part in relation to assistance to building societies shall be applicable in respect of such other building society as if such loan had originally been granted by it.

(3) Where rights in terms of a bond securing a building society loan have been ceded to the Representative Authority in terms of subsection (1), the provisions of Part II, with the exception of the provisions of section 10, shall be applicable in relation to such loan as if the building society loan secured by the bond were a housing loan granted in terms of the said Part.

## PART IV

AGREEMENTS WITH LOCAL AUTHORITIES OR  
THE CORPORATION

18. (1) The Executive Committee may enter into an agreement with any local authority or the Corporation which provides for the exercise or performance, on the terms and conditions agreed upon, -

Agreements with local authorities or the Corporation.

- (a) by such local authority or the Corporation as an agent of the Executive Committee; or
- (b) by the Executive Committee in co-operation with such local authority or the Corporation,

of any power, duty or function which in terms of this Ordinance is exercised or performed by or under the control of the Executive Committee, excluding the power to make regulations.

(2) Any power, duty or function exercised or performed in terms of such an agreement by a local authority or the Corporation, or by any person in the service or under the control of such local authority or the Corporation, and which -

- (a) is conferred on or imposed upon the Executive Committee, Secretary or other official by this Ordinance; or
- (b) has been delegated by the Executive Committee to the Secretary or some other official, or by the Secretary to an official under his control,

shall be deemed to have been exercised or performed by the Executive Committee, the Secretary or such other official, as the case may be.

19. An agreement for the implementation of a scheme by a local authority or the Corporation entered into under section 18, may, subject to the provisions of the said section, provide for -

Agreement for implementation of scheme.

- (a) the period within which such scheme is to be implemented;
- (b) the payment of expenses in connection with the implementation of such scheme in instalments according to the value of the work that has been completed;
- (c) the supply of land or materials for the implementation of such scheme, or compensation for such land or materials; or

- (d) the liability of the local authority or Corporation if it fails to keep to the approved details of such scheme or to comply with any term or condition of the agreement.

20. The Secretary may at all reasonable times -

Entry to give effect to provisions of Ordinance.

- (a) enter any dwelling let in terms of section 4(1);
- (b) enter any land or other immovable property sold in terms of section 7 and in respect of which an amount is owing to the Representative Authority;
- (c) enter any land acquired or any dwelling purchased or built by means of a housing loan and in respect of which an amount is owing to the Representative Authority;
- (d) enter any land in respect of which the Executive Committee has a pre-emptive right in terms of section 10(1),

to carry out an inspection, or to perform any task, or to do anything to give effect to the provisions of this Ordinance.

21. (1) The Executive Committee may appoint as many committees as it may deem necessary or expedient to report to it or give it advice in connection with any matter which it refers to any such committee.

Appointment of committees.

(2) Subject to any direction by the Executive Committee, any committee shall determine its own procedure.

(3) A member of a committee, excluding a member in full-time government service, or in the full-time service of the Government of the Republic of South Africa or any other government, shall, while occupied with the affairs of such committee, be paid the salary or allowances, or both the salary and allowances, determined by the Executive Committee.

22. No cession or transfer by any person of any right that he may have or may acquire in respect of a housing loan or a part thereof, or in respect of a contract entered into by the Executive Committee under this Ordinance, shall be valid or operative, unless such cession or transfer is effected with the written consent of the Executive Committee, which shall have an absolute discretion either to grant or to withhold such consent.

Cessions and transfers.

**23. The Executive Committee may make regulations -**

Regulations.

- (a) regarding the insurance of dwellings purchased or built by means of housing or building society loans;
- (b) regarding the inspection, repair or maintenance of all housing in a scheme of the Representative Authority, or of all housing in respect of which an amount is owing to the Representative Authority in terms of a contract entered into under this Ordinance, or of all housing in respect of which the Executive Committee has a pre-emptive right in terms of section 10(1);
- (c) in respect of the matters for which monies are payable to the Representative Authority, the amount of such monies, the persons liable for the payment thereof, and the recovery and application thereof;
- (d) in respect of any matter which shall or may be prescribed in terms of this Ordinance; and
- (e) which, in general, prescribes any matter which it deems necessary or expedient to prescribe in order to achieve the objects of this Ordinance.

(2) Regulations made under this section may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of five hundred rand or imprisonment for a period of six months.

**24. (1)** The Executive Committee may from time to time delegate to the Secretary or an official designated by it any power vested in it under this Ordinance, other than the power to make regulations.

Delegation of powers.

(2) The Secretary may from time to time delegate to an official designated by him any power vested in him under this Ordinance.

(3) The delegation of any power under subsection (1) shall not divest the Executive Committee of that power and the Executive Committee may at any time amend or withdraw any decision of any person in the exercise of any power so delegated.

**25.** This Ordinance shall be called the Housing Ordinance, 1983.

Short title.