

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,833 of 27th January, 2011

B. 01/11

BILL

FOR

AN ACT to make provision for the establishment of the Housing Works Agency to carry out building maintenance and repair works to Government rental housing and for matters connected thereto.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Housing Works Agency Act 2011 and comes into operation on the day of publication.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Agency” means the Housing Works Agency established under section 3;

“Chief Executive Officer” means the chief executive of the Agency appointed under section 10;

“Financial Secretary” means the Financial Secretary of the Government;

“Minister” means the Minister with responsibility for housing.

Establishment of the Housing Works Agency as a Body Corporate.

3.(1) There is hereby established the Housing Works Agency.

Agency to be Body Corporate.

4.(1) The Agency shall be a body corporate with perpetual succession under the name of the Housing Works Agency and shall have a common seal which shall be officially and judicially noted.

(2) The common seal of the Agency may only be affixed to an instrument in the presence of the Chairman or the Chief Executive Officer or other person authorised by the Minister for that purpose, and one other member of the Board of the Agency; the persons so present shall sign the instrument as witnesses to the sealing.

(3) The Agency may sue and be sued in its corporate name. Service of any process or notice on the Agency may be effected by leaving it at, or sending it by registered post to, the principal office of the Agency.

Board.

5.(1) The affairs of the Agency shall be conducted by a Board (“the Board”) which shall consist of the following members–

- (a) the Minister, as the Chairman;
- (b) The Principle Housing Officer of the Ministry of Housing;
- (c) the Chief Executive Officer of the Agency; and
- (d) such number of other persons as may be appointed by the Minister.

(2) Members of the Board (other than a member referred to in paragraph (a) (b) or (c) of subsection (1)) shall hold office for such period and upon such terms as the Minister may deem appropriate.

(3) If the Minister is satisfied that any member referred to in paragraph (d) of subsection (1)–

- (a) has been absent from three consecutive meetings of the Board without reasonable excuse;
- (b) has become bankrupt;

- (c) has been convicted of a criminal offence and been sentenced to a term of imprisonment;
- (d) is incapacitated by physical or mental illness; or
- (e) is otherwise unable or unfit to discharge the functions of a member,

the Minister may, by notice in the Gazette, declare his office as a member of the Board to be vacant and thereupon his office shall become vacant.

(4) A member who wishes to resign his office shall give three months prior written notice to the Agency.

(5) The Chairman or any member of the Board, other than a member to which subsection (4)(b) to (e) applies, who ceases to be a member shall be eligible for re-appointment.

(6) The Minister shall appoint a person who is an employee of the Agency to be the Secretary of the Board.

Meetings and proceedings.

6.(1) The quorum at all meetings of the Board shall be three members in addition to the Chairman or other person presiding.

(2) The Board shall meet at least once in every three months.

(3) At all meetings of the Board the Chairman or, in his absence, such other member as the Board may select shall preside.

(4) Any matters arising at a meeting of the Board shall be decided through the agreement of the members present and where such agreement is not arrived at, a vote will be held in which the decision of the majority of the members present shall prevail, and in the case of an equality of votes, the person presiding shall have a second or casting vote.

(5) All orders and directions of the Board shall be given under the hand of the Chief Executive Officer or the Chairman.

Duties and Functions of the Agency.

7.(1) The functions and duties of the Agency are, in so far as it is mandated to do so by Government and the Government provides sufficient resources therefor—

- (a) to carry out maintenance and repair works to Government rental housing stock and to provide an emergency service in respect thereof;
- (b) to administer its financial, technical and human resources and other affairs;
- (c) to carry out such other functions and duties as the Minister may from time to time direct.

Powers of the Agency.

8.(1) The Agency shall have power to do all things necessary for the carrying out of its functions and duties.

(2) Without prejudice to the generality of the provision of subsection (1), the Agency may—

- (a) contract with any person for the supply to, or by, the Agency of any goods, services or personnel;
- (b) erect, equip and maintain all necessary buildings, plant, and equipment;
- (c) reimburse the members of the Board for such expenses as may be incurred by them in pursuance of their official duties as the Minister may deem appropriate.

(3) With the prior consent of the Minister for Finance and of the Minister to employ—

- (i) a Chief Executive Officer;
- (ii) such other staff as the Board consider necessary or appropriate.

(4) With the prior consent of the Financial Secretary of the Government to engage the services of such advisors and consultants or such other persons as the Agency thinks fit for the better discharge by the Agency of its functions.

(5) To publish codes for regulating the terms of service, discipline and training of all persons employed by the Agency.

(6) Acquire and hold land and other property.

Discharge of functions by the Agency.

9.(1) The Agency may arrange for the discharge of any of its duties–

- (a) by a committee, a sub-committee or an employee of the Agency; or
- (b) by any Government department or by any other authority or agency.

(2) Any arrangements made by the Agency under this section for the discharge of any of its functions by a committee, sub-committee, employee, Government department or other authority shall not prevent the Agency from exercising those functions.

(3) In the discharge of its functions and duties, and in the exercise of its powers under this Act, the Agency shall at all times have regard to the policy of the Government and where the Government issues a directive to the Agency in regard to a particular matter, the Agency shall abide thereby.

Appointment of Chief Executive Officer.

10.(1) The Agency shall appoint a person to be the Chief Executive Officer.

(2) The Chief Executive Officer shall hold office for such period and upon such terms as the Agency may deem appropriate.

(3) The Chief Executive Officer shall perform such other functions and exercise such other powers, as may, from time to time, be conferred upon him by this or any other Act or delegated to him by the Agency or the Government.

(4) In the event of the illness, death, retirement, suspension or removal from office or absence from Gibraltar of the Chief Executive Officer, the Agency shall appoint a person to act as Chief Executive Officer upon such terms as the Agency may deem appropriate.

Operations Management Board.

11.(1) The Agency shall appoint an Operations Management Board which shall consist of—

- (a) the Chief Executive Officer, as Chairman;
- (b) the Chief Operating Officer;
- (c) the head of finance, administration and resources;
- (d) such other employees of the Agency as the Minister shall determine.

(2) It shall be the function of the Operations Management Board to advise and assist the Chief Executive Officer in the execution of his functions and the Agency's duties and functions.

(3) The Operations Management Board shall meet at least once in every calendar month and forward a copy of minutes of its meetings to the Minister as soon as practicable thereafter.

Professional advisory committees.

12. The Agency may establish any other advisory committee to give to the Agency, the Chief Executive Officer and the board of management such professional and technical advice as may be required.

Financial duty of the Agency.

13.(1) The Agency shall so manage its affairs as to ensure that, taking one year with another, its outgoings are not greater than its revenues from—

- (a) all funds which may from time to time be voted by the Gibraltar Parliament for the purposes of the Agency;

- (b) any sums received by the Agency under section 14 of this Act in that year;
- (c) all fees due to the Agency for the provision of services and facilities provided by the Agency in the exercise of its functions; and
- (d) any monies properly accruing to the Agency from any other source.

(2) The Agency shall record and manage its financial affairs in such manner as the Financial Secretary may direct.

Establishment and operation of general fund.

14.(1) The Agency shall establish in such place and manner as the Financial Secretary may direct a general fund—

- (a) into which all monies received by the Agency shall be paid; and
- (b) out of which all payments made by the Agency shall be paid.

(2) The Chief Executive Officer shall, subject to the directions of the Financial Secretary, be responsible for the management of the general fund established under sub-section (1).

(3) The Agency with the approval of the Minister with responsibility for public finance may borrow temporarily by way of overdraft or otherwise such sums as it may require for meeting its obligations and discharging its functions.

(4) The Government may make advances to the Agency for the purposes of meeting expenditure of a capital nature.

(5) If the Government shall so direct, the general fund of the Agency shall be administered and controlled by the Financial Secretary.

Accounts and auditing.

15.(1) The Agency shall keep proper books of account of its operations during each financial year, and shall also cause a statement of its accounts for each financial year to be prepared within six months (or such longer period as the Minister shall exceptionally allow) after the end of each financial year.

(2) The accounts of the Agency for each financial year shall be audited and certified by the Principal Auditor as soon as practicable after the end of that year.

(3) The Principal Auditor shall, with reference to the accounts of the Agency, report—

- (a) whether he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purposes of the audit; and
- (b) whether, in his opinion, proper books of account have been kept by the Agency, so far as appears from his examination of those books; and
- (c) whether the Agency has discharged its financial duties and obligations under the provisions of this Act.

(4) Within three months after the end of the audit of its accounts for any financial year, the Agency shall prepare and submit to the Chief Minister a written report of its operations for that year together with a copy of the audited accounts for that year, and shall also submit copies of the report and audited accounts to the Minister.

(5) The Minister shall lay one copy of the annual report and of the audited accounts on the table of the Gibraltar Parliament during the meeting of the Parliament next following the date after they have been received by him.

(6) The Agency shall furnish to the Government—

- (a) a copy of the estimates of income and expenditure, including capital expenditure, no later than 15 January in each year; and

- (b) such financial and statistical returns as it may from time to time require.

(7) The Agency shall keep its books and accounts in such manner or form as may from time to time be directed by the Financial Secretary.

Financial Year.

16. The financial year of the Agency shall be the period set out in section 78(1) of the Gibraltar Constitution Order 2006 save that in first financial year of the Agency it shall be the period commencing on the date of the establishment of the Agency and ending on the 31st day of March 2011.

No personal liability to attach to members.

17. Subject to the provisions of section 18, no personal liability shall attach to any member of the Board in respect of anything done or omitted to be done in good faith under the provisions of this or any other Act.

Proceedings on failure of Authority to perform its duties.

18. If at any time it appears to the Government that the Agency has failed to comply with any of the provisions of this or any other Act, it may by notice in writing require the Agency to make good the default within such time as may be specified in the notice.

Restriction on execution.

19. No execution by attachment of property or process in the nature thereof shall be issued against the Agency.

Consequential modifications and amendments.

20.(1) The Schedule to the Public Services Ombudsman Act 1998 is amended by inserting after the last sub-paragraph of paragraph 2 the following paragraph numbered sequentially—

“The Housing Works Agency”;

(2) The Minister may make regulations for the purpose of modifying and amending any orders, regulations or rules made under any Act for the purpose of giving effect to any modifications or amendments made to any

Act by this Act and for the purpose of transferring the functions of any person or body to the Agency, notwithstanding that the power to make such orders, regulations and rules is vested in some person or body other than the Minister.

Regulations.

21. The Government may by Regulations provide for any other matter or thing necessary or desirable to be done to give effect to the establishing of the Agency or the carrying out of its functions or duties.

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