(English text signed by the President.)
(Assented to 1 November 2008.)

ACT

To establish and promote a sustainable social housing environment; to define the functions of national, provincial and local governments in respect of social housing; to provide for the establishment of the Social Housing Regulatory Authority in order to regulate all social housing institutions obtaining or having obtained public funds; to allow for the undertaking of approved projects by other delivery agents with the benefit of public money; to give statutory recognition to social housing institutions; and to provide for matters connected therewith.

PREAMBLE

WHEREAS in terms of section 26(1) of the Constitution of the Republic of South Africa, 1996, everyone has the right to have access to adequate housing;

AND WHEREAS in terms of section 26(2) of the Constitution, 1996, the State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right;

AND WHEREAS in terms of section 2(1)*(a)* of the Housing Act, 1997 (Act No. 107 of 1997), national, provincial and local spheres of government must give priority to the needs of the poor in respect of housing development;

AND WHEREAS all three spheres of government must, in terms of section 2(1)*(e)*(iii) of the Housing Act, 1997, promote the establishment, development and maintenance of socially and economically viable communities and of safe and healthy living conditions to ensure the elimination and prevention of slums and slum conditions;

AND WHEREAS all three spheres of government must, in terms of section 2(1)*(e)*(vii) of the Housing Act, 1997, promote higher density in respect of housing development to ensure the economical utilisation of land and services;

AND WHEREAS there is a need for social housing to be regulated;

AND WHEREAS there is a dire need for affordable rental housing for low to medium income households which cannot access rental housing in the open market,

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(Engelse teks deur die President geteken.)
(Goedgekeur op 1 November 2008.)

WET

Om 'n volhoubare maatskaplikebehuisingsomgewing te vestig en te bevorder; om die funksies van nasionale, provinsiale en plaaslike regerings ten opsigte van maatskaplike behuising te omskryf; om voorsiening te maak vir die instelling van die Reguleringsowerheid vir Maatskaplike Behuising ten einde alle maatskaplikebehuisingsinstellings wat openbare fondse verkry of verkry het, te reguleer; om voorsiening te maak vir die aanpak van goedgekeurde projekte deur ander leweringsagente met die voordeel van openbare geld; om statutêre erkenning te verleen aan maatskaplikebehuisingsinstellings; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

AANHEF

AANGESIEN elkeen ingevolge artikel 26(1) van die Grondwet van die Republiek van Suid-Afrika, 1996, die reg op toegang tot geskikte behuising het;

EN AANGESIEN die Staat ingevolge artikel 26(2) van die Grondwet, 1996, redelike wetgewende en ander maatreëls moet tref om binne sy beskikbare middele hierdie reg in toenemende mate te verwesenlik;

EN AANGESIEN nasionale, provinsiale en plaaslike regeringsfere ingevolge artikel 2(1)*(a)* van die Behuisingswet, 1997 (Wet No. 107 van 1997), voorkeur moet gee aan die behoeftes van die armes ten opsigte van behuisingsontwikkeling;

EN AANGESIEN al drie regeringsfere ingevolge artikel 2(1)*(e)*(iii) van die Behuisingswet, 1997, die instelling, ontwikkeling en instandhouding van sosiaal en ekonomies lewensvatbare gemeenskappe en van veilige en gesonde lewensomstandighede moet bevorder om die uitwissing en voorkoming van slums en slumtoestande te verseker;

EN AANGESIEN al drie regeringsfere ingevolge artikel 2(1)*(e)*(vii) van die Behuisingswet, 1997, hoër digtheid ten opsigte van behuisingsontwikkeling moet bevorder om die ekonomiese benutting van grond en dienste te verseker;

EN AANGESIEN dit nodig is om maatskaplike behuising te reguleer;

EN AANGESIEN daar 'n emstige behoefte is aan bekostigbare huurbehuising vir lae- tot medium-inkomstehuishoudings wat nie huurbehuising in die ope mark kan bekostig nie,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF SECTIONS

Sections

CHAPTER 1

DEFINITIONS AND GENERAL PRINCIPLES APPLICABLE TO SOCIAL HOUSING

1. Definitions
2. General principles applicable to social housing

CHAPTER 2

ROLES AND RESPONSIBILITIES

3. Roles and responsibilities of national government
4. Roles and responsibilities of provincial government
5. Roles and responsibilities of municipalities
6. Roles and responsibilities of other role-players

CHAPTER 3

SOCIAL HOUSING REGULATORY AUTHORITY

7. Establishment of Social Housing Regulatory Authority
8. Composition of Regulatory Authority
9. Appointment of Council
10. Staff of Regulatory Authority
11. Functions of Regulatory Authority
12. Powers of intervention of Regulatory Authority

CHAPTER 4

SOCIAL HOUSING INSTITUTIONS

13. Accreditation of social housing institutions
14. Functions of social housing institutions
15. Management of social housing institutions
16. Reporting by social housing institutions

CHAPTER 5

GENERAL PROVISIONS

17. Just administrative action
18. Financing of social housing
19. Regulations
20. Short title and commencement

CHAPTER 1

DEFINITIONS AND GENERAL PRINCIPLES APPLICABLE TO SOCIAL HOUSING

Definitions

1. In this Act, unless the context indicates otherwise—

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WORD DAAR DERHALWE BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

INDELING VAN ARTIKELS

Artikels

HOOFSTUK 1

WOORDOMSKRYWINGS EN ALGEMENE BEGINSELS VAN TOEPASSING OP MAATSKAPLIKE BEHUISING

1. Woordomskrywings
2. Algemene beginsels van toepassing op maatskaplike behuising

HOOFSTUK 2

ROLLE EN VERANTWOORDELIKHEDE

3. Rolle en verantwoordelikhede van nasionale regering
4. Rolle en verantwoordelikhede van provinsiale regering
5. Rolle en verantwoordelikhede van munisipaliteite
6. Rolle en verantwoordelikhede van ander rolspelers

HOOFSTUK 3

REGULERINGSOWERHEID VIR MAATSKAPLIKE BEHUISING

7. Instelling van Reguleringsowerheid vir Maatskaplike Behuising
8. Samestelling van Reguleringsowerheid
9. Aanstelling van Raad
10. Personeel van Reguleringsowerheid
11. Funksies van Reguleringsowerheid
12. Bevoegdhede van Reguleringsowerheid om in te gryp

HOOFSTUK 4

MAATSKAPLIKEBEHUISINGSINSTELLINGS

13. Akkreditering van maatskaplikebehuisingsinstellings
14. Funksies van maatskaplikebehuisingsinstellings
15. Bestuur van maatskaplikebehuisingsinstellings
16. Verslagdoening deur maatskaplikebehuisingsinstellings

HOOFSTUK 5

ALGEMENE BEPALINGS

17. Regverdige administratiewe optrede
18. Finansiering van maatskaplike behuising
19. Regulasies
20. Kort titel en inwerkingtreding

HOOFSTUK 1

WOORDOMSKRYWINGS EN ALGEMENE BEGINSELS VAN TOEPASSING OP MAATSKAPLIKE BEHUISING

Woordomskrywings

1. In hierdie Wet, tensy dit uit die samehang anders blyk, beteken—

"akkreditasie" die sifting, evaluering en voorlopige en finale akkreditasie deur die Reguleringsowerheid wat onder andere aan 'n maatskaplikebehuisings-

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"accreditation" means the screening, evaluation, provisional and final accreditation by the Regulatory Authority that will, amongst other things, allow a social housing institution access to grants available under the social housing programme;

"approved project" means a social housing project in a restructuring zone approved by a provincial government pursuant to an application for capital grant funding to undertake the acquisition, development, conversion or upgrading of buildings for social housing;

"capital grant" means the capital grant contemplated in the social housing policy;

"Council" means the Council appointed in terms of section 9;

"Department" means the National Department of Housing;

"Director-General" means the Director-General of the National Department of Housing;

"house rules" means the rules in relation to the control, management, administration, use and enjoyment of the property of a social housing institution;

"Housing Act, 1997" means the Housing Act 1997 (Act No. 107 of 1997);

"institutional investment grant" means one or more of the capacity-building grants contemplated in the social housing policy;

"institutional investment plan" means a training and skills development plan which is a component of the social housing investment plan intended to ensure that social housing institutions acquire the expertise, skills and operational capacity to manage such institutions on a sustainable basis and produce and manage approved projects;

"investment criteria" means the criteria against which the Regulatory Authority may make investments in social housing institutions;

"lease agreement" means the standard lease agreement utilised by a social housing institution, and includes the house rules;

"low to medium income households" means those households falling within the income categories as determined by the Minister from time to time;

"maladministration" means non-compliance with this Act or a situation or condition indicating substantial financial, governance or management failure;

"MEC" means the member of the Executive Council of a province responsible for housing;

"Minister" means the National Minister of Housing;

"Minmec" means a standing intergovernmental body consisting of at least the Minister and the MECs responsible for housing.

"National Housing Finance Corporation" means the National Housing Finance Corporation incorporated as a public company in terms of the Companies Act, 1973 (Act No. 61 of 1973);

"national housing programme" means a programme contemplated in section 3(4)*(g)* of the Housing Act, 1997;

"NHBRC" means the National Home Builders Registration Council, established under the Housing Consumer Protection Measures Act, 1998 (Act No. 95 of 1998):

"other delivery agent" means an entity other than a social housing institution which may undertake an approved project, but excludes a provincial government or a municipality;

"parliamentary committees" means the Portfolio and Select Committees of Parliament responsible for Housing.

"prescribe" means prescribe by the Minister by regulation or prescribe by the Regulatory Authority in its rules, as the case may be;

"provincial government" means a provincial government, acting through the MEC responsible for housing;

"Public Finance Management Act" means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"public funds" means the institutional subsidy or any other government subsidy utilised for creation of housing stock or any funding provided pursuant to this Act;

"qualifying criteria" means the criteria applied by the Regulatory Authority for purposes of the accreditation of a social housing institution as prescribed by the Minister;

"regulation" means a regulation under this Act;

"Regulatory Authority" means the Social Housing Regulatory Authority established by section 7;

"restructuring zone" means a geographic area which has been—

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instelling toegang sal verleen tot toelaes wat ingevolge die maatskaplikebehuisingsprogram beskikbaar is;

"ander leweringsagent" 'n ander entiteit as 'n maatskaplikebehuisingsinstelling wat 'n goedgekeurde projek kan onderneem, maar sluit 'n provinsiale regering of 'n munisipaliteit uit;

"Behuisingswet, 1997" die Behuisingswet, 1997 (Wet No. 107 van 1997);

"Departement" die Nasionale Departement van Behuising;

"Direkteur-generaal" die Direkteur-generaal van die Nasionale Departement van Behuising;

"goedgekeurde projek" 'n maatskaplikebehuisingsprojek in 'n herstruktureringsone wat deur 'n provinsiale regering goedgekeur is na aanleiding van 'n aansoek vir kapitaaltoelaebefondsing om die verkryging, ontwikkeling, omskepping of opgradering van geboue vir maatskaplike behuising te onderneem;

"herstruktureringsone" 'n geografiese gebied wat—

(a) deur die munisipaliteit, met instemming van die provinsiale regering, geïdentifiseer is vir doeleindes van maatskaplike behuising; en

(b) deur die Minister in die *Staatskoerant* aangewys is vir goedgekeurde projekte:

"hierdie Wet" ook die regulasies, enige reëls, lasgewings of instruksies daarkragtens uitgevaardig;

"huisreëls" die reëls met betrekking tot die beheer, bestuur, administrasie, gebruik en genieting van die eiendom van 'n maatskaplikebehuisingsinstelling;

"huurooreenkoms" die standaard huurooreenkoms wat deur 'n maatskaplikebehuisingsinstelling gebruik word, en ook die huisreëls;

"institusionele investeringsplan" 'n opleidings- en vaardigheidontwikkelingsplan wat 'n komponent is van die maatskaplikebehuisingsinvesteringsplan wat bedoel is om te verseker dat maatskaplikebehuisingsinstellings die kundigheid, vaardighede en bedryfskapasiteit verkry om sodanige instellings op 'n volhoubare grondslag te bestuur en goedgekeurde projekte uit te voer en te bestuur;

"institusionele investeringstoelae" een of meer van die kapasiteitboutoelaes wat in die maatskaplikebehuisingsbeleid beoog word;

"investeringskriteria" die kriteria waarvolgens die Reguleringsowerheid investerings in maatskaplikebehuisingsinstellings kan maak;

"kapitaaltoelae" die kapitaaltoelae in die maatskaplikebehuisingsbeleid beoog;

"kwalifiserende kriteria" die kriteria wat deur die Reguleringsowerheid toegepas word met die oog op die akkreditering van 'n maatskaplikebehuisingsinstelling soos deur die Minister voorgeskryf;

"lae- tot medium-inkomstehuishoudings" daardie huishoudings wat binne die inkomstekategorieë val wat die Minister van tyd tot tyd bepaal;

"LUR" die lid van die Uitvoerende Raad van 'n provinsie verantwoordelik vir behuising;

"maatskaplike behuising" 'n huur- of koöperatiewe behuisingsopsie vir lae- tot medium-inkomstehuishoudings op 'n vlak van skaal en bouvorm wat geïnstitusionaliseerde bestuur vereis en wat verskaf word deur maatskaplikebehuisingsinstellings of ander leweringsagente in goedgekeurde projekte in aangewese herstruktureringsones met die voordeel van openbare fondse soos in hierdie Wet beoog;

"maatskaplikebehuisingsbeleid" die amptelike maatskaplikebehuisingbeleid soos deur die Minister bepaal ingevolge artikel 3(2)*(a)* van die Behuisingswet, 1997;

"maatskaplikebehuisingsinstelling" 'n instelling wat kragtens hierdie Wet geakkrediteer of voorlopig geakkrediteer is wat die besigheid van die verskaffing van huur- of koöperatiewe behuisingsopsies vir lae- tot medium-inkomstehuishoudings bedryf of voornemens is om dit te bedryf (uitgesonderd onmiddellike individuele eienaarskap en 'n kontrak soos omskryf in die Wet op Vervreemding van Grond, 1981 (Wet No. 68 van 1981)), op 'n bekostigbare grondslag, wat gehalte en maksimum voordele vir inwoners verseker en wat sy behuisingsvoorraad op langtermyn bestuur;

"maatskaplikebehuisingsinvesteringsplan" 'n korporatiewe plan en begroting soos vereis deur die Wet op Openbare Finansiële Bestuur, wat 'n kapitaalinvesteringsplan en 'n institusionele investeringsplan vir die kapitaal- institusionele en investeringsaktiwiteit van die Reguleringsowerheid behels vir doeleindes van die maatskaplikebehuisingsprogram bevat;

(*a*) identified by the municipality, with the concurrence of the provincial government, for purposes of social housing; and

(*b*) designated by the Minister in the *Gazette* for approved projects;

"social housing" means a rental or co-operative housing option for low to medium income households at a level of scale and built form which requires institutionalised management and which is provided by social housing institutions or other delivery agents in approved projects in designated restructuring zones with the benefit of public funding as contemplated in this Act;

"social housing institution" means an institution accredited or provisionally accredited under this Act which carries or intends to carry on the business of providing rental or co-operative housing options for low to medium income households (excluding immediate individual ownership and a contract as defined under the Alienation of Land Act, 1981 (Act No. 68 of 1981)), on an affordable basis, ensuring quality and maximum benefits for residents, and managing its housing stock over the long term;

"social housing investment plan" means a corporate plan and budget as required by the Public Finance Management Act, comprising a capital investment plan and an institutional investment plan for the capital institutional and investment activity of the Regulatory Authority for purposes of the social housing programme;

"social housing policy" means the official social housing policy as determined by the Minister in terms of section 3(2)*(a)* of the Housing Act, 1997;

"social housing programme" means the national housing programme for social housing, instituted by the Minister in terms of section 3(4)*(g)* of the Housing Act, 1997;

"social housing regulatory plan" means a corporate plan and budget as required under section 52 of Public Finance Management Act; and

"this Act" includes the regulations, any rules, directives or instructions made under it.

General principles applicable to social housing

2. (1) In giving priority to the needs of low and medium income households in respect of social housing development, the national, provincial and local spheres of government and social housing institutions must—

(*a*) ensure their respective housing programmes are responsive to local housing demands, and special priority must be given to the needs of women, children, child-headed households, persons with disabilities and the elderly;

(*b*) support the economic development of low to medium income communities by providing housing close to jobs, markets and transport and by stimulating job opportunities to emerging entrepreneurs in the housing services and construction industries;

(*c*) afford residents the necessary dignity and privacy by providing the residents with a clean, healthy and safe environment;

(*d*) not discriminate against residents on any of the grounds set out in section 9 of the Constitution, including individuals affected by HIV and AIDS;

(*e*) consult with interested individuals, communities and financial institutions in all phases of social housing development;

(*f*) ensure the sustainable and viable growth of affordable social housing as an objective of housing policy;

(*g*) facilitate the involvement of residents and key stakeholders through consultation, information sharing, education, training and skills transfer, thereby empowering residents;

(*h*) ensure secure tenure for residents in social housing institutions, on the basis of the general provisions governing the relationship between tenants and landlords as set out in the Rental Housing Act, 1999 (Act No. 50 of 1999), and between primary housing co-operatives and its members as set out in the Co-operatives Act, 2005 (Act No. 14 of 2005);

"maatskaplikebehuisingsprogram" die nasionale behuisingsprogram vir maatskaplike behuising, deur die Minister ingestel ingevolge artikel 3(4)*(g)* van die Behuisingswet, 1997;

"maatskaplikebehuisingsreguleringsplan" 'n korporatiewe plan en begroting soos vereis kragtens artikel 52 van die Wet op Openbare Finansiële Bestuur;

"Minister" die Nasionale Minister van Behuising;

"Minmec" 'n staande interregeringsliggaam wat minstens uit die Minister en die LUR'e verantwoordelik vir behuising bestaan;

"Nasionale Behuisingsfinansieringskorporasie" die Nasionale Behuisingsfinansieringskorporasie ingelyf as 'n publieke maatskappy ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973);

"nasionale behuisingsprogram" 'n program beoog in artikel 3(4)*(g)* van die Behuisingswet, 1997;

"NHBRR" die Nasionale Huisbouersregistrasieraad kragtens die Wet op Beskermingsmaatreëls vir Behuisingsverbruikers, 1998 (Wet No. 95 van 1998), ingestel;

"openbare fondse" die institusionele subsidie of enige ander regeringsubsidie wat gebruik word vir die skepping van behuisingsvoorraad of enige befondsing wat ingevolge hierdie Wet verskaf word;

"parlementêre komitees" die Portefeuljekomitee en die Gekose Komitee van die Parlement verantwoordelik vir behuising;

"provinsiale regering" 'n provinsiale regering, handelende deur die LUR verantwoordelik vir behuising;

"Raad" die Raad ingevolge artikel 9 aangestel;

"regulasie" 'n regulasie kragtens hierdie Wet;

"Reguleringsowerheid" die Reguleringsowerheid vir Maatskaplike Behuising deur artikel 7 ingestel;

"voorskryf" deur die Minister voorgeskryf by regulasie of deur die Reguleringsowerheid voorgeskryf in sy reëls, na gelang van die geval;

"wanadministrasie" nienakoming van hierdie Wet of 'n situasie of toestand wat op wesenlike finansiële, beheer- of bestuursmislukking dui; en

"Wet op Openbare Finansiële Bestuur" die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

Algemene beginsels van toepassing op maatskaplike behuising

2. (1) Deur aan die behoeftes van lae- en medium-inkomstehuishoudings ten opsigte van maatskaplikebehuisingsontwikkeling voorkeur te gee, moet die nasionale, provinsiale en plaaslike regeringsfere en maatskaplikebehuisingsinstellings—

(a) verseker dat hulle onderskeie behuisingsprogramme responsief is vir plaaslike behuisingsbehoeftes en dat spesiale voorkeur gegee word aan die behoeftes van vroue, kinders, kindergesinshoofde, persone met gestremdhede en bejaardes;

(b) die ekonomiese ontwikkeling van lae- tot medium-inkomstegemeenskappe steun deur behuising naby werkgeleenthede, markte en vervoer te verskaf en deur werkgeleenthede vir opkomende entrepreneurs in die behuisingsdienste- en konstruksiebedryf te stimuleer;

(c) aan inwoners die nodige waardigheid en privaatheid verleen deur die inwoners van 'n skoon, gesonde en veilige omgewing te voorsien;

(d) nie teen inwoners diskrimineer nie op enige van die gronde uiteengesit in artikel 9 van die Grondwet, insluitende individue wat deur MIV en VIGS geraak word;

(e) met belanghebbende individue, gemeenskappe en finansiële instellings oorleg pleeg in alle fases van maatskaplikebehuisingsontwikkeling;

(f) die volhoubare en lewensvatbare groei van bekostigbare maatskaplike behuising verseker as 'n doelwit van behuisingsbeleid;

(g) die betrokkenheid van inwoners en sleutelbelanghebbendes fasiliteer deur oorlegpleging, inligtingdeling, opvoeding, opleiding en vaardigheidsoordrag, en inwoners sodoende bemagtig;

(h) sekerheid van besitreg verseker vir inwoners in maatskaplikebehuisingsinstellings, op die grondslag van die algemene bepalings rakende die verhouding tussen huurders en verhuurders soos uiteengesit in die Wet op Huurbehuising, 1999 (Wet No. 50 van 1999), en tussen primêre

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(i) promote—
- (i) an environment which is conducive to the realisation of the roles, responsibilities and obligations by all role-players entering the social housing market;
- (ii) training opportunities for stakeholders and interested parties who wish to enter the social housing market;
- (iii) the establishment, development and maintenance of socially and economically viable communities to ensure the elimination and prevention of slums and slum conditions;
- (iv) social, physical and economic integration of housing development into existing urban and inner-city areas through the creation of quality living environments;
- (v) medium to higher density in respect of social housing development to ensure the economical utilisation of land and services;
- (vi) the provision of social, community and recreational facilities close to social housing development;
- (vii) the expression of cultural identity and diversity in social housing development;
- (viii) the suitable location of social housing stock in respect of employment opportunities;
- (ix) the conversion or upgrading of suitable residential and non-residential buildings for social housing use;
- (x) incentives to social housing institutions and other delivery agents to enter the social housing market;
- (xi) an understanding and awareness of social housing processes;
- (xii) transparency, accountability and efficiency in the administration and management of social housing stock;
- (xiii) best practices and minimum norms and standards in relation to the delivery and management of social housing;
- (xiv) the provision of institutional capacity to support social housing initiatives;
- (xv) the creation of sustainable, viable and independent housing institutions responsible for providing, developing, holding or managing social housing stock; and
- (xvi) the use of public funds in a manner that stimulates or facilitates private sector investment and participation in the social housing sector.

(2) *(a)* The Minister may, by notice in the *Gazette*, prescribe any principle for social housing development in addition to, and consistent with, the principles set out in subsection (1).

(b) The Minister must, before prescribing any principle contemplated in paragraph *(a)*—
- (i) cause a draft of such principle to be published by notice in the *Gazette* and invite the public to comment within 30 days after such publication;
- (ii) after the period contemplated in subparagraph (i) has lapsed, submit a list of notices published in terms of subparagraph (i) to Parliament for approval.

(c) The list of notices contemplated in paragraph *(b)*(i) must in respect of each notice state the number and title of the notice and the number and date of the *Gazette* in which it was published.

(d) The Minister may only prescribe a principle contemplated in paragraph *(b)* if all comments have been considered and Parliament has approved the prescribing of the principle.

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behuisingskoöperasies en hulle lede soos uiteengesit in die "Co-operatives Act, 2005" (Wet No. 14 van 2005);

(i) die volgende bevorder:

(i) 'n omgewing wat bevorderlik is vir die verwesenliking van die rolle, verantwoordelikhede en verpligtinge van alle rolspelers wat tot die maatskaplikebehuisingsmark toetree;

(ii) opleidingsgeleenthede vir belanghebbendes en belanghebbende partye wat tot die maatskaplikebehuisingsmark wil toetree;

(iii) die instelling, ontwikkeling en instandhouding van sosiaal en ekonomies lewensvatbare gemeenskappe om die uitskakeling en voorkoming van slums en slumtoestande te verseker;

(iv) sosiale, fisiese en ekonomiese integrasie van behuisingsontwikkeling in bestaande stedelike en binnestedelike gebiede deur die skepping van leefomgewings van gehalte;

(v) medium tot hoër digtheid ten opsigte van maatskaplikebehuisingsontwikkeling om die ekonomiese benutting van grond en dienste te verseker;

(vi) die voorsiening van sosiale, gemeenskaps- en ontspanningsfasiliteite naby maatskaplikebehuisingsontwikkeling;

(vii) die uitdrukking van kulturele identiteit en diversiteit in maatskaplikebehuisingsontwikkeling;

(viii) die gepaste plasing van maatskaplikebehuisingsvoorraad ten opsigte van werkgeleenthede;

(ix) die omskakeling of opgradering van geskikte residensiële en nie-residensiële geboue vir gebruik vir maatskaplike behuising;

(x) aansporings vir maatskaplikebehuisingsinstellings en ander leweringsagente om tot die maatskaplikebehuisingsmark toe te tree;

(xi) 'n begrip en bewustheid van maatskaplikebehuisingsprosesse;

(xii) deursigtigheid, verantwoordingspligtigheid en doeltreffendheid in die administrasie en bestuur van maatskaplikebehuisingsvoorraad;

(xiii) beste praktyke en minimum norme en standaarde met betrekking tot die lewering en bestuur van maatskaplike behuising;

(xiv) die verskaffing van institusionele kapasiteit om maatskaplikebehuisingsinisiatiewe te steun;

(xv) die skepping van volhoubare, lewensvatbare en onafhanklike behuisingsinstellings verantwoordelik vir die verskaffing, ontwikkeling, hou en bestuur van maatskaplikebehuisingsvoorraad; en

(xvi) die gebruik van openbare fondse op 'n wyse wat privaatsektorinvestering in en deelname aan die maatskaplikebehuisingsektor stimuleer of fasiliteer.

(2) *(a)* Die Minister kan, by kennisgewing in die *Staatskoerant*, enige beginsel vir maatskaplikebehuisingsontwikkeling voorskryf benewens, en in ooreenstemming met, die beginsels in subartikel (1) uiteengesit.

(b) Die Minister moet, alvorens enige beginsel in paragraaf *(a)* beoog voorgeskryf word—

(i) 'n konsep van sodanige beginsel by kennisgewing in die *Staatskoerant* laat publiseer en die publiek versoek om kommentaar te lewer binne 30 dae na sodanige publikasie;

(ii) na verstryking van die tydperk in subparagraaf (i) beoog, 'n lys van kennisgewings wat ingevolge subparagraaf (i) gepubliseer is, aan die Parlement voorlê vir goedkeuring;

(c) Die lys kennisgewings in paragraaf *(b)*(i) beoog, moet ten opsigte van elke kennisgewing die naam en titel van die kennisgewing en die nommer en datum van die *Staatskoerant* waarin dit gepubliseer is, vermeld.

(d) Die Minister kan 'n beginsel in paragraaf *(b)* beoog slegs voorskryf indien alle kommentaar oorweeg is en die Parlement die voorskryf van die beginsel goedgekeur het.

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CHAPTER 2

ROLES AND RESPONSIBILITIES

Roles and responsibilities of national government

3. (1) National government, acting through the Minister, must—
- *(a)* create and uphold an enabling environment for social housing, by providing the legislative, regulatory, financial and policy framework for the delivery of social housing;
- *(b)* ensure compliance with its constitutional responsibilities;
- *(c)* address issues that affect the growth, development or sustainability of the social housing sector;
- *(d)* establish with provinces and municipalities institutional capacity to support social housing initiatives;
- *(e)* institute and fund the social housing programme as a national housing programme to promote the development and supply of social housing stock for low to medium income persons;
- *(f)* designate restructuring zones submitted by provinces and identified by municipalities and specifically provided for in a municipality's integrated development plan contemplated in section 25 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and may, where appropriate, after due notice in the *Gazette*, withdraw such designation;
- *(g)* establish capital and institutional investment grants;
- *(h)* review annually and approve the social housing investment plan and the social housing regulatory plan;
- *(i)* allocate funds from the Department's budget for the operational costs and commitments of the Regulatory Authority in accordance with the approved social housing investment plan and the social housing regulatory plan, respectively;
- *(j)* determine norms and standards to be adhered to by provinces and municipalities; and
- *(k)* monitor the Regulatory Authority.

(2) The costs and expenses connected with the implementation of this Act must be defrayed from money appropriated by Parliament to the Department for that purpose.

Roles and responsibilities of provincial government

4. (1) Every provincial government, through its MEC, must—
- *(a)* ensure fairness, equity and compliance with national and provincial social housing norms and standards;
- *(b)* ensure the protection of consumers by creating awareness of consumers' rights and obligations;
- *(c)* facilitate sustainability and growth in the social housing sector;
- *(d)* mediate in cases of conflict between a social housing institution or other delivery agent and a municipality, if required;
- *(e)* submit proposed restructuring zones to the Minister;
- *(f)* monitor social housing projects to ascertain that relevant prescripts, norms and standards are being complied with;
- *(g)* approve, allocate and administer capital grants, in the manner contemplated in the social housing investment plan, in approved projects;
- *(h)* ensure that the process contemplated in paragraph *(g)* is conducted efficiently;
- *(i)* administer the social housing programme, and may for this purpose approve—
  - (i) any projects in respect thereof; and
  - (ii) the financing thereof out of money paid into the accredited bank account of the province as contemplated in section 18(3); and
- *(j)* develop the capacity of municipalities to fulfil the roles and responsibilities contemplated in section 5.

(2) A provincial government may not interfere with the governance or management of social housing institutions.

(3) Subject to section 11(3)*(k)*, the Regulatory Authority may not interfere with the monitoring of social housing projects.

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HOOFSTUK 2

ROLLE EN VERANTWOORDELIKHEDE

Rolle en verantwoordelikhede van nasionale regering

3. (1) Die nasionale regering, handelende deur die Minister, moet—
(a) 'n instaatstellende omgewing vir maatskaplike behuising skep en in stand hou deur die wetgewende, regulerende, finansiële en beleidsraamwerk vir die lewering van maatskaplike behuising te verskaf;
(b) nakoming van sy grondwetlike verantwoordelikhede verseker;
(c) aandag gee aan kwessies wat die groei, ontwikkeling of volhoubaarheid van die maatskaplikebehuisingsektor raak;
(d) saam met provinsies en munisipaliteite institusionele kapasiteit vestig om maatskaplikebehuisingsinisiatiewe te steun;
(e) die maatskaplikebehuisingsprogram as 'n nasionale behuisingsprogram instel en befonds om die ontwikkeling en verskaffing van maatskaplikebehuisingsvoorraad vir lae- tot medium-inkomstepersone te bevorder;
(f) herstruktureringsones aanwys wat deur provinsies voorgelê is en deur munisipaliteite geïdentifiseer is en waarvoor daar spesifiek voorsiening gemaak is in 'n munisipaliteit se geïntegreerde ontwikkelingsplan beoog in artikel 25 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), en kan sodanige aanwysing intrek waar gepas en na behoorlike kennisgewing in die *Staatskoerant*;
(g) kapitaal- en institusionele investeringstoelaes instel;
(h) jaarliks die maatskaplikebehuisingsinvesteringsplan en die maatskaplikebehuisingsreguleringsplan hersien en goedkeur;
(i) die fondse van die Departement se begroting toewys vir die bedryfskoste en verpligtinge van die Reguleringsowerheid in ooreenstemming met onderskeidelik die goedgekeurde maatskaplikebehuisingsinvesteringsplan en die maatskaplikebehuisingsreguleringsplan;
(j) norme en standaarde bepaal waarby provinsies en munisipaliteite moet hou; en
(k) die Reguleringsowerheid moniteer.

(2) Die koste en uitgawes verbonde aan die implementering van hierdie Wet moet bestry word uit geld wat die Parlement vir dié doel aan die Departement bewillig.

Rolle en verantwoordelikhede van provinsiale regering

4. (1) Elke provinsiale regering moet deur sy LUR—
(a) billikheid, regverdigheid en nakoming van nasionale en provinsiale maatskaplikebehuisingsnorme en -standaarde verseker;
(b) die beskerming van verbruikers verseker deur bewustheid van verbruikers se regte en verpligtinge te skep;
(c) volhoubaarheid en groei in die maatskaplikebehuisingsektor fasiliteer;
(d) bemiddel in gevalle van konflik tussen 'n maatskaplikebehuisingsinstelling of ander leweringsagent en 'n munisipaliteit, indien nodig;
(e) voorgestelde herstruktureringsones aan die Minister voorlê;
(f) maatskaplikebehuisingsprojekte moniteer om seker te maak dat toepaslike voorskrifte, norme en standaarde nagekom word;
(g) kapitaaltoelaes goedkeur, toewys en administreer op die wyse in die maatskaplikebehuisingsinvesteringsplan beoog, in goedgekeurde projekte;
(h) verseker dat die proses in paragraaf *(g)* beoog doeltreffend geskied;
(i) die maatskaplikebehuisingsprogram administreer, en kan vir dié doel—
  (i) enige projekte ten opsigte daarvan goedkeur; en
  (ii) die finansiering daarvan uit geld wat gestort is in die geakkrediteerde bankrekening van die provinsie soos in artikel 18(3) beoog, goedkeur; en
(j) die kapasiteit van munisipaliteite ontwikkel om die rolle en verantwoordelikhede in artikel 5 beoog, te vervul.

(2) 'n Provinsiale regering mag nie met die beheer of bestuur van maatskaplikebehuisingsinstellings inmeng nie.

(3) Behoudens artikel 11(3)*(k)* mag die Reguleringsowerheid nie met die monitering van maatskaplikebehuisingsprojekte inmeng nie.

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Roles and responsibilities of municipalities

5. A municipality must, where there is a demand for social housing within its municipal area, as part of the municipality's process of integrated development planning, take all reasonable and necessary steps, within the national and provincial legislative, regulatory and policy framework—

(a) to facilitate social housing delivery in its area of jurisdiction;
(b) to encourage the development of new social housing stock and the upgrading of existing stock or the conversion of existing non-residential stock;
(c) to provide access—
  (i) to land and buildings for social housing development in designated restructuring zones;
  (ii) for social housing institutions to acquire municipal rental stock;
  (iii) to municipal infrastructure and services for approved projects in designated restructuring zones; and
(d) to the extent permitted under the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), and the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), to—
  (i) initiate and motivate the identification of restructuring zones; and
  (ii) enter into performance agreements with social housing institutions.

Roles and responsibilities of other role-players

6. (1) Subject to such directives as the Minister may issue by notice in the *Gazette*, the National Housing Finance Corporation must, in respect of social housing—

(a) provide access to loan funding;
(b) make available to the Regulatory Authority when requested thereto any financial information to enable it to assess the institutional health and financial sustainability of social housing institutions;
(c) facilitate or, where possible, provide access to guarantees for loan funding from financial institutions;
(d) explore and support mechanisms aimed at facilitating public funding for social housing; and
(e) conclude an agreement with the Regulatory Authority aimed at avoiding the duplication of functions and overregulation of social housing institutions.

(2) Other delivery agents may undertake approved projects in designated restructuring zones with the benefit of public funding to the extent determined in the social housing programme pursuant to agreements concluded with the Regulatory Authority as contemplated in sections 11(3)*(d)* and 19(1)*(b)*(i).

CHAPTER 3

SOCIAL HOUSING REGULATORY AUTHORITY

Establishment of Social Housing Regulatory Authority

7. (1) There is hereby established a juristic person to be known as the Social Housing Regulatory Authority.

(2) The Public Finance Management Act applies to the Social Housing Regulatory Authority.

(3) The Social Housing Regulatory Authority is accountable to the Minister and Parliament.

Composition of Regulatory Authority

8. (1) The Regulatory Authority consists of a—

(a) Council, appointed in accordance with section 9;

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Rolle en verantwoordelikhede van munisipaliteite

5. 'n Munisipaliteit moet, waar daar 'n vraag na maatskaplike behuising binne sy munisipale gebied is, as deel van die munisipaliteit se proses van geïntegreerde ontwikkelingsbeplanning, alle redelike en nodige stappe doen, binne die nasionale en provinsiale wetgewende, regulerings- en beleidsraamwerk, om—

(a) maatskaplikebehuisingslewering binne sy regsgebied te fasiliteer;

(b) die ontwikkeling van nuwe maatskaplikebehuisingsvoorraad en die opgradering van bestaande voorraad of die omskakeling van bestaande nie-residensiële voorraad aan te moedig;

(c) toegang te verleen—

(i) tot grond en geboue vir maatskaplikebehuisingsontwikkeling in aangewese herstruktureringsones;

(ii) vir maatskaplikebehuisingsinstellings om munisipale huurvoorraad te verkry;

(iii) tot munisipale infrastruktuur en dienste vir goedgekeurde projekte in aangewese herstruktureringsones; en

(d) in soverre dit toelaatbaar is ingevolge die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003), en die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000)—

(i) die identifisering van herstruktureringsones te inisieer en te motiveer; en

(ii) prestasieooreenkomste met maatskaplikebehuisingsinstellings aan te gaan.

Rolle en verantwoordelikhede van ander rolspelers

6. (1) Behoudens die lasgewings wat die Minister by kennisgewing in die *Staatskoerant* uitreik, moet die Nasionale Behuisingsfinansieringskorporasie, ten opsigte van maatskaplike behuising—

(a) toegang tot leningsbefondsing verskaf;

(b) enige finansiële inligting op versoek aan die Reguleringsowerheid beskikbaar stel om hom in staat te stel om die institusionele stand en finansiële volhoubaarheid van maatskaplikebehuisingsinstellings te bepaal;

(c) toegang tot waarborge vir leningsbefondsing van finansiële instellings fasiliteer of, waar moontlik, verskaf;

(d) meganismes gemik op die fasilitering van openbare befondsing vir maatskaplike behuising verken en steun; en

(e) 'n ooreenkoms met die Reguleringsowerheid aangaan wat daarop gemik is om die duplisering van funksies en oorregulering van maatskaplikebehuisings-instellings te vermy.

(2) Ander leweringsagente kan goedgekeurde projekte in aangewese herstruktureringsones onderneem met die voordeel van openbare befondsing in soverre dit in die maatskaplikebehuisingsprogram bepaal is in ooreenstemming met ooreenkomste met die Reguleringsowerheid aangegaan soos beoog in artikels 11(3)*(d)* en 19(1)*(b)*(i).

HOOFSTUK 3

REGULERINGSOWERHEID VIR MAATSKAPLIKE BEHUISING

Instelling van Reguleringsowerheid vir Maatskaplike Behuising

7. (1) Daar word hierby 'n regspersoon ingestel wat as die Reguleringsowerheid vir Maatskaplike Behuising bekend staan.

(2) Die Wet op Openbare Finansiële Bestuur is op die Reguleringsowerheid vir Maatskaplike Behuising van toepassing.

(3) Die Reguleringsowerheid vir Maatskaplike Behuising is verantwoordbaar aan die Minister en die Parlement.

Samestelling van Reguleringsowerheid

8. (1) Die Reguleringsowerheid bestaan uit 'n—

(a) Raad wat ooreenkomstig artikel 9 aangestel word;

(b) Chief Executive Officer, appointed by the Council with the approval of the Minister, responsible for the day to day management of the affairs of the Regulatory Authority;

(c) Corporate Services Manager, appointed by the Chief Executive Officer, responsible for financial management, including corporate management services.

(2) The Chief Executive Officer and the Corporate Services Manager serve as executive members of the Council.

(3) The Regulatory Authority acts through the Council and all acts of the Council are regarded as acts of the Regulatory Authority.

Appointment of Council

9. (1) The Council consists of at least seven and not more than 12 fit and proper persons who have knowledge, experience or qualifications in the field of social and rental housing or other applicable competencies for the proper governance of the Regulatory Authority.

(2) *(a)* The Minister must, by notice in the *Gazette* as well as in the national news media, including at least two newspapers circulating throughout the Republic, call for the nomination of persons who comply with the criteria referred to in subsection (1).

(b) The Minister must establish a selection committee consisting of not more than seven members, two of whom must be the chairpersons of the parliamentary committees or their delegates, to advise the Minister on the appointments.

(3) The members contemplated in subsection (1) must be appointed by the Minister and serve in a non-executive capacity.

(4) A member of the Council is appointed for the period determined by the Minister but not exceeding three years at a time, and may, subject to subsection (2), be reappointed on the termination of that period.

(5) The Minister may at any time terminate the membership of a member of the Council for reasons which are just and fair.

(6) A member of the Council other than a person who is in the full-time employment of the State, is paid an allowance determined by the Minister with the approval of the Minister of Finance.

(7) A member of the Council ceases to be a member if—

(a) he or she resigns;

(b) his or her estate is sequestrated;

(c) he or she becomes of unsound mind;

(d) he or she is convicted of an offence and sentenced to imprisonment without the option of a fine;

(e) he or she becomes an employee or director of a social housing institution, a member of Parliament, of a provincial legislature, of a municipal council, of the Cabinet or of the Executive Council of a Province; or

(f) he or she has failed to attend three consecutive meetings, without an apology or justified excuse.

(8) The Council must adopt standing instructions to ensure compliance with this Act, the Public Finance Management Act and any other legislation applicable to the Regulatory Authority.

(9) The Council may appoint such committees as it may consider appropriate for fulfilling its responsibilities under the Act and to ensure proper governance of the Regulatory Authority and may delegate such power or assign such functions as it may consider appropriate, including any power or function under section 12, to such committee.

(10) The Council must establish the necessary matters and procedures relating to meetings of the Council.

(11) The quorum for any meeting of the Council is at least 50% plus 1 of the members.

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(*b*) Hoof- uitvoerende Beampte, deur die Raad aangestel met die goedkeuring van die Minister, verantwoordelik vir die dag-tot-dag-bestuur van die sake van die Reguleringsowerheid;

(*c*) Korporatiewe Diensbestuurder, deur die Hoof- uitvoerende Beampte aangestel, verantwoordelik vir finansiële bestuur, insluitende korporatiewe bestuursdienste.

(2) Die Hoof- uitvoerende Beampte en die Korporatiewe Diensbestuurder dien as uitvoerende lede van die Raad.

(3) Die Reguleringsowerheid tree deur die Raad op en alle handelinge van die Raad word as handelinge van die Reguleringsowerheid beskou.

Aanstelling van Raad

9. (1) Die Raad bestaan uit minstens sewe en hoogstens 12 geskikte en gepaste persone met kennis, ondervinding of kwalifikasies op die gebied van maatskaplike en huurbehuising of ander toepaslike bevoegdhede vir die behoorlike beheer van die Reguleringsowerheid.

(2) (*a*) Die Minister moet, by kennisgewing in die *Staatskoerant* sowel as in die nasionale media, met inbegrip van ten minste twee koerante wat regdeur die Republiek versprei word, vra vir die benoeming van persone wat voldoen aan die kriteria bedoel in subartikel (1).

(*b*) Die Minister moet 'n keurkomitee instel wat bestaan uit nie meer as sewe lede nie, van wie twee die voorsitters van die parlementêre komitees of hul afgevaardigdes moet wees, om die Minister oor die aanstellings te adviseer.

(3) Die lede bedoel in subartikel (1) moet deur die Minister aangestel word en in 'n nie-uitvoerende hoedanigheid dien.

(4) 'n Lid van die Raad word aangestel vir die tydperk wat die Minister bepaal maar hoogstens drie jaar op 'n slag, en kan, behoudens subartikel (2), aan die einde van daardie tydperk heraangestel word.

(5) Die Minister kan die lidmaatskap van 'n lid van die Raad te eniger tyd beëindig om redes wat billik en regverdig is.

(6) 'n Lid van die Raad, uitgesonderd 'n persoon wat in die voltydse diens van die Staat is, word 'n toelae betaal wat die Minister met die goedkeuring van die Minister van Finansies bepaal.

(7) 'n Lid van die Raad hou op om 'n lid te wees indien—

(*a*) hy of sy bedank;

(*b*) sy of haar boedel gesekwestreer word;

(*c*) hy of sy geestelik ongesteld raak;

(*d*) hy of sy skuldig bevind word aan 'n misdryf en gevonnis word tot gevangenisstraf sonder die keuse van 'n boete;

(*e*) hy of sy 'n werknemer of direkteur van 'n maatskaplikebehuisingsinstelling, 'n lid van die Parlement, van 'n provinsiale wetgewer, van 'n munisipale raad, van die Kabinet of van die Uitvoerende Raad van 'n Provinsie word; of

(*f*) hy of sy versuim om drie opeenvolgende vergaderings by te woon sonder 'n verskoning of geldige rede.

(8) Die Raad moet staande instruksies aanneem om te verseker dat hierdie Wet, die Wet op Openbare Finansiële Bestuur en enige ander wetgewing wat op die Reguleringsowerheid van toepassing is, nagekom word.

(9) Die Raad kan die komitees aanstel wat hy gepas ag om sy verantwoordelikhede kragtens hierdie Wet na te kom en om behoorlike beheer oor die Reguleringsowerheid te verseker, en kan die bevoegdhede of die funksies wat hy gepas beskou, insluitende enige bevoegdheid of funksie kragtens artikel 12, aan sodanige komitee delegeer of opdra.

(10) Die Raad moet die nodige aangeleenthede en prosedures rakende vergaderings van die Raad instel.

(11) Die kworum vir enige vergadering van die Raad is minstens 50% plus 1 van die lede.

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Staff of Regulatory Authority

10. (1) The staff of the Regulatory Authority consists of—

(a) senior managers responsible for the necessary activities of the Regulatory Authority such as accreditation, compliance, institutional investment, capital investment of the Regulatory Authority; and

(b) such other persons as are necessary to perform the functions incidental to the functions of the Regulatory Authority.

(2) The staff of the Regulatory Authority must be appointed by the Chief Executive Officer on the salary, terms and other conditions determined by the Chief Executive Officer in consultation with the Council.

Functions of Regulatory Authority

11. (1) The Regulatory Authority must, subject to the provisions of this Act—

(a) promote the development and awareness of social housing;

(b) provide advice and support to the Department in its development of policy for the social housing sector and facilitate national social housing programmes;

(c) advise the Minister on developments in the social housing sector;

(d) promote an enabling environment for the growth and development of the social housing sector;

(e) provide best practice information and research on the status of the social housing sector;

(f) support provincial governments with the approval of project applications by social housing institutions;

(g) assist, where requested, in the process of the designation of restructuring zones;

(h) enter into agreements with provincial governments and the National Housing Finance Corporation to ensure the co-ordinated exercise of powers; and

(i) perform any other function or exercise any other power that the Minister may prescribe.

(2) The Regulatory Authority must—

(a) annually, in accordance with the Public Finance Management Act, prepare and submit the social housing investment plan and the social housing regulatory plan to the Minister;

(b) annually, in accordance with the Public Finance Management Act, prepare and submit annual financial statements and an annual report to the Minister on its performance in respect of the social housing investment plan and the social housing regulatory plan, respectively, during the preceding year; and

(c) comply with the provisions of the Public Finance Management Act and regulations applicable to public entities.

(3) The Regulatory Authority must, subject to the provisions of this Act—

(a) provide financial assistance to social housing institutions through grants to service providers accredited by the Regulatory Authority to enable them to develop institutional capacity, gain accreditation as social housing institutions, and to submit viable project applications;

(b) accredit institutions meeting accreditation criteria as social housing institutions;

(c) maintain a register of social housing institutions with the prescribed details—

(i) which is open for inspection by the public at the premises of the Regulatory Authority during normal business hours against payment of the prescribed fee; and

(ii) annually provide a copy thereof to the National Treasury and the Department;

(d) enter into suitable agreements with social housing institutions and other delivery agents for the protection of the government's investment in social housing;

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Personeel van Reguleringsowerheid

10. (1) Die personeel van die Reguleringsowerheid bestaan uit—

(a) senior bestuurders verantwoordelik vir die nodige aktiwiteite van die Reguleringsowerheid soos akkreditasie, nakoming, institusionele investering en kapitaalinvestering van die Reguleringsowerheid; en

(b) die ander persone wat nodig is om die funksies te verrig wat met die funksies van die Reguleringsowerheid gepaardgaan.

(2) Die personeel van die Reguleringsowerheid moet deur die Hoof- uitvoerende Beampte aangestel word op die salaris, bedinge en ander voorwaardes wat die Hoof-uitvoerende Beampte in oorleg met die Raad bepaal.

Funksies van Reguleringsowerheid

11. (1) Die Reguleringsowerheid moet, behoudens die bepalings van hierdie Wet—

(a) die ontwikkeling en bewustheid van maatskaplike behuising bevorder;

(b) advies en steun aan die Departement verleen met die ontwikkeling van beleid vir die maatskaplikebehuisingsektor en nasionale maatskaplikebehuisingsprogramme fasiliteer;

(c) die Minister adviseer oor ontwikkelings in die maatskaplikebehuisingsektor;

(d) 'n instaatstellende omgewing vir die groei en ontwikkeling van die maatskaplikebehuisingsektor bevorder;

(e) inligting oor beste praktyk en navorsing oor die status van die maatskaplikebehuisingsektor verskaf;

(f) provinsiale regerings steun met die goedkeuring van projekaansoeke deur maatskaplikebehuisingsinstellings;

(g) op versoek bystand verleen in die proses van die aanwysing van herstruktureringsones;

(h) ooreenkomste met provinsiale regerings en die Nasionale Behuisingsfinansieringskorporasie aangaan om die gekoördineerde uitoefening van bevoegdhede te verseker; en

(i) enige ander funksie verrig of enige ander bevoegdheid uitoefen wat die Minister voorskryf.

(2) Die Reguleringsowerheid moet—

(a) jaarliks, ooreenkomstig die Wet op Openbare Finansiële Bestuur, die maatskaplikebehuisingsinvesteringsplan en die maatskaplikebehuisingsreguleringsplan opstel en aan die Minister voorlê;

(b) jaarliks, ooreenkomstig die Wet op Openbare Finansiële Bestuur, finansiële jaarstate en 'n jaarverslag oor sy prestasie ten opsigte van onderskeidelik die maatskaplikebehuisingsinvesteringsplan en maatskaplikebehuisingsreguleringsplan gedurende die voorafgaande jaar opstel en aan die Minister voorlê; en

(c) die bepalings van die Wet op Openbare Finansiële Bestuur en regulasies van toepassing op openbare entiteite nakom.

(3) Die Reguleringsowerheid moet, behoudens die bepalings van hierdie Wet—

(a) finansiële bystand aan maatskaplikebehuisingsinstellings verleen deur toelaes aan diensverskaffers wat deur die Reguleringsowerheid geakkrediteer is, om hulle in staat te stel om institusionele kapasiteit te ontwikkel, akkreditasie as maatskaplikebehuisingsinstellings te verkry en om lewensvatbare projekaansoeke voor te lê;

(b) instellings wat aan akkreditasiekriteria as maatskaplikebehuisingsinstellings voldoen, akkrediteer;

(c) 'n register van maatskaplikebehuisingsinstellings met die voorgeskrewe besonderhede byhou—

(i) wat oop is vir insae deur die publiek op die perseel van die Reguleringsowerheid gedurende normale kantoorure teen betaling van die voorgeskrewe gelde; en

(ii) jaarliks 'n eksemplaar daarvan aan die Nasionale Tesourie en die Departement verskaf;

(d) geskikte ooreenkomste met maatskaplikebehuisingsinstellings en ander leweringsagente aangaan vir die beskerming van die regering se investering in maatskaplike behuising;

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(*e*) conduct compliance monitoring through regular inspections and enforce compliance, where necessary through the exercise of its powers set out in section 12;
(*f*) intervene in the affairs of a social housing institution in cases of maladministration, and take the necessary steps to rectify such maladministration as contemplated in section 12;
(*g*) approve, administer and disburse institutional investment grants and capital grants and obtain applications for such grants through engagement with provincial governments and municipalities;
(*h*) consider applications from social housing institutions to dispose of properties developed, refurbished or purchased with the assistance of public funding and approve or refuse applications on the basis of compliance with the investment criteria forming part of the regulations;
(*i*) consider applications from social housing institutions to relinquish their accreditation and be removed from the public register of social housing institutions and approve or refuse applications in accordance with the prescribed regulations and rules;
(*j*) consider applications from social housing institutions to amend their lease agreements and approve or refuse such applications on the basis of the regulations;
(*k*) instruct a social housing institution not to accept a social housing project allocated to it if—
(i) the social housing institution will not be able to complete the project successfully; or
(ii) it will undermine the social housing institution's viability; and
(*l*) do all things necessary to ensure good governance and sustainability of social housing institutions.

(4) The Regulatory Authority may, subject to the provisions of this Act and by notice in the *Gazette*—
(*a*) make rules, not in conflict with the regulations—
(i) giving effect and detailed content to the regulations;
(ii) prescribing necessary standards, ratios, procedures, requirements, forms and returns;
(iii) further regulating the conduct of social housing institutions;
(iv) prescribing procedures for compliance monitoring and the enforcement of compliance, including intervention in the affairs of social housing institutions; or
(v) specifically authorised or required by regulation;
(*b*) prescribe, after consultation with the Minister, any other rules for the proper functioning of the Regulatory Authority; and
(*c*) issue such directives, instructions and circulars as may be necessary for the exercise of its functions under this Act.

(5) The Regulatory Authority may, subject to the provisions of this Act—
(*a*) establish such committees as may be necessary to meet its objectives;
(*b*) delegate its powers to committees and officers, on such terms and conditions as it may deem necessary, but may not divest itself of such powers;
(*c*) conclude such contracts and institute such proceedings as may be necessary for the exercise of its powers and fulfilment of its functions under this Act.

Powers of intervention of Regulatory Authority

12. (1) If the Regulatory Authority is satisfied on reasonable grounds that there has been maladministration by a social housing institution, the Regulatory Authority must—
(*a*) prepare a report to that effect;
(*b*) provide the social housing institution with a written notice of the Regulatory Authority's intention to intervene, and must specify in that notice what remedial action must be taken by the social housing institution;
(*c*) instruct the social housing institution to take the remedial action specified in the notice, and may request the institution to obtain specified support in order to rectify such maladministration.

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(e) nakomingsmonitering deur gereelde inspeksies doen en nakoming afdwing, waar nodig deur die uitoefening van sy bevoegdhede in artikel 12 uiteengesit;

(f) in die sake van 'n maatskaplikebehuisingsinstelling ingryp in gevalle van wanadministrasie en die nodige stappe doen om sodanige wanadministrasie reg te stel soos in artikel 12 beoog;

(g) institusionele investeringstoelaes en kapitaaltoelaes goedkeur, administreer en uitbetaal en aansoeke vir sulke toelaes verkry deur skakeling met provinsiale regerings en munisipaliteite;

(h) aansoeke van maatskaplikebehuisingsinstellings oorweeg om eiendomme wat met behulp van openbare befondsing ontwikkel, opgeknap of gekoop is, te verkoop en aansoeke goedkeur of weier op die grondslag van voldoening aan die investeringskriteria wat deel van die regulasies uitmaak;

(i) aansoeke van maatskaplikebehuisingsinstellings oorweeg om hulle akkreditasie te laat vaar en van die openbare register van maatskaplikebehuisingsinstellings verwyder te word, en aansoeke ooreenkomstig die voorgeskrewe regulasies en reëls goedkeur of weier;

(j) aansoeke van maatskaplikebehuisingsinstellings om hulle huurooreenkomste te wysig, oorweeg en sulke aansoeke op die grondslag van die regulasies goedkeur of weier;

(k) 'n maatskaplikebehuisingsinstelling gelas om 'n maatskaplikebehuisingsprojek wat aan hom toegewys is, nie te aanvaar nie indien—

(i) die maatskaplikebehuisingsinstelling nie die projek suksesvol sal kan afhandel nie; of

(ii) dit die maatskaplikebehuisingsinstelling se lewensvatbaarheid sal ondermyn; en

(l) alles doen wat nodig is om goeie beheer en volhoubaarheid van maatskaplikebehuisingsinstellings te verseker.

(4) Die Reguleringsowerheid kan, behoudens die bepalings van hierdie Wet en by kennisgewing in die *Staatskoerant*—

(a) reëls uitvaardig wat nie met die regulasies strydig is nie en wat—

(i) uitvoering en gedetailleerde inhoud gee aan die regulasies;

(ii) nodige standaarde, verhoudings, prosedures, vereistes, vorms en opgawes voorskryf;

(iii) die bedryf van maatskaplikebehuisingsinstellings verder reguleer;

(iv) prosedures voorskryf vir die monitering van nakoming en die afdwing van nakoming, insluitende ingryping in die sake van maatskaplikebehuisingsinstellings; of

(v) spesifiek by regulasie gemagtig of vereis word;

(b) na oorleg met die Minister, enige ander reëls voorskryf vir die behoorlike funksionering van die Reguleringsowerheid; en

(c) die lasgewings, instruksies en rondskrywes uitreik wat nodig is vir die uitvoering van sy funksies kragtens hierdie Wet.

(5) Die Reguleringsowerheid kan, behoudens die bepalings van hierdie Wet—

(a) die komitees instel wat nodig is om sy oogmerke te verwesenlik;

(b) sy bevoegdhede aan komitees en beamptes delegeer op die bepalings en voorwaardes wat hy nodig ag, maar mag nie van sulke bevoegdhede afstand doen nie;

(c) die kontrakte aangaan en die verrigtinge instel wat nodig is vir die uitoefening van sy bevoegdhede en die verrigting van sy funksies kragtens hierdie Wet.

Bevoegdhede van Reguleringsowerheid om in te gryp

12. (1) Indien die Reguleringsowerheid op redelike gronde oortuig is dat daar wanadministrasie was deur 'n maatskaplikebehuisingsinstelling, moet die Reguleringsowerheid—

(a) 'n verslag in dié verband opstel;

(b) die maatskaplikebehuisingsinstelling voorsien van 'n skriftelike kennisgewing van die Reguleringsowerheid se voorneme om in te gryp, en moet in daardie kennisgewing meld watter regstellende stappe deur die maatskaplikebehuisingsinstelling gedoen moet word;

(c) daardie maatskaplikebehuisingsinstelling gelas om die regstellende stappe te doen wat in die kennisgewing gemeld is, en kan die instelling versoek om bepaalde steun te verkry ten einde sodanige wanadministrasie reg te stel.

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(2) The Regulatory Authority may make available funds through the social housing investment plan to assist in meeting the costs of any such support.

(3) Should the social housing institution continue to resist the intervention of the Regulatory Authority or if there is no improvement in performance in respect of the matters which necessitated the intervention, the Regulatory Authority may authorise a forensic investigation into the institution's affairs and appoint a public accountant and auditor registered in terms of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), to undertake such investigation.

(4) The Regulatory Authority may, after consultation with the providers of any debt finance to the institution and upon notice to affected parties, including the providers of finance to the institution—

(a) apply to the High Court for the suspension of the chairperson, members of the board, manager or executive or senior staff of the institution for the period of the investigation; and

(b) appoint suitably qualified persons to manage the institution's affairs in their place pending the findings of the forensic audit report.

(5 The forensic audit report must make a finding on whether the social housing institution has been managed in a manner which constitutes maladministration.

(6) If the forensic audit report does not make a finding of maladministration, the suspended persons are automatically re-instated as from the date of such report and the Regulatory Authority must review its previous instructions to the institution.

(7) If the forensic audit finds maladministration, the Regulatory Authority must request the members of the social housing institution to replace any suspended person or person associated with the maladministration with a person acceptable to or recommended by the Regulatory Authority.

(8) If the Regulatory Authority, based on the forensic audit report, does not believe that the institution is sustainable in its current form, or if the social housing institution refuses to take the steps required under subsection (8), the Regulatory Authority may, after consultation with the providers of debt finance to the institution and upon notice to affected parties, including the providers of finance to the institution, apply to the High Court for an order placing the institution under the administration of the Regulatory Authority.

(9) If the High Court grants an order placing the institution under the administration of the Regulatory Authority, the Regulatory Authority—

(a) must manage the institution effectively and efficiently;

(b) may remove the accreditation of the social housing institution;

(c) may transfer the housing stock or rights of the social housing institution to another social housing institution prepared to accept such transfer on such terms and conditions as may be agreed at the time; or

(d) where appropriate, institute legal proceedings for the winding up of the institution.

(10) Where the Regulatory Authority succeeds in restoring the viability of the institution or any part thereof, it may apply to High Court for—

(a) the administration order to be lifted; and

(b) for an order authorising the Regulatory Authority to appoint suitable persons as directors and office bearers of the institution.

(11) A social housing institution or any person directly affected by a decision of the Regulatory Authority, may exercise—

(a) any rights to internal review to the Regulatory Authority in accordance with the prescribed procedures;

(b) any other rights according to law.

(12) A social housing institution for purposes of any inspection under this Act must, subject to the provisions of any applicable law and subject to such limitations as may be prescribed by the Minister, allow the Regulatory Authority—

(a) access to its premises or any property developed, constructed or managed by it;

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(2) Die Reguleringsowerheid kan fondse deur die maatskaplikebehuisings-investeringsplan beskikbaar stel om die koste van enige sodanige steun te help bestry.

(3) Indien die maatskaplikebehuisingsinstelling aanhou om die ingryping van die Reguleringsowerheid te weerstaan of indien daar geen verbetering is nie in prestasie ten opsigte van die aangeleenthede wat die ingryping genoodsaak het, kan die Reguleringsowerheid 'n forensiese ondersoek na die instelling se sake magtig en 'n openbare rekenmeester en ouditeur wat ingevolge die Wet op Openbare Rekenmeesters en Ouditeurs, 1991 (Wet No. 80 van 1991), geregistreer is, aanstel om sodanige ondersoek te doen.

(4) Die Reguleringsowerheid kan, na oorleg met die verskaffers van enige skuldfinansiering aan die instelling en by kennisgewing aan geaffekteerde partye, insluitende die verskaffers van finansiering aan die instelling—

(a) by die Hoë Hof aansoek doen vir die skorsing van die voorsitter, lede van die raad, bestuurder of uitvoerende of senior personeel van die instelling vir die tydperk van die ondersoek; en

(b) toepaslik gekwalifiseerde persone aanstel om die instelling se sake in hulle plek te bestuur hangende die bevindings van die forensiese ouditverslag.

(5) Die forensiese ouditverslag moet 'n bevinding maak oor of die maatskaplikebehuisingsinstelling bestuur is op 'n wyse wat wanadministrasie uitmaak.

(6) Indien die forensiese ouditverslag nie 'n bevinding van wanadministrasie maak nie, word die geskorste persone outomaties in hulle poste herstel met ingang van die datum van sodanige verslag, en die Reguleringsowerheid moet sy vorige instruksies aan die instelling hersien.

(7) Indien die forensiese ouditverslag wanadministrasie bevind, moet die Reguleringsowerheid die lede van die maatskaplikebehuisingsinstelling versoek om enige geskorste persoon of persoon wat met die wanadministrasie verband hou, te vervang deur 'n persoon wat vir die Reguleringsowerheid aanvaarbaar is of deur hom aanbeveel is.

(8) Indien die Reguleringsowerheid, op grond van die forensiese ouditverslag, nie van mening is dat die instelling in sy huidige vorm volhoubaar is nie, of indien die maatskaplikebehuisingsinstelling weier om die stappe te doen wat ingevolge subartikel (8) vereis word, kan die Reguleringsowerheid, na oorleg met die verskaffers van skuldfinansiering aan die instelling en by kennisgewing aan geaffekteerde partye, insluitende die verskaffers van finansiering aan die instelling, by die Hoë Hof aansoek doen vir 'n bevel wat die instelling onder die administrasie van die Reguleringsowerheid plaas.

(9) Indien die Hoë Hof 'n bevel uitreik wat die instelling onder die administrasie van die Reguleringsowerheid plaas—

(a) moet die Reguleringsowerheid die instelling doeltreffend en doelmatig bestuur;

(b) kan die Reguleringsowerheid die akkreditasie van die maatskaplikebehuisingsinstelling beëindig;

(c) kan die Reguleringsowerheid die behuisingsvoorraad of regte van die maatskaplikebehuisingsinstelling oordra na 'n ander maatskaplikebehuisingsinstelling wat bereid is om sodanige oordrag te aanvaar op die bepalings en voorwaardes waarop daar dan ooreengekom word; of

(d) kan die Reguleringsowerheid, waar gepas, regsverrigtinge vir die likwidasie van die instelling aanhangig maak.

(10) Waar die Reguleringsowerheid daarin slaag om die lewensvatbaarheid van die instelling of enige deel daarvan te herstel, kan hy by die Hoë Hof aansoek doen—

(a) dat die administrasiebevel opgehef word; en

(b) om 'n bevel wat die Reguleringsowerheid magtig om geskikte persone as direkteure en ampsdraers van die instelling aan te stel.

(11) 'n Maatskaplikebehuisingsinstelling of enige persoon wat regstreeks geraak word deur 'n besluit van die Reguleringsowerheid, kan—

(a) enige regte op interne hersiening teenoor die Reguleringsowerheid uitoefen ooreenkomstig die voorgeskrewe prosedures;

(b) enige ander wetlike regte uitoefen

(12) Vir doeleindes van 'n inspeksie kragtens hierdie Wet moet 'n maatskaplikebehuisingsinstelling, behoudens die bepalings van enige toepaslike reg en behoudens die beperkings wat deur die Minister voorgeskryf word—

(a) aan die Reguleringsowerheid toegang verleen tot sy perseel of enige eiendom wat deur hom ontwikkel, gebou of bestuur word;

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(*b*) access to its records and documentation; and
(*c*) the seizure and photocopying of such records and documentation as may be required for investigation.

(13) This section, in accordance with the provisions of section 6(2), does not apply to other delivery agents.

CHAPTER 4

SOCIAL HOUSING INSTITUTIONS

Accreditation of social housing institutions

13. (1) As from the commencement of this Act, all institutions having undertaken housing developments with the benefit of an institutional subsidy are provisionally accredited social housing institutions for purposes of this Act, subject to the provisions of this Act and the powers of the Regulatory Authority.

(2) Provisional accreditation pursuant to subsection (1) lapses on the date prescribed by the Minister which date may not exceed 12 months after the commencement of this Act.

(3) An institution wishing to carry on the business of social housing must in the prescribed format apply to the Regulatory Authority for accreditation.

(4) A municipality wishing to participate in social housing may establish an institution, which must be accredited.

(5) Subject to any conditions prescribed by the Minister, a social housing institution must be a company registered under the Companies Act, 1973 (Act No. 61 of 1973), or a co-operative registered under the Co-operatives Act, 2005 (Act No. 14 of 2005), or any other form of institution acceptable to the Regulatory Authority.

(6) Should a social housing institution comply with all the qualifying criteria, it shall be accredited as a social housing institution in terms of this Act and its details must be entered in a register kept for this purpose by the Regulatory Authority.

(7) Should a social housing institution at any stage fail to comply with the qualifying criteria, the Regulatory Authority may—
(*a*) exercise the powers referred to in section 12; and
(*b*) in its discretion and as determined in the regulations and upon notice to affected parties—
(i) recover any monies granted to the social housing institution in terms of the social housing programme;
(ii) withhold any further grants;
(iii) stipulate conditions relating to reforms to be undertaken by the social housing institution or improvements to be effected by it for the payment of any grants; and
(iv) where necessary, intervene in accordance with the provisions of section 12.

(8) A social housing institution must comply with all the provisions of the Act in terms of which it was established and any other applicable law, and any contravention of the said provisions may result in its accreditation being withdrawn by the Regulatory Authority.

(9) The lapsing of provisional accreditation, or the withdrawal of accreditation in terms of this Act, does not preclude the Regulatory Authority from exercising any of its powers under this Act.

Functions of social housing institutions

14. (1) Social housing institutions must—
(*a*) comply on an ongoing basis with the criteria which qualify them for accreditation;
(*b*) acquire, develop, manage, or both develop and manage, approved projects primarily for low income residents with the joint support of local authorities;

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(b) aan die Reguleringsowerheid toegang verleen tot sy rekords en dokumentasie; en

(c) die Reguleringsowerheid toelaat om op sulke rekords en dokumentasie wat vir ondersoek nodig is, beslag te lê en dit te fotokopieer.

(13) Hierdie artikel, ooreenkomstig die bepalings van artikel 6(2), is nie op ander leweringsagente van toepassing nie.

HOOFSTUK 4

MAATSKAPLIKEBEHUISINGSINSTELLINGS

Akkreditering van maatskaplikebehuisingsinstellings

13. (1) Met ingang van die inwerkingtreding van hierdie Wet is alle instellings wat behuisingsontwikkelings met die voordeel van 'n institusionele subsidie onderneem het voorlopig geakkrediteerde maatskaplikebehuisingsinstellings vir doeleindes van hierdie Wet, behoudens die bepalings van hierdie Wet en die bevoegdhede van die Reguleringsowerheid.

(2) Voorlopige akkreditasie ingevolge subartikel (1) verval op die datum wat die Minister voorskryf, welke datum nie later as 12 maande na die inwerkingtreding van hierdie Wet mag wees nie.

(3) 'n Instelling wat die besigheid van maatskaplike behuising wil bedryf, moet in die voorgeskrewe formaat by die Reguleringsowerheid aansoek doen om akkreditasie.

(4) 'n Munisipaliteit wat aan maatskaplike behuising wil deelneem, kan 'n instelling instel, wat geakkrediteer moet word.

(5) Behoudens enige voorwaardes wat die Minister voorskryf, moet 'n maatskaplikebehuisingsinstelling 'n maatskappy wees wat kragtens die Maatskappywet, 1973 (Wet No. 61 van 1973), geregistreer is, of 'n koöperasie wat kragtens die "Co-operatives Act, 2005" (Wet No. 14 van 2005), geregistreer is, of enige ander instellingsvorm wat vir die Reguleringsowerheid aanvaarbaar is.

(6) Indien 'n maatskaplikebehuisingsinstelling aan al die kwalifiserende kriteria voldoen, moet hy ingevolge hierdie Wet as 'n maatskaplikebehuisingsinstelling geakkrediteer word en moet sy besonderhede aangeteken word in 'n register wat vir dié doel deur die Reguleringsowerheid gehou word.

(7) Indien 'n maatskaplikebehuisingsinstelling in enige stadium versuim om aan die kwalifiserende kriteria te voldoen, kan die Reguleringsowerheid—

(a) die bevoegdhede in artikel 12 bedoel, uitoefen; en

(b) na sy goeddunke en soos in die regulasies bepaal en by kennisgewing aan die geaffekteerde partye—

(i) enige gelde verhaal wat ingevolge die maatskaplikebehuisingsprogram aan die maatskaplikebehuisingsinstelling verskaf is;

(ii) enige verdere toelaes terughou;

(iii) voorwaardes bepaal betreffende hervormings wat deur die maatskaplikebehuisingsinstelling gedoen moet word of verbeterings wat deur hom aangebring moet word vir die betaling van enige toelaes; en

(iv) waar nodig, ingryp ooreenkomstig die bepalings van artikel 12.

(8) 'n Maatskaplikebehuisingsinstelling moet voldoen aan al die bepalings van die Wet ingevolge waarvan hy ingestel is, en enige ander toepaslike reg en enige oortreding van die genoemde bepalings kan daartoe lei dat sy akkreditasie deur die Reguleringsowerheid ingetrek word.

(9) Die verval van voorlopige akkreditasie, of die intrekking van akkreditasie ingevolge hierdie Wet, verhinder nie die Reguleringsowerheid om enige van sy bevoegdhede kragtens hierdie Wet uit te oefen nie.

Funksies van maatskaplikebehuisingsinstellings

14. (1) Maatskaplikebehuisingsinstellings moet—

(a) op 'n deurlopende grondslag voldoen aan die kriteria wat hulle vir akkreditasie laat kwalifiseer;

(b) goedgekeurde projekte hoofsaaklik vir lae-inkomste-inwoners met die gesamentlike steun van plaaslike owerhede verkry, ontwikkel, bestuur of sowel ontwikkel as bestuur;

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(*c*) promote the creation of quality living environments for low income residents;
(*d*) re-invest operational surpluses generated as a result of funding provided in terms of the social housing programme, in further approved projects;
(*e*) consult with municipalities with a view to developing social housing stock;
(*f*) enter into and comply with annual performance agreements with municipalities on approved projects in their areas of jurisdiction;
(*g*) inform residents on consumer rights and obligations in respect of social housing;
(*h*) observe and operate within government policy on social housing;
(*i*) seek permission from the Regulatory Authority for the sale of any properties in their ownership on the basis that such sale will not endanger the security of tenure of existing residents meeting the conditions of their tenancy and that the grant component of the proceeds receipts from such sale will be used to provide social housing;
(*j*) seek permission from the Regulatory Authority for any merger or separation of social housing institutions;
(*k*) seek permission from the Regulatory Authority for any changes to lease agreements or other prescribed documentation; and
(*l*) seek permission from the Regulatory Authority for any prescribed matter.

(2) Social housing institutions must at all times function in compliance with—
(*a*) the provisions of this Act;
(*b*) the provisions of the social housing programme and guidelines of the government;
(*c*) the ministerial national norms and standards in respect of permanent residential structures;
(*d*) the national building regulations under the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);
(*e*) the technical standards imposed by the National Home Builders Registration Council established under the Housing Consumer Protection Measures Act, 1998 (Act No. 95 of 1998);
(*f*) any agreement entered into between the Regulatory Authority and the social housing institution;
(*g*) the provisions of the Rental Housing Act, 1999 (Act No. 50 of 1999); and
(*h*) any other law.

(3) A social housing institution must—
(*a*) on an annual basis submit its draft lease agreement as well as any prescribed documents and changes thereto for approval to the Regulatory Authority; and
(*b*) ensure that the content of its lease agreement and proposed changes are communicated to residents and are strictly adhered to by all parties.

Management of social housing institutions

15. (1) Each accredited social housing institution must—
(*a*) within 90 days of it having attained accreditation, prepare and submit to the Regulatory Authority for approval a corporate governance policy which must address at least—
(i) risk management and risk strategy policies with regard to, amongst other things, development, operational, financial, property management, human resource, market, institutional and compliance risks;
(ii) internal control and audit models;
(iii) all the requirements of the regulations; and
(iv) any other aspect that may be prescribed;
(*b*) appoint a competent manager who, through the assistance and support of competent personnel and systems—
(i) is responsible for the day to day management of the social housing institution and the housing stock developed through funding obtained in terms of the social housing programme;

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(c) die skepping van leefomgewings van gehalte vir lae-inkomste-inwoners bevorder;
(d) bedryfsoorskotte wat ontstaan as gevolg van befondsing wat ingevolge die maatskaplikebehuisingsprogram verskaf is, in verdere goedgekeurde projekte herinvesteer;
(e) met munisipaliteite oorleg pleeg met die oog op die ontwikkeling van maatskaplikebehuisingsvoorraad;
(f) jaarlikse prestasieooreenkomste met munisipaliteite oor goedgekeurde projekte in hulle regsgebied aangaan en daaraan voldoen;
(g) inwoners inlig oor verbruikers se regte en verpligtinge ten opsigte van maatskaplike behuising;
(h) regeringsbeleid oor maatskaplike behuising nakom en daarvolgens optree;
(i) toestemming van die Reguleringsowerheid verkry vir die verkoop van enige eiendomme waarvan hulle die eienaar is op die grondslag dat sulke verkope nie die sekerheid van besitreg van bestaande inwoners wat aan die voorwaardes van hulle besitreg voldoen in die gedrang bring nie en dat die toelaekomponent van die opbrengsontvangste van sulke verkope gebruik sal word om maatskaplike behuising te verskaf;
(j) toestemming van die Reguleringsowerheid verkry vir enige samesmelting of skeiding van maatskaplikebehuisingsinstellings;
(k) toestemming van die Reguleringsowerheid verkry vir enige veranderinge aan huurooreenkomste of ander voorgeskrewe dokumentasie; en
(l) toestemming van die Reguleringsowerheid verkry vir enige voorgeskrewe aangeleentheid.

(2) Maatskaplikebehuisingsinstellings moet te alle tye funksioneer ooreenkomstig—
(a) die bepalings van hierdie Wet;
(b) die bepalings van die maatskaplikebehuisingsprogram en riglyne van die regering;
(c) die ministeriële nasionale norme en standaarde ten opsigte van permanente residensiële strukture;
(d) die nasionale bouregulasies ingevolge die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet No. 103 van 1977);
(e) die tegniese standaarde gestel deur die Nasionale Huisbouersregistrasieraad ingestel kragtens die Wet op Beskermingsmaatreëls vir Behuisingsverbruikers, 1998 (Wet No. 95 van 1998);
(f) enige ooreenkoms aangegaan tussen die Reguleringsowerheid en die maatskaplikebehuisingsinstelling;
(g) die bepalings van die Wet op Huurbehuising, 1999 (Wet No. 50 van 1999); en
(h) enige ander wet.

(3) 'n Maatskaplikebehuisingsinstelling moet—
(a) op 'n jaarlikse grondslag sy konsephuurooreenkoms asook enige voorgeskrewe dokumente en wysigings daarvan vir goedkeuring aan die Reguleringsowerheid voorlê; en
(b) verseker dat die inhoud van sy huurooreenkoms en voorgestelde wysigings aan inwoners bekend gemaak word en streng nagekom word deur alle partye.

Bestuur van maatskaplikebehuisingsinstellings

15. (1) Elke geakkrediteerde maatskaplikebehuisingsinstelling moet—
(a) binne 90 dae na verkryging van akkreditasie 'n korporatiewebeheerdokument opstel en vir goedkeuring aan die Reguleringsowerheid voorlê, wat minstens handel oor—
(i) risikobestuur en risikostrategiebeleid met betrekking tot onder andere ontwikkelings-, bedryfs-, finansiële, eiendomsbestuurs-, mensehulpbron-, mark-, institusionele en nakomingsrisiko's;
(ii) internebeheer- en ouditmodelle;
(iii) al die vereistes van die regulasies; en
(iv) enige ander aspek wat voorgeskryf word;
(b) 'n bekwame bestuurder aanstel wat, met die bystand en steun van bekwame personeel en stelsels—
(i) verantwoordelik is vir die dag-tot-dag-bestuur van die maatskaplikebehuisingsinstelling en die behuisingsvoorraad wat ontwikkel is deur befondsing wat ingevolge die maatskaplikebehuisingsprogram verkry is;

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(ii) is responsible for reporting to the Regulatory Authority in terms of this Act;
(iii) is the designated link between the Regulatory Authority and the social housing institution in respect of compliance with this Act or any regulations promulgated in terms of this Act; and
(iv) must ensure accreditation compliance; and

(c) submit to the Regulatory Authority a copy of its performance agreement with the municipality.

(2) The appointment of the manager referred to in subsection (1)*(b)* must be in writing and a copy of the letter of appointment must be sent to the Regulatory Authority within 21 days of such appointment.

(3) *(a)* Any vacancy in the office of a manager must, within three months of such vacancy occurring, be filled, or all reasonable steps must have been taken to fill such vacancy, and a copy of the letter of appointment must be sent to the Regulatory Authority in terms of subsection (2).

(b) During the period of such vacancy the social housing institution must ensure that a competent person acts as manager.

(4) The social housing institutions must consult with the tenants and keep them informed of any rules and prescriptions regarding the management of the social housing units.

Reporting by social housing institutions

16. (1) A social housing institution must report to the Regulatory Authority—

(a) at such intervals and in such detail as may be prescribed by regulation; and
(b) annually, within three months of the financial year-end.

(2) The documentation to be provided in terms of subsection (1)*(b)* must include the social housing institution's annual report and audited financial statements.

(3) A social housing institution must make available to the Regulatory Authority any information reasonably requested of it in the carrying out of its regulatory and investment functions.

(4) The Regulatory Authority must, subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), maintain the confidentiality of business sensitive information passed to it under regulatory confidence.

CHAPTER 5

GENERAL PROVISIONS

Just administrative action

17. Any decision taken under this Act must comply with the principles of just administrative action.

Financing of social housing

18. (1) Funds for the social housing programme and for financing the implementation of the social housing programme and any relevant provincial housing programme consistent with national housing policy must be made available from—

(a) money earmarked for that purpose from the Department's annual budget; and
(b) money allocated to a province for that purpose in terms of the annual Division of Revenue Act.

(2) Criteria for—

(a) the earmarking of money in terms of subsection (1)*(a)* must be determined by the Minister after consultation with Minmec;
(b) the allocation of money in terms of subsection (1)*(b)* must be determined by the Minister in consultation with Minmec.

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(ii) verantwoordelik is vir verslagdoening aan die Reguleringsowerheid ingevolge hierdie Wet;

(iii) die aangewese skakel tussen die Reguleringsowerheid en die maatskaplikebehuisingsinstelling is ten opsigte van die nakoming van hierdie Wet of enige regulasies wat ingevolge hierdie Wet afgekondig is; en

(iv) akkreditasienakoming moet verseker;

(c) 'n eksemplaar van sy prestasieooreenkoms met die munisipaliteit aan die Reguleringsowerheid voorlê.

(2) Die aanstelling van die bestuurder in subartikel (1)*(b)* bedoel, moet skriftelik geskied en 'n afskrif van die aanstellingsbrief moet binne 21 dae na sodanige aanstelling aan die Reguleringsowerheid gestuur word.

(3) *(a)* Enige vakature in die amp van 'n bestuurder moet binne drie maande nadat sodanige vakature ontstaan het, gevul word, of alle redelike stappe moet gedoen word om die vakature te vul, en 'n afskrif van die aanstellingsbrief moet ingevolge subartikel (2) aan die Reguleringsowerheid gestuur word.

(b) Gedurende die tydperk van sodanige vakature moet die maatskaplikebehuisingsinstelling toesien dat 'n bekwame persoon as bestuurder waarneem.

(4) Die maatskaplikebehuisingsinstellings moet met die inwoners oorleg pleeg en hulle op die hoogte hou van enige reëls en voorskrifte rakende die bestuur van die maatskaplikebehuisingseenhede.

Verslagdoening deur maatskaplikebehuisingsinstellings

16. (1) 'n Maatskaplikebehuisingsinstelling moet aan die Reguleringsowerheid verslag doen—

(a) met die tussenposes en in die besonderhede wat by regulasie voorgeskryf word; en

(b) jaarliks, binne drie maande na die einde van die finansiële jaar.

(2) Die dokumentasie wat ingevolge subartikel (1)*(b)* verskaf moet word, moet die maatskaplikebehuisingsinstelling se jaarverslag en geouditeerde finansiële state insluit.

(3) 'n Maatskaplikebehuisingsinstelling moet enige inligting aan die Reguleringsowerheid beskikbaar stel wat in die uitvoering van sy regulerings- en ondersoekfunksies redelikerwys van hom verlang word.

(4) Die Reguleringsowerheid moet, behoudens die Wet op Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 van 2000), die vertroulikheid handhaaf van sakesensitiewe inligting wat in reguleringsvertroue aan hom verstrek word.

HOOFSTUK 5

ALGEMENE BEPALINGS

Regverdige administratiewe optrede

17. Enige besluit wat kragtens hierdie Wet geneem word, moet aan die beginsels van regverdige administratiewe optrede voldoen.

Finansiering van maatskaplike behuising

18. (1) Fondse vir die maatskaplikebehuisingsprogram en vir die finansiering van die implementering van die maatskaplikebehuisingsprogram en enige tersaaklike provinsiale behuisingsprogram wat in ooreenstemming met nasionale behuisingsbeleid is, moet beskikbaar gestel word uit—

(a) geld uit die Departement se jaarlikse begroting wat vir daardie doel aangewys is; en

(b) geld wat vir daardie doel aan 'n provinsie toegewys is in die jaarlikse Wet op die Verdeling van Inkomste.

(2) Kriteria vir—

(a) die aanwys van geld ingevolge subartikel (1)*(a)* moet deur die Minister na oorleg met Minmec bepaal word;

(b) die toewysing van geld ingevolge subartikel (1)*(b)* moet deur die Minister in oorleg met Minmec bepaal word.

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(3) Monies made available as contemplated in subsection (1) may be utilised only for the purposes set out in this Act and the annual Division of Revenue Act, as the case may be.

Regulations

19. (1) The Minister, by notice in the *Gazette* and after consultation with Parliament—

(a) must make regulations prescribing—
   - (i) any matter required to be prescribed by regulation under this Act;
   - (ii) a code of conduct, the investment criteria and the qualifying criteria for social housing institutions;

(b) may make regulations—
   - (i) in respect of the required provisions of the agreements between the Regulatory Authority and other delivery agents;
   - (ii) in respect of the required provisions of the agreements between the Regulatory Authority and provincial governments;
   - (iii) in respect of the required provisions of the agreements between the Regulatory Authority and the National Housing Finance Corporation; or
   - (iv) any other ancillary or administrative matter that is necessary to prescribe for the proper implementation or administration of this Act.

(2) The Regulations may provide for offences in cases of contravention thereof or non-compliance therewith, and for penalties not exceeding a fine or imprisonment for a period not exceeding six months or to both a fine and such imprisonment.

Short title and commencement

20. This Act is called the Social Housing Act, 2008, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

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(3) Gelde wat beskikbaar gestel is soos in subartikel (1) bedoel, mag gebruik word slegs vir die doeleindes uiteengesit in hierdie Wet en die jaarlikse Wet op die Verdeling van Inkomste, na gelang van die geval.

Regulasies

19. (1) Die Minister, by kennisgewing in die *Staatskoerant* en na oorlegpleging met die Parlement—

(a) moet regulasies uitvaardig wat—
  (i) enige aangeleentheid voorskryf wat by regulasie kragtens hierdie Wet voorgeskryf moet word;
  (ii) 'n gedragskode, die investeringskriteria en die kwalifiserende kriteria vir maatskaplikebehuisingsinstellings voorskryf;

(b) kan regulasies uitvaardig—
  (i) betreffende die vereiste bepalings van die ooreenkomste tussen die Reguleringsowerheid en ander leweringsagente;
  (ii) betreffende die vereiste bepalings van die ooreenkomste tussen die Reguleringsowerheid en provinsiale regerings;
  (iii) betreffende die vereiste bepalings van die ooreenkomste tussen die Reguleringsowerheid en die Nasionale Behuisingsfinansieringskorporasie; of
  (iv) enige ander bykomende of administratiewe aangeleentheid wat voorgeskryf moet word vir die behoorlike implementering of administrasie van hierdie Wet.

(2) Die regulasies kan voorsiening maak vir misdrywe in gevalle van oortreding of nienakoming van die bepalings daarvan, en vir strawwe van hoogstens 'n boete of gevangenisstraf vir 'n tydperk van hoogstens ses maande of van sowel 'n boete as sodanige gevangenisstraf.

Kort titel en inwerkingtreding

20. Hierdie Wet heet die Wet op Maatskaplike Behuising, 2008, en tree in werking op 'n datum wat die President by proklamasie in die *Staatskoerant* bepaal.

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