

CHAPTER 140

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CHAPTER 140 HOME FINANCE CORPORATION

AN ACT TO ESTABLISH A HOME FINANCE CORPORATION, WHICH SHALL BE CHARGED
WITH RESPONSIBILITY TO PROMOTE THE DEVELOPMENT OF HOUSING IN SOLOMON
ISLANDS BY PROVIDING FINANCIAL ASSISTANCE TO PROSPECTIVE HOME BUILDERS

15 of 1989

[27th March 1990]

PART I
PRELIMINARY

1. This Act may be cited as the Home Finance Corporation Act.

Short title

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

Interpretation

"Board" means the Board of Directors of the Corporation appointed under section 6;

"Corporation" means the Home Finance Corporation established under section 3;

"enterprise" means any body or person whether corporate or unincorporate and includes a sole proprietorship;

"Minister" means the Minister for the time being charged with responsibility for housing;

"qualifying person" means any person, commercial or other enterprise or any institution as the Minister may prescribe under section 16 (2).

PART II

ESTABLISHMENT OF THE CORPORATION, PURPOSES AND POWERS

3. (1) There shall be established for the purposes of this Act, a body to be known as the Home Finance Corporation of Solomon Islands (hereinafter referred to as "the Corporation") which shall be a body corporate to which the provisions of Part VII of the Interpretation and General Provisions Act shall apply.

Establishment of the
Home Finance
Corporation
Cap. 85

(2) The provisions of the First Schedule shall have effect as to the constitution of the Corporation and otherwise in relation thereto.

First Schedule

4. The purposes of the Corporation shall be-

Purposes of the Corporation

(a) to implement government policy with regard to the development of housing in Solomon Islands;

(b) to mobilise capital from sources within and outside Solomon Islands for the purpose of investment in housing;

(c) to assist prospective home builders by making available loans; and

(d) generally to do such other things as may appear to be incidental or conducive to the objects of this Act.

5. In carrying out its purposes, the Corporation may exercise all or any of the following powers-

Powers of the Corporation

(a) grant loans to any person for the purchase, construction, improvement or repair of homes or dwelling-houses;

(b) invest moneys of the Corporation in deposits with licensed financial institutions in Solomon Islands and securities issued or guaranteed by the Government of Solomon Islands;

(c) borrow funds for the purposes of the Corporation and to give security for any loans or overdrafts obtained;

(d) acquire, hold and dispose of securities, including guarantees, debentures, stocks, bonds, bills or other promissory notes;

(e) issues shares;

(f) raise funds by the issue of securities in the form of bonds or promissory notes;

(g) acquire, hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of any immovable or movable property;

(h) raise money by the issue of debentures or debenture stock;

(i) accept fixed deposits for periods not less than three months from any person, institution or enterprise in such amounts and for such periods as may be determined by the Board;

(j) grant loans to any qualifying person or enterprise who intends to engage or is engaged in housing projects, or development;

(k) enter into agreements or arrangements with any person, institution or other enterprise whether national or international, providing participation, assistance or co-operation with its activities;

(l) redeem loans granted to qualifying persons from other financial institutions on such terms and conditions as the Board may determine; and

(m) do all such other things as are connected with, or incidental to the exercise of the aforesaid powers.

6. (1) There shall be established for the purposes of this Act, a Board of Directors of the Corporation which shall, subject to the provisions of this Act, be responsible for the policy and general administration of the affairs of the Corporation.

Establishment of the Board of Directors

(2) The provisions of the Second Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto.

Second Schedule

7. The Minister may, after consultation with the Chairman give to the Board such directions of a general character as to the policy to be followed by the Board in the performance of its functions as appear to the Minister to be necessary and the Board shall give effect thereto.

Powers of the Minister to issue general directions on matters of policy

PART III

FINANCIAL

8. (1) The initial authorised capital of the Corporation shall be one hundred million dollars divided into one hundred million shares of one dollar each.

Shares

(2) The Board may from time to time, with the prior approval of the Minister increase the share capital of the Corporation by new shares of such amount as the Board thinks expedient.

9. Subject to the provisions of this section, the Board may allot the share capital of the Corporation-

Issue of shares

(a) to any corporate body acting on behalf of the Government in shares equivalent to the Government's contribution to the capital of the Corporation; and

(b) with the prior approval of the Minister to-

(i) any body corporate established by law in Solomon Islands; or

(ii) any international financial institution; or

(iii) any person, institution or enterprise.

10. Shares may be sold or otherwise disposed of-

Disposal of shares

(a) with the approval of the Minister at face value; or

(b) in accordance with any written agreement made at the time of acquiring such shares.

11. The General Manager shall at all times-

Record of ownership of shares to be maintained

(a) maintain a record of the ownership of shares; and

(b) notify the Minister and the Board of any change in the ownership of shares.

12. The liability of a holder of shares in the share capital shall be limited to the amount (if any) unpaid on the shares held by him.

Liability of holder

13. The funds and resources of the Corporation shall consist of-

Funds and resources of the Corporation

(a) such sums as may be provided by Parliament under section 14;

(b) moneys raised by the issue of debentures;

(c) moneys borrowed by way of loans or overdraft under section 15;

(d) moneys raised by the issue of securities in the form of bonds or promissory notes;

(e) all sums received from time to time by or falling due to the Corporation in respect of the repayment of any loan made by the Corporation and the interest payable in respect of such loan;

(f) moneys earned or arising from property, investments or mortgages acquired by or vested in the Corporation;

(g) any property, mortgages, debentures, or investments acquired by or vested in the Corporation; and

(h) all other sums or property which may in any manner become payable to or vested in the Corporation in respect of any matter incidental to its powers and duties.

14. (1) The Government shall-

Sums to be granted or
lent by the Government

(a) grant to the Corporation out of the Consolidated Fund initially the appropriate sum in the estimates as its contribution; and

(b) lend to the Corporation such further sums as the Government may deem expedient.

(2) Every sum lent out of the Consolidated Fund to the Corporation under paragraph (b) of subsection (1) shall be repaid by the Corporation in accordance with such terms and conditions as may be determined by the Minister responsible for Finance with the concurrence of the Minister.

15. The Corporation may borrow by way of temporary loan or overdraft such sums of money as it deems fit not exceeding an amount approved by the Minister.

Temporary loans or
overdrafts

16. (1) Subject to the provisions of this Act, any qualifying person shall subject to such conditions as may from time to time be prescribed by the Minister, be eligible for a housing benefit by way of a loan to assist him in the building, purchase, improvement or repair of a house to be used as a residence, or for such other purposes connected with housing.

Housing loan

(2) The Minister may from time to time, by Order prescribe the categories or classes of qualifying persons as well as the terms and conditions under which such benefits may be granted.

PART IV
LOANS, SECURITY AND RECOVERIES

17. No loan shall be granted by the Corporation to any person unless the Board is satisfied-

Loans granted only in certain circumstances

(a) that he is worthy of credit up to the amount of such loan;

(b) that such amount is secured by adequate security; or

(c) in the case of a housing project or scheme to which such amount is to be applied, is financially sound.

18. The rate of interest payable on any loan granted to any borrower shall be at such rate as may from time to time be determined by the Board, with the approval of the Minister, and different rates of interest may be charged for different categories or classes of loans so as to ensure that persons in receipt of income below limits which may be set by the Board with the approval of the Minister pay lower rates than persons in receipt of incomes at or above those limits.

Rates of interest

19. Where default is made in the payment of any sum due on any loan granted by the Corporation on the mortgage of movable or immovable property, whether the sum is due on account of principal or interest or both, default shall be deemed to have been in respect of the portion that remains unpaid on that loan and the interest due thereon up to date of default; and the Board may in its discretion take action for recovery in accordance with Part XII of the Land and Titles Act.

Default of payment
Cap. 133

20. Subject to the provisions of sections 21, 22 and subsection (5) of section 23 every loan shall be repaid to the Corporation in accordance with the terms and conditions under which such loan was made and the moneys so paid shall thereupon be taken into the accounts of the Corporation.

Repayment of loans

21. The Corporation, with the approval of the Minister may, subject to such terms and conditions it deems fit-

Suspension of payment of principal and interest and power to extend time, compound or release

(a) postpone, for any time not exceeding five years, the payment of any sum due for principal and interest or for either principal or interest in respect of a loan

made; or

(b) from time to time extend the period for the repayment of any loan, or compound or release any loan or part thereof.

22. The Corporation may at any time accept payment of the whole or any part of the amount representing the principal of a loan and interest thereon, before the time when such payment is due, upon such terms and conditions as it may think fit.

Payment of loan before due date

23. (1) The Corporation shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which conforms with established accounting principles.

Accounts and audit

(2) The accounts of the Corporation shall be audited annually by an auditor appointed by the Corporation and approved by the Auditor-General.

(3) The Corporation shall on receipt of the audited statement of accounts submit to the Minister a copy of such statement together with any report made by the auditor.

(4) The Minister shall cause a copy of the audited annual statement of accounts together with the auditor's report to be laid before the National Parliament.

(5) The Corporation may write off bad debts.

24. (1) The Board shall in each year submit to the Minister a report of its activities during the previous year.

Annual reports

(2) The Minister shall lay before the National Parliament a copy of the annual report.

25. (1) The income and revenue of the Corporation shall not be subject to taxation under any law.

Exemption from taxation and stamp duty

(2) All instruments executed by or on behalf of the Corporation shall be exempt from stamp duty.

PART V

LOAN ADMINISTRATION

26. Where the Corporation has made a loan under the provisions of section 17, it may from time to time-

Examination of loan application

(a) make or cause to be made, such arrangement as may be necessary (including direct payment to suppliers or contractors and examination of materials supplied and work done) to ensure that the loan is being applied to the purposes for which it was made;

(b) require the borrower to give immediately or periodically such information to the Corporation it may require and the borrower shall comply with the requirements of the Corporation.

27. Where upon any examination made pursuant to the provisions of section 26 it appears to the Corporation that any sum, being either the whole or any part of the loan made by the Corporation has not been applied to the purpose for which the loan was made, it may by notice in writing addressed to the borrower, require that such sum be, within the time specified in the notice, applied to such purpose, or that such sum, together with any interest due thereon on the date of the notice be repaid, and any sum with interest thereon so required to be repaid shall thereupon become a debt due to the Corporation.

Corporation may serve notice in case of misapplication of loan

28. The Board may designate such number of its employees as Inspectors as it thinks necessary for the proper carrying out of the provisions of this Act.

Designation of Inspectors

PART VI MISCELLANEOUS

29. Any person who knowingly applies any loan or part thereof granted to him under the provisions of this Act to any purpose other than that authorised by the Corporation shall be guilty of an offence and liable to a fine of five thousand dollars or to imprisonment for one year or to both such fine and imprisonment.

Penalty for misapplication of loan

30. Any borrower who wilfully fails to disclose any material information within his knowledge, or who wilfully makes any statement which he knows to be false or does not believe to be true shall be guilty of an offence and liable to a fine of five thousand dollars or to imprisonment for one year or to both such fine and imprisonment.

False statements

31. (1) All members of the Board and employees of the Corporation shall not either directly or indirectly, except in the performance of a duty under or in connection with this Act, divulge or communicate to any person, any information concerning the affairs of the Corporation.

Secrecy

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and on conviction be liable to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding six months.

32. (1) The Corporation may, by agreement made with any Ministry, statutory body or other enterprise and with the approval of the Minister, transfer to any such Ministry, statutory body or other enterprise any undertaking, operation or any part thereof, or property upon such terms as may be specified by the agreement.

Transfer or disposal of undertakings or operations

(2) Every agreement made under this section providing for the transfer of any undertaking, operation or property shall set out the terms on which the transfer is to be made and may provide for the payment of such amount in consideration of the transfer in such manner as may be so specified.

33. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

Regulations

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of the following matters-

(a) the manner of application for shares of the Corporation, the registration of holders of such shares, the issue and renewal of share certificates, the transfer of such shares and any other matter connected with, or incidental to, the aforesaid matters relating to shares;

(b) the form of debentures, the rate of interest payable thereon, the time or times at which and the manner in which debentures are to be redeemed, the transfer of debentures and any other matter connected with, or incidental to, the aforesaid matters relating to debentures;

(c) prescribing the forms of mortgages, charges and other instruments;

(d) prescribing the form of bonds or promissory notes and the terms and conditions, including maturities and interest rates; and

(e) the charges payable by persons for services rendered by the Corporation.

34. (1) The Solomon Islands Housing Authority Act, 1970 (hereinafter referred to as the "repealed Act") is hereby repealed. Repeal and savings

(2) Notwithstanding such repeal from and after the date of coming into operation of this Act-

(a) all assets and liabilities of the Authority immediately prior to that date shall be transferred to and vest in the Corporation without further assurance, and the Corporation shall have all the powers necessary to take possession of, recover and deal with such assets and discharge such liabilities;

(b) every agreement in writing and every deed, bond or other instrument to which the Authority was a party immediately before that date shall have effect as if the Corporation were a party;

(c) where the Board is of opinion that the circumstances render it necessary to discontinue any of the undertakings or operations carried on by the Authority, the Board may cease such undertakings or operations and dispose of any land, fixtures or other property in such manner as it deems fit;

(d) the Board of the Authority shall become the Board of the Corporation and shall continue as such until other provision in that behalf is made under section 6 of this Act; and

(e) all officers of the Authority shall become the corresponding officers of the Corporation and subject to the provisions of this Act or any regulations made thereunder, continue in office for the period for which they were appointed as officers of the Authority.

(3) In this section "Authority" means the Solomon Islands Housing Authority established under the repealed Act.

FIRST SCHEDULE

(Section 3)

The Home Finance Corporation of Solomon Islands

1. (1) The seal of the Corporation shall be authenticated by the signature of the Chairman or a member of the Board authorised to act in that behalf and an officer of the Corporation so authorised.

Authentication of seal and documents

(2) All documents other than those required by law to be under seal, made by, and all decisions of the Corporation may be signified under the hand of the Chairman or the Deputy Chairman or any member of the Board authorised to act in that behalf or an officer of the Corporation so authorised.

2. The Corporation may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, a General Manager of the Corporation and such other officers, agents and servants as it thinks necessary for the proper carrying out of its functions.

Power to appoint officers and servants

3. (1) The Corporation shall appoint a person on such terms and conditions it thinks fit to be the Secretary to the Board.

Appointment of Secretary and functions

(2) No person shall be appointed to hold office as Secretary who is a director of the Corporation.

(3) The Secretary shall take the minutes of the meetings of the Board and perform such other duties as may be assigned to him by the Board.

4. (1) The expenses of the Corporation (including remuneration of the staff thereof, members of the Board, the Chairman and directors) shall be defrayed out of the income of the Corporation.

Expenses of the Corporation

(2) In this paragraph "income" means grants, interest or dividends earned or obtained on loans or investments made by the Corporation.

5. The Corporation shall keep proper accounts and other records in relation to its business and prepare annual statements of account and reports as set out in Part IV of this Act.

Accounts audit and estimates

6. The Corporation shall furnish the Minister with such returns, accounts and other information as he requires with respect to its activities, and shall afford to him the facilities for verifying such information in such manner and at such times as he may reasonably require.

Powers of the Minister to require returns

7. The Corporation shall in each financial year, on or before three months of the commencement of the next financial year submit to the Minister for his approval its estimates of revenue and expenditure for the ensuing financial year.

Estimates of revenue and expenditure

8. At the end of each financial year, the Minister shall review the operations of the Corporation with a view to determining-

Minister to review the operations

- (a) whether the Corporation has operated in accordance with the annual estimates and any approved operating plan; and

- (b) whether the assets of the Corporation are sufficient to meet the liabilities of the Corporation having regard to any claims or liabilities which may arise during the next ensuing year.

SECOND SCHEDULE

(Section 6)

The Board of Directors of the Corporation

1. (1) The Board shall consist of not more than eight members, appointed by the Minister. Board membership

(2) Each member appointed pursuant to paragraph (1), shall nominate an alternate member to act on his behalf, with full powers of proxy, if for any reason the member is unable to act.

2. (1) The Minister shall appoint one of the members of the Board to be Chairman and another to be Deputy Chairman. Chairman

(2) In the case of the absence or inability to act of the Chairman and the Deputy Chairman, the Minister may appoint any other person to perform the functions of the Chairman.

3. (1) The appointment of every member shall be evidenced by instrument in writing, and such instrument shall state the period of office of the member, which shall not exceed two years. Tenure

(2) Every member of the Board shall be eligible for re-appointment.

(3) The Minister may at any time revoke the appointment of any member of the Board appointed by him.

4. (1) Any member of the Board other than the Chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman, and from the date of the receipt by the Minister of such instrument such member and any alternate member nominated by him, shall cease to be a member of the Board. Resignation

(2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt of such instrument.

5. The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the Gazette. Publication

6. Any member of the Board who-

Vacation of office

- (a) is declared a bankrupt; or
- (b) is sentenced to imprisonment for three months or more for a criminal offence; or
- (c) fails to attend three consecutive meetings of the Board or appoint an alternate member; or
- (d) is in breach of section 31 shall be immediately removed from the Board by the Minister.

7. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business, so however, that it shall not be less than four meetings in any calendar year.

Procedure, quorum and meetings

(2) The Chairman may at any time call a special meeting of the Board and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by two or more members of the Board.

(3) The Chairman or Deputy Chairman shall preside at all meetings of the Board and in the case of absence of both the Chairman and the Deputy Chairman from any meeting, subject to sub-paragraph (2) of paragraph 2, the members present and forming a quorum shall elect one of their number to preside at the meeting.

(4) The decision of the Board shall be by a majority of votes, and in addition to an original vote, the Chairman or any other person presiding at a meeting shall have a casting vote in any case in which the vote is equal.

(5) The General Manager, and such other officers as the Chairman decides, shall attend meetings.

(6) Minutes in proper form of each meeting of the Board shall be kept.

(7) The quorum for any board meeting shall be four and no business shall be transacted at any meeting unless a quorum of members is present at a time when the meeting proceeds to business in a particular meeting.

(8) The validity of any proceedings of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

8. There shall be paid to the Chairman and other members of the Board, such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.

Remuneration of members

9. No action, suit or prosecution or other proceedings shall be brought against any member of the Board in respect of any act done bona fide in pursuance or execution or intended execution of the provisions of this Act.

Protection of members

10. The office of the Chairman or other member of the Board shall not be a public office for the purposes of Chapter XIII of the Constitution.

(No Subsidiary Legislation.)