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GOVERNMENT GAZETTE

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OFFICE OF THE PRESIDENT

No. 1398. 2 November 1998

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 95 of 1998: Housing Consumers Protection Measures Act, 1998.

KANTOOR VAN DIE PRESIDENT

No. 1398. 2 November 1998

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 95 van 1998: Wet op Beskermingsmaatreëls vir Behuissingsverbruikers, 1998.

*(English text signed by the President.)
(Assented to 20 October 1998.)*

ACT

To make provision for the protection of housing consumers; and to provide for the establishment and functions of the National Home Builders Registration Council; and to provide for matters connected therewith.

ARRANGEMENT OF BILL

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*(Engelse teks deur die President geteken.)
(Goedgekeur op 20 Oktober 1998.)*

WET

Om voorsiening te maak vir die beskerming van behuisingsverbruikers; en om voorsiening te maak vir die instelling en werksaamhede van die Nasionale Huisbouersregistrasieraad; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

Definitions

- | | |
|--|----|
| 1. In this Act, unless the context indicates otherwise— | 25 |
| (i) “business of a home builder” means— | |
| (a) to construct or to undertake to construct a home or to cause a home to be constructed for any person; | |
| (b) to construct a home for purposes of sale or otherwise disposing of such home; | 30 |
| (c) to sell or to otherwise dispose of a home contemplated in paragraph (a) or (b) as a principal; or | |
| (d) to conduct any other activity that may be prescribed by the Minister for the purposes of this definition, | |
| but does not include— | 35 |
| (i) the <i>bona fide</i> building of a home by any person for occupation by that person; | |
| (ii) the <i>bona fide</i> assistance to a person contemplated in paragraph (i) by a person who is not a registered home builder, in the building of a home; or | |
| (iii) the sale or disposal by a housing consumer of his or her <i>bona fide</i> home; | 40 |
| (ii) “Chief Executive Officer” means the Chief Executive Officer appointed in terms of section 6; (xii) | |
| (iii) “Companies Act, 1973” means the Companies Act, 1973 (Act No. 61 of 1973); (xx) | 45 |
| (iv) “competent person” is a registered person in terms of the Engineering Professions of South Africa Act, 1990 (Act No. 114 of 1990), or a person registered in terms of section 11 of the Natural Scientific Professions Act, 1993 (Act No. 106 of 1993), and holding the indemnity insurance prescribed by the Council in respect of the certification of— | 50 |
| (a) the appropriateness of design and construction of homes; | |
| (b) compliance with the Home Building Manual; and | |

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20 *Bylae*

Oorgangsbepalings

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

Woordomskrywing

- 25 1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - (i) “Advieskomitee van die Raad” die Advieskomitee van die Raad oor Nasionale Huisbouersregistrasieraadaangeleenthede ingevolge artikel 23 ingestel; (vi)
 - 30 (ii) “behuisingverbruiker” ’n persoon wat ’n huis verkry het of in die proses is om ’n huis te verkry, met inbegrip van so ’n persoon se regsopvolger; (xvi)
 - (iii) “besigheid van ’n huisbouer”—
 - (a) om ’n huis op te rig, te onderneem om ’n huis op te rig of om teweeg te bring dat ’n huis opgerig word vir ’n persoon;
 - 35 (b) om ’n huis op te rig met die doel om dit te verkoop of andersins te vervreem;
 - (c) om as prinsipaal ’n huis beoog in paragraaf (a) of (b) te verkoop of andersins te vervreem; of
 - (d) om enige ander aktiwiteit te verrig wat deur die Minister vir die doeleindes van hierdie omskrywing voorgeskryf mag word,
 - 40 maar uitgesonderd—
 - (i) die *bona fide*-oprigting van ’n huis deur enige persoon vir bewoning deur daardie persoon;
 - (ii) die *bona fide*-bystand aan ’n persoon beoog in paragraaf (i) deur ’n persoon wat nie ’n geregistreerde huisbouer is nie, in die oprigting van ’n huis; of
 - 45 (iii) die verkoop of vervreemding deur ’n behuisingverbruiker van sy of haar *bona fide*-woning; (i)
 - (iv) “bevoegde persoon” ’n geregistreerde persoon ingevolge die Wet op die Ingenieursweseprofessie van Suid-Afrika, 1990 (Wet No. 114 van 1990), of iemand wat ingevolge artikel 11 van die Wet op Natuurwetenskaplike
 - 50 Professies, 1993 (Wet No. 106 van 1993), geregistreer is, en wat oor die vrywaringsertifikaat beskik wat deur die Raad voorgeskryf is ten opsigte van die sertifisering van—

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- (c) any other matter that may be required to be certified in terms of the Home Building Manual; (iv)
- (v) "Council" means the National Home Builders Registration Council established by section 2; (xxvi)
- (vi) "Council Advisory Committee" means the Council Advisory Committee on National Home Builders Registration Council Matters established in terms of section 23; (i) 5
- (vii) "court" means a competent court within its area of jurisdiction; (xi)
- (viii) "Director-General" means the Director General of the Department of Housing; (v) 10
- (ix) "enrolment" means the submission by a home builder of a request for a particular home to be entered into the records of the Council and the completed acceptance thereof by the Council in terms of section 14(1) or (2), as the case may be; (xvi)
- (x) "enrolment fee" means a fee prescribed by the Council under section 7(1)(a)(iii); (xvii) 15
- (xi) "fund" means a fund contemplated in section 15(4) or (5); (vii)
- (xii) "funds advisory committee" means the funds advisory committee established in terms of section 16(2); (viii)
- (xiii) "home" means any dwelling unit constructed or to be constructed by a home builder, after the commencement of this Act, for residential purposes or partially for residential purposes, including any structure prescribed by the Minister for the purposes of this definition or for the purposes of any specific provision of this Act, but does not include any category of dwelling unit prescribed by the Minister; (xiii) 20
- (xiv) "home builder" means a person who carries on the business of a home builder; (xiv) 25
- (xv) "Home Building Manual" means the Home Building Manual published by the Council in terms of section 12; (xv)
- (xvi) "housing consumer" means a person who is in the process of acquiring or has acquired a home and includes such person's successor in title; (ii) 30
- (xvii) "inspector" means an inspector referred to in section 19; (xviii)
- (xviii) "local government body" means a local government body as defined in section 1 of the Local Government Transition Act, 1993 (Act No. 209 of 1993); (xxiv) 35
- (xix) "major structural defect" means a defect which gives rise or which is likely to give rise to damage of such severity that it affects or is likely to affect the structural integrity of a home and which requires complete or partial rebuilding of the home or extensive repair work to it, subject to the limitations, qualifications or exclusions that may be prescribed by the Minister; (vi) 40
- (xx) "MEC" means the member of the Executive Council of a province designated by the Premier of that province to be responsible for housing matters in the province; (xix)
- (xxi) "NHBRC Technical Requirements" means the requirements prescribed under section 7(2)(d); (xxii) 45
- (xxii) "occupation date" means the date on which the housing consumer first acquiring the home accepts the home as reflected in a document confirming such acceptance and, in the event of such document not having been received by the Council or the Council for any reason not being able to determine such date, the date reflected in the certificate of occupancy issued by the relevant local government body contemplated in section 14 of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977); (xxiii) 50
- (xxiii) "organ of state" means an organ of state as defined in section 239 of the Constitution; (xxx)
- (xxiv) "prescribe" means, in relation to— 55
- (a) the Minister, except in section 4(6), prescribe by regulation in the *Gazette* after consultation with the Council; and
- (b) the Council, except in section 7(1), prescribe in a circular to all registered home builders; (xxxi)
- (xxv) "provincial housing development board" means a provincial housing development board referred to in section 8 of the Housing Act, 1997 (Act No. 107 of 1997), and any successor in title or any agent of such board, including any department responsible for housing in a provincial administration and any 60

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- (a) die geskiktheid van die ontwerp en konstruksie van huise;
- (b) nakoming van die Huisbouhandleiding; en
- (c) enige ander aangeleentheid wat ingevolge die Huisbouhandleiding gesertifiseer moet word; (iv)
- 5 (v) "Direkteur-generaal" die Direkteur-generaal van die Departement van Behuising; (viii)
- (vi) "ernstige strukturele gebrek" 'n gebrek wat skade van sodanige graad tot gevolg het of waarskynlik tot gevolg mag hê dat dit die strukturele integriteit van 'n huis beïnvloed of waarskynlik sal beïnvloed, en wat algehele of
- 10 gedeeltelike herkonstruksie van die huis of omvangryke herstelwerk daarvan vereis, onderhewig aan die beperkings, kwalifikasies of vrystellings wat die Minister mag voorskryf; (xix)
- (vii) "fonds" 'n fonds beoog in artikel 15(4) of (5); (xi)
- (viii) "fondse-advieskomitee" die fondse-advieskomitee ingevolge artikel 16(2)
- 15 ingestel; (xii)
- (ix) "geregisteerde huisbouer" 'n huishouer ingevolge hierdie Wet by die Raad geregistreer; (xxvii)
- (x) "hierdie Wet" ook enige regulasie, die Reëls, die Huisbouhandleiding en 'n omsendbrief wat enige aangeleentheid voorskryf waaraan 'n huisbouer
- 20 ingevolge hierdie Wet moet voldoen; (xxxi)
- (xi) "hof" 'n bevoegde hof binne sy jurisdiksiegebied; (vii)
- (xii) "Hoof- Uitvoerende Beampte" die Hoof- Uitvoerende Beampte ingevolge artikel 6 aangestel; (ii)
- (xiii) "huis" enige wooneenheid wat gebou is of gebou staan te word deur 'n
- 25 huisbouer na die inwerkingtreding van hierdie Wet, vir residensiële doeleindes of gedeeltelik vir residensiële doeleindes, met inbegrip van enige struktuur voorgeskryf deur die Minister vir die doeleindes van hierdie omskrywing of vir die doeleindes van enige spesifieke bepaling van hierdie Wet, maar uitgesonderd enige kategorie van wooneenheid deur die Minister
- 30 voorgeskryf; (xiii)
- (xiv) "huisbouer" 'n persoon wat die besigheid van 'n huisbouer bedryf; (xiv)
- (xv) "Huisbouhandleiding" die Huisbouhandleiding deur die Raad kragtens artikel 12 gepubliseer; (xv)
- (xvi) "inskrywing" die voorlegging deur 'n huisbouer van 'n versoek dat 'n
- 35 bepaalde woning deur die Raad opgeteken word en die voltooië aanvaarding daarvan deur die Raad ingevolge artikel 14(1) of (2), na gelang van die geval; (ix)
- (xvii) "inskrywingsgelde" gelde deur die Raad kragtens artikel 7(1)(a)(iv) voorgeskryf; (x)
- 40 (xviii) "inspekteur" 'n inspekteur in artikel 19 bedoel; (xvii)
- (xix) "LUR" die lid van die Uitvoerende Raad van 'n provinsie deur die Premier van daardie provinsie aangewys om vir behuisingsaangeleenthede in die provinsie verantwoordelik te wees; (xx)
- (xx) "Maatskappywet, 1973" die Maatskappywet, 1973 (Wet No. 61 van 1973);
- 45 (iii)
- (xxi) "Minister" die Minister van Behuising; (xxvi)
- (xxii) "NHBRR Tegnieëse Vereistes" die vereistes kragtens artikel 7(2)(d) voorgeskryf; (xxi)
- (xxiii) "okkupasiedatum" die datum waarop die behuisingsverbruiker wat die huis
- 50 eerste verkry het die huis aanvaar soos aangetoon in 'n dokument wat sodanige aanvaarding bevestig en, in die geval waar sodanige dokument nie deur die Raad ontvang is nie of die Raad weens welke rede ook al nie in staat is om sodanige datum vas te stel nie, die datum aangetoon in die bewoning-
- 55 sertifikaat uitgereik deur die toepaslike plaaslike owerheidsliggaam soos beoog in artikel 14 van die Wet op Nasionale Bouregulasies en Boustandaardde, 1977 (Wet No. 103 van 1977); (xxii)
- (xxiv) "plaaslike owerheidsliggaam" 'n plaaslike owerheidsliggaam soos omskryf in artikel 1 van die Oorgangswet op Plaaslike Regering, 1993 (Wet No. 209 van 1993); (xviii)
- 60 (xxv) "provinsiale behuisingsontwikkelingsraad" 'n provinsiale behuisingsontwikkelingsraad bedoel in artikel 8 van die Behuisingswet, 1997 (Wet No. 107 van 1997), en enige regsopvolger of agent van sodanige raad, met inbegrip van enige departement verantwoordelik vir behuising in 'n provinsiale

organ of state which may grant a state housing subsidy or any entity to which such power has been delegated or granted in terms of any law; (xxv)

(xxvi) "Minister" means the Minister of Housing; (xxi)

(xxvii) "registered home builder" means a home builder registered with the Council in terms of this Act; (ix) 5

(xxviii) "regulation" means a regulation made under this Act; (xxviii)

(xxix) "Rules" means the Rules of the Council prescribed under section 7; (xxvii)

(xxx) "state housing subsidy" means any national housing programme under section 3(4)(g) of the Housing Act, 1997 (Act No. 107 of 1997), including the housing assistance measures referred to in section 3(5) of the said Act; (xxix) 10

(xxxi) "this Act" includes any regulation, the Rules, the Home Building Manual and any circular prescribing any matter that a home builder has to comply with in terms of this Act. (x)

CHAPTER I

NATIONAL HOME BUILDERS REGISTRATION COUNCIL 15

Establishment of Council

2. The National Home Builders Registration Council is hereby established as a juristic person.

Objects of Council

3. The objects of the Council shall be— 20

- (a) to represent the interests of housing consumers by providing warranty protection against defects in new homes;
- (b) to regulate the home building industry;
- (c) to provide protection to housing consumers in respect of the failure of home builders to comply with their obligations in terms of this Act; 25
- (d) to establish and to promote ethical and technical standards in the home building industry;
- (e) to improve structural quality in the interests of housing consumers and the home building industry;
- (f) to promote housing consumer rights and to provide housing consumer information; 30
- (g) to communicate with and to assist home builders to register in terms of this Act;
- (h) to assist home builders, through training and inspection, to achieve and to maintain satisfactory technical standards of home building; 35
- (i) to regulate insurers contemplated in section 23(9)(a); and
- (j) in particular, to achieve the stated objects of this section in the subsidy housing sector.

Composition of Council

4. (1) The Council shall consist of at least seven but not more than 15 members, including a chairperson and deputy chairperson, appointed by the Minister for the period determined by the Minister, but not exceeding three years at a time. 40

(2) The Minister shall ensure that the Council consists of persons—

- (a) who are representative of the interests of housing consumers;
- (b) who are broadly representative of the interests of home builders, the suppliers of housing goods and services and associated professions; 45
- (c) having skills and experience regarding—
 - (i) structural defects in homes and the prevention thereof; and
 - (ii) the management of funds; and

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- administrasie en enige staatsorgaan wat 'n staatsbehuisingssubsidie mag toeken of enige instelling aan wie so 'n bevoegdheid gedelegeer of ingevolge enige wet verleen is; (xxvii)
- (xxvi) "Raad" die Nasionale Huisbouersregistrasieraad by artikel 2 ingestel; (v)
- 5 (xxvii) "Reëls" die Reëls van die Raad kragtens artikel 7 voorgeskryf; (xxix)
- (xxviii) "regulasie" 'n regulasie kragtens hierdie Wet uitgevaardig; (xxviii)
- (xxix) "staatsbehuisingssubsidie" enige nasionale behuisingsprogram kragtens artikel 3(4)(g) van die Behuisingswet, 1997 (Wet No. 107 van 1997), met inbegrip van die behuisingsbystandsmaatreëls vermeld in artikel 3(5) van genoemde Wet; (xxx)
- 10 (xxx) "staatsorgaan" 'n staatsorgaan soos omskryf in artikel 239 van die Grondwet; (xxiii)
- (xxxi) "voorskryf", met betrekking tot—
- (a) die Minister, behalwe in artikel 4(6), kragtens regulasie in die *Staatskoerant* na oorleg met die Raad voorskryf; en
- 15 (b) die Raad, behalwe in artikel 7(1), in 'n omsendbrief aan alle geregistreerde huisbouers voorskryf; (xxiv)

HOOFSTUK I

NASIONALE HUISBOUERSREGISTRASIERAAD

20 Instelling van Raad

2. Die Nasionale Huisbouersregistrasieraad word hierby as 'n regspersoon ingestel.

Doelstellings van Raad

3. Die doelstellings van die Raad is—

- (a) om die belange van behuisingsverbruikers te behartig deur die voorsiening van waarborgbeskerming teen gebreke in nuwe huise;
- 25 (b) om die huisboubedryf te reguleer;
- (c) om aan behuisingsverbruikers beskerming te verleen ten opsigte van die versuim van huisbouers om hulle verpligtinge ingevolge hierdie Wet na te kom;
- 30 (d) om etiese en tegniese standaarde in die huisboubedryf daar te stel en te bevorder;
- (e) om struktuurkwaliteit in belang van behuisingsverbruikers en die huisboubedryf te bevorder;
- (f) om behuisingsverbruikersregte te bevorder en behuisingsverbruikersinligting te verskaf;
- 35 (g) om met huisbouers te kommunikeer en om hulle bystand te verleen om ingevolge hierdie Wet te registreer;
- (h) om huisbouers behulpsaam te wees, deur middel van opleiding en inspeksie, om bevredigende tegniese standaarde in die oprigting van huise te verwesenlik en te handhaaf;
- 40 (i) om versekeraars beoog in artikel 23(9)(a) te reguleer; en
- (j) in die besonder, om die doelstellings in hierdie artikel uiteengesit in die subsidiebehuisingssektor te verwesenlik.

Samestelling van Raad

45 4. (1) Die Raad bestaan uit minstens sewe maar nie meer as 15 lede nie, met inbegrip van 'n voorsitter en ondervoorsitter, deur die Minister aangestel vir die tydperk deur die Minister bepaal, maar wat nie drie jaar op 'n keer oorskry nie.

(2) Die Minister moet toesien dat die Raad bestaan uit persone—

- (a) wat verteenwoordigend is van die belange van behuisingsverbruikers;
- 50 (b) wat oor die algemeen verteenwoordigend is van die belange van huisbouers, die verskaffers van behuisingsgoedere en -dienste en verwante beroepe;
- (c) met vaardighede en ervaring met betrekking tot—
- (i) strukturele gebreke in huise en die voorkoming daarvan; en
- (ii) die bestuur van fondse; en

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(d) who are representative of the interests of the national government departments responsible for housing, trade and industry, finance and public works, which persons shall as far as possible reflect broadly the race, gender and geographic composition of South Africa.

(3) The members of the Council shall be appointed only after—

(a) the Minister has through the media and by notice in the *Gazette* invited nominations of persons as candidates for the respective positions on the Council; and

(b) the Minister has consulted with the MEC of every province and the parliamentary committees for housing of the National Assembly and the National Council of Provinces.

(4) When a vacancy occurs in the ranks of the members appointed in terms of subsection (2), the Minister shall fill the vacancy by the appointment of another person whom the Minister considers representative of the relevant interest group referred to or having the skills and expertise referred to in subsection (2)(c), for the unexpired part of the period for which his or her predecessor was appointed.

(5) A member of the Council shall vacate his or her office if he or she—

(a) becomes insolvent;

(b) is absent from three consecutive ordinary meetings of the Council without the permission of the Council;

(c) becomes of unsound mind;

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

(e) resigns by written notice to the Minister;

(f) becomes a member of Parliament, a provincial legislature, a Municipal Council, the Cabinet or the Executive Council of a province; or

(g) is removed from office by the Minister for reasons which are just and fair.

(6) The Minister may prescribe the necessary matters and procedures relating to meetings of the Council.

(7) A member of the Council who is not in the full-time employment of the State or an organ of state may be paid from the Council's funds from money approved by the Minister for that purpose the allowances which the Minister may determine in general or in a specific case in concurrence with the Minister of Finance.

Powers of Council

5. (1) The Council—

(a) shall establish a remuneration committee which shall advise the Council on the remuneration of the staff appointed in terms of section 6 and shall review such remuneration regularly; and

(b) shall establish an industry advisory committee, the funds advisory committee, a registration committee and a disciplinary committee and may establish any other committee that it considers appropriate for the functioning of the Council;

(c) may appoint the members of the committees contemplated in paragraphs (a) and (b), who may include members of the Council or outsiders, or both such members and outsiders, as the case may be; and

(d) may prescribe the powers, composition, procedures and rules pertaining to such committees: Provided that the Minister shall prescribe the procedures of the disciplinary committee.

(2) For the purposes of subsection (1)(c), "outsiders" include—

(a) the chair of the disciplinary committee who shall be legally qualified; and

(b) other persons with the expertise, experience or representative capacity necessary for the functioning of such committees.

(3) The industry advisory committee shall advise the Council on any matter referred to it by the Council in respect of this Act.

(4) The Council shall—

(a) keep a register of home builders and register and deregister home builders in accordance with criteria prescribed by the Minister;

(b) enrol and inspect the categories of homes that may be prescribed by the Minister;

(c) enter into agreements generally and specifically with provincial housing development boards regarding services to be rendered in respect of projects

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- (d) wat verteenwoordigend is van die belange van die nasionale staatsdepartemente verantwoordelik vir behuising, handel en nywerheid, finansies en openbare werke,
- welke persone sover moontlik die breë rasse-, geslags- en geografiese samestelling van Suid-Afrika weerspieël.
- (3) Die lede van die Raad word aangewys slegs nadat—
- (a) die Minister deur die media en by kennisgewing in die *Staatskoerant* nominasies van persone as kandidate vir die onderskeie posisies op die Raad aangevra het; en
- (b) die Minister oorleg gepleeg het met die LUR van elke provinsie en die parlementêre komitees vir behuising van die Nasionale Vergadering en die Nasionale Raad van Provinsies.
- (4) Wanneer 'n vakature ontstaan in die geledere van die lede ingevolge subartikel (2) aangestel, moet die Minister die vakature vul deur die aanstelling van 'n ander persoon wat die Minister meen verteenwoordigend is van die toepaslike belangegroep of beskik oor die vaardighede en ervaring vermeld in subartikel (2)(c), vir die onverstreke gedeelte van die termyn waarvoor sy of haar voorganger aangestel was.
- (5) 'n Lid van die Raad ontruim sy of haar amp indien hy of sy—
- (a) insolvent raak;
- (b) sonder toestemming van die Raad vir drie agtereenvolgende gewone vergaderings van die Raad afwesig was;
- (c) in sy of haar geestesvermoë gekrenk raak;
- (d) aan 'n misdryf skuldig bevind word en tot gevangenisstraf sonder die keuse van 'n boete gevonnis word;
- (e) by skriftelike kennisgewing aan die Minister bedank;
- (f) 'n lid word van die Parlement, 'n provinsiale wetgewer, 'n Munisipale Raad, die Kabinet of die Uitvoerende Raad van 'n provinsie; of
- (g) deur die Minister van die amp onthef word op grond van billike en regverdige redes.
- (6) Die Minister kan die nodige aangeleenthede en prosedures in verband met vergaderings van die Raad voorskryf.
- (7) Aan 'n lid van die Raad wat nie in die heeltidse diens van die Staat of 'n staatsorgaan is nie, mag uit die Raad se fondse uit geld vir daardie doel deur die Minister goedgekeur die toelaes betaal word wat die Minister in die algemeen of in 'n besondere geval in oorleg met die Minister van Finansies mag bepaal.

Bevoegdhede van Raad

5. (1) Die Raad—
- (a) stel 'n vergoedingskomitee in wat die Raad met advies dien oor die vergoeding van die personeel ingevolge artikel 6 aangestel, en wat sodanige vergoeding gereeld hersien;
- (b) stel 'n advieskomitee vir die bedryf, die fondse-advieskomitee, 'n registrasiekomitee en 'n dissiplinêre komitee in, en kan enige ander komitee instel wat hy toepaslik ag vir die Raad se funksionering;
- (c) wys die lede van die komitees beoog in paragrawe (a) en (b) aan, wat lede van die Raad of buitestaanders mag insluit, of sodanige lede sowel as buitestaanders, na gelang van die geval; en
- (d) skryf die bevoegdhede, samestelling, prosedures en reëls voor met betrekking tot sodanige komitees: Met dien verstande dat die Minister die prosedures met betrekking tot die dissiplinêre komitee voorskryf.
- (2) Vir die doeleindes van subartikel (1)(c), beteken "buitestaanders"—
- (a) ook die voorsitter van die dissiplinêre komitee, wat oor 'n regs kwalifikasie moet beskik; en
- (b) ook ander persone met die kundigheid, ervaring en verteenwoordigingsbevoegdheid vir die funksionering van sodanige komitees.
- (3) Die advieskomitee vir die bedryf dien die Raad met advies oor enige aangeleentheid in verband met hierdie Wet wat deur die Raad na hom verwys word.
- (4) Die Raad moet—
- (a) 'n register van huisbouers byhou en huisbouers registreer en deregistreer in ooreenstemming met maatstawwe deur die Minister voorgeskryf;
- (b) die kategorieë huise wat die Minister mag voorskryf, inskryf en inspekteer;
- (c) ooreenkomste met provinsiale behuisingontwikkelingsrade in die algemeen of in die besonder aangaan met betrekking tot dienste wat gelewer moet word

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- for the construction of homes, the acquisition of which, except in respect of any deposit that may be payable, will be financed solely from the proceeds of a state housing subsidy;
- (d) establish, maintain and administer a fund contemplated in section 15(4) to provide assistance to housing consumers under circumstances where home builders fail to meet their obligations in terms of section 13(2)(b)(i); 5
 - (e) assist in the resolution of disputes between registered home builders and housing consumers;
 - (f) engage in communications to inform housing consumers of their rights under this Act and other relevant matters; 10
 - (g) provide information to financial institutions, conveyancers, provincial housing development boards and any other interested person in order to assist them to comply with their obligations in terms of this Act;
 - (h) establish grading categories and criteria in respect of home builders with a view to encourage good building practice and discourage bad building practice; 15
 - (i) determine criteria to be applied in the grading of home builders in different categories for the purposes of differentiated enrolment fees;
 - (j) investigate, at the request of the Minister, the integration of the register of home builders into a possible general register of builders and make 20 recommendations to the Minister; and
 - (k) advise the Minister on any matter referred to it by the Minister in respect of the protection of housing consumers or the objectives of this Act.
- (5) The Council may—
- (a) engage in undertakings to promote improved structural quality of homes constructed in the Republic; 25
 - (b) engage in undertakings to improve ethical and technical standards in the home building industry;
 - (c) establish, maintain and administer different funds for different purposes contemplated in section 15(5); 30
 - (d) keep a record of competent persons;
 - (e) issue circulars to be complied with by registered home builders;
 - (f) acquire, register, deal with and dispose of any trade mark;
 - (g) make recommendations to the Minister in respect of any amendment to this Act that it deems advisable; and 35
 - (h) generally do all things necessary or expedient to achieve its objects and the objectives of this Act.

Staff of Council

6. (1) The Council shall appoint a person as Chief Executive Officer who shall be responsible for the day to day management of the affairs of the Council. 40
- (2) The work incidental to the carrying out of its functions by the Council shall be performed under its directions and control by persons appointed by the Council.
- (3) The Chief Executive Officer and the persons contemplated in subsection (2) shall be appointed on the conditions of service that the Council may determine.
- (4) The Council shall ensure that all inspectors appointed in terms of section 19(1) 45 have appropriate experience or qualifications.

Regulating measures

7. (1) The Council may, by publication in the *Gazette*—
- (a) make Rules—
 - (i) regulating the conduct of registered home builders; 50
 - (ii) prescribing procedures for the registration of home builders and the expiration of registration;
 - (iii) prescribing enrolment fees in respect of homes or categories of homes and other fees, excluding the fees contemplated in subsection (2);
 - (iv) prescribing procedures for enrolment and cancellation of enrolment; 55
 - (v) prescribing procedures for the consideration of applications for assistance by housing consumers from its funds or a fund;

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- ten opsigte van projekte vir die oprigting van huise, waarvan die verkryging, behalwe ten opsigte van enige deposito wat betaalbaar mag wees, alleenlik deur die opbrengs van 'n staatsbehuisingssubsidie gefinansier word;
- (d) 'n fonds beoog in artikel 15(4) stig, in stand hou en administreer om bystand te verleen aan behuisingsverbruikers onder omstandighede waar huisbewoners versuim om hulle verpligtinge ingevolge artikel 13(2)(b)(i) na te kom;
- (e) bystand verleen in die beslegting van geskille tussen geregistreerde huisbouers en behuisingsverbruikers;
- (f) deelneem aan kommunikasie ten einde verbruikers oor hulle regte ingevolge hierdie Wet en ander tersaaklike aangeleenthede in te lig;
- (g) inligting aan finansiële instellings, aktevervaardigers, provinsiale behuisingsontwikkelingsrade en enige ander persoon verskaf ten einde hulle in staat te stel om hulle verpligtinge ingevolge hierdie Wet na te kom;
- (h) graderingskategorieë en -maatstawwe ten opsigte van huisbouers instel ten einde goeie boupraktyk te verseker en swak boupraktyk te ontmoedig;
- (i) maatstawwe vasstel vir toepassing in die gradering van huisbouers in verskillende kategorieë vir die doeleindes van gedifferensieerde inskrywingsgelde;
- (j) om, op versoek van die Minister, die opname van die register van huisbouers in 'n moontlike algemene register van bouers te ondersoek en aanbevelings met betrekking daartoe aan die Minister te doen; en
- (k) om die Ministers van advies te dien oor enige aangeleentheid wat deur die Minister na die Raad verwys word oor die beskerming van behuisingsverbruikers of die doelstellings van hierdie Wet.
- (5) Die Raad mag—
- (a) deelneem aan inisiatiewe om verbeterde struktuurkwaliteit van huise wat in die Republiek opgerig word, te bevorder;
- (b) deelneem aan inisiatiewe om etiese en tegniese standaarde in die huisboubedryf te verbeter en te bevorder;
- (c) verskillende fondse vir verskillende doeleindes beoog in artikel 15(5) stig, in stand hou en administreer;
- (d) 'n register van bevoegde persone byhou;
- (e) omsendbriewe uitreik waaraan geregistreerde huisbouers moet voldoen;
- (f) enige handelsmerk verkry, registreer, daarmee handel en vervreem;
- (g) aanbevelings aan die Minister doen ten opsigte van enige wysiging aan hierdie Wet wat die Raad raadsaam ag; en
- (h) in die algemeen enigiets doen wat nodig of wenslik is om die Raad se doelstellings en die doelstellings van hierdie Wet te bereik.

Personeel van Raad

6. (1) Die Raad stel 'n persoon as Hoof- Uitvoerende Beampte aan wat verantwoordelik is vir die daaglikse bestuur van die sake van die Raad.
- (2) Die werk bykomstig tot die uitvoering deur die Raad van sy funksies word uitgevoer onder die Raad se voorskrifte en beheer deur persone deur die Raad aangestel.
- (3) Die Hoof- Uitvoerende Beampte en die persone beoog in subartikel (2) word aangestel op die diensvoorwaardes wat die Raad vasstel.
- (4) Die Raad moet toesien dat alle inspekteurs wat ingevolge artikel 19(1) aangestel word oor toepaslike ondervinding en kwalifikasies beskik.

Regulerende maatreëls

7. (1) Die Raad kan, by publikasie in die *Staatskoerant*—
- (a) reëls maak wat—
- (i) die optrede van geregistreerde huisbouers reguleer;
- (ii) prosedures vir die registrasie van huisbouers en die verstryking van registrasie voorskryf;
- (iii) die inskrywingsgelde ten opsigte van huise of kategorieë van huise, of ander gelde, wat nie die gelde beoog in subartikel (2) insluit nie, voorskryf;
- (iv) prosedures vir inskrywing en kansellasië van inskrywing voorskryf;
- (v) prosedures vir die oorweging van aansoeke vir bystand deur behuisingsverbruikers uit sy fondse of 'n fonds voorskryf;

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- (vi) prescribing the procedures for resolution of disputes by conciliation or arbitration and providing for the payment and refunding of deposits or fees for such conciliation or arbitration;
- (vii) prescribing procedures to be complied with by housing consumers, relating to the lodgement of complaints with the Council; 5
- (viii) recommending terms to be included in or excluded from agreements between home builders and housing consumers in respect of the construction or sale of homes;
- (ix) prescribing a code of conduct; and
- (x) prescribing forms for the purposes of the Council; and 10
- (b) prescribe any matter which is necessary or desirable to be prescribed by the Council in order to achieve the objectives of this Act.
- (2) The Minister shall prescribe—
 - (a) application fees, registration fees and annual registration renewal fees;
 - (b) the terms and conditions for the registration and renewal of registration of home builders; 15
 - (c) procedures for disciplinary proceedings before the disciplinary committee in respect of alleged misconduct of home builders and make provision for fines and other penalties to be imposed on home builders who contravene the code of conduct prescribed by the Council; 20
 - (d) requirements applying to a home builder for the design and construction of prescribed homes in respect of structural strength and stability, serviceability, behaviour in fire, drainage and storm water management; and
 - (e) the minimum and maximum amounts which may be expended under section 17(1) in respect of any home pursuant to the failure of a home builder to meet his or her obligations in terms of section 13(2)(b)(i). 25
- (3) The Council shall give home builders reasonable notice of proposed changes to the Rules or the NHBRC Technical Requirements.

Report to Minister and Parliament

- 8. (1) The Council shall annually, not later than six months after the end of each financial year, submit to the Minister a report on all its activities during the previous year, including— 30
 - (a) the audited financial statements of the Council referred to in section 15(6)(d);
 - (b) a report on the affairs of the Council during the relevant financial year;
 - (c) a report on the administrative efficiency of the Council; and 35
 - (d) a report on the financial position of the Council, including any fund.
- (2) The report referred to in subsection (1) shall be laid upon the Table in Parliament within 30 days after it was received by the Minister, if Parliament is then in session, or, if Parliament is not then in session, within 30 days after the commencement of its next ensuing session. 40

Access to information

- 9. (1) The Council shall keep up and provide access to an information database on the home builders registered, suspended and deregistered in terms of this Act.
- (2) The database contemplated in section 9(1) shall include— 45
 - (a) the names and identity numbers of the directors, members, trustees or partners of such companies, close corporations, trusts, partnerships or sole traders;
 - (b) the number of homes enrolled by such home builders;
 - (c) the number of complaints, considered valid by the Council and requiring on-site conciliation, received from housing consumers;
 - (d) the grading of those home builders; and 50
 - (e) any other information deemed appropriate by the Council to assist housing consumers to assess the track record of a home builder.
- (3) The Council shall provide access to the information database services referred to in subsections (1) and (2)—

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- (vi) die prosedures vir die beslegting van geskille deur bemiddeling of arbitrasie voorskryf en voorsiening maak vir die betaling en terugbetaling van deposito's of gelde vir sodanige bemiddeling of arbitrasie;
- 5 (vii) prosedures voorskryf in verband met die indiening van klagtes by die Raad waaraan behuisingsverbruikers moet voldoen;
- (viii) bedinge aanbeveel wat in ooreenkomste tussen huisbouers en behuisingsverbruikers in verband met die bou of verkoop van huise ingesluit of uitgesluit moet word;
- (ix) 'n gedragskode voorskryf; en
- 10 (x) vorms vir die doeleindes van die Raad voorskryf; en
- (b) enige aangeleentheid wat noodsaaklik of wenslik is om deur die Raad voorgeskryf te word ten einde die doelstellings van hierdie Wet te bereik, voorskryf.
- (2) Die Minister moet—
- 15 (a) aansoekgelde, registrasiegelde en jaarlikse registrasiehernuwingsgelde voorskryf;
- (b) die bedinge en voorwaardes vir registrasie en hernuwing van registrasie van huisbouers voorskryf;
- 20 (c) prosedures voorskryf vir dissiplinêre verrigtinge voor die dissiplinêre komitee ten opsigte van beweerde wangedrag van huisbouers en voorsiening maak vir boetes of ander strawwe vir huisbouers wat die gedragskode oortree wat deur die Raad voorgeskryf is;
- (d) vereistes voorskryf wat van toepassing is op 'n huisbouer vir die ontwerp en konstruksie van voorgeskrewe huise ten opsigte van strukturele sterkte en stabiliteit, diensbaarheid, gedrag in 'n brand, dreinerings- en stormwaterhantering; en
- 25 (e) die minimum en maksimum bedrae voorskryf wat kragtens artikel 17(1) bestee mag word ten opsigte van enige huis na aanleiding van die versuim van 'n huisbouer om sy of haar verpligtinge ingevolge artikel 13(2)(b)(ii) na te kom.
- 30 (3) Die Raad moet huisbouers redelike kennis gee van voorgestelde wysigings aan die Reëls of die NHBRR Tegniese Vereistes.

Verslag aan Minister en Parlement

8. (1) Die Raad lê jaarliks, nie later nie as ses maande na die afsluiting van elke boekjaar, 'n verslag oor al die Raad se bedrywighede gedurende die voorafgaande jaar aan die Minister voor, met inbegrip van—
- 35 (a) die geouditeerde finansiële state van die Raad in artikel 15(6)(d) vermeld;
- (b) 'n verslag oor die sake van die Raad gedurende die toepaslike boekjaar;
- (c) 'n verslag oor die administratiewe doeltreffendheid van die Raad; en
- 40 (d) 'n verslag oor die finansiële posisie van die Raad, met inbegrip van enige fonds.
- (2) Die verslag in subartikel (1) bedoel, word in die Parlement ter tafel gelê binne 30 dae nadat dit deur die Minister ontvang is indien die Parlement dan byeen is, of, indien die Parlement nie dan byeen is nie, binne 30 dae na die aanvang van sy eersvolgende
- 45 sessie.

Toegang tot inligting

9. (1) Die Raad moet toegang verleen tot en 'n inligtingsdatabasis byhou oor die huisbouers wat ingevolge die Wet geregistreer, geskors en gederegistreer is.
- (2) Die databasis beoog in subartikel (1), moet insluit—
- 50 (a) die name en identiteitsnommers van die direkteure, lede, trustees of vennote van die betrokke maatskappye, beslote korporasies, trusts, vennootskappe of enkelhandelaars;
- (b) die aantal huise wat deur sodanige huisbouers ingeskryf is;
- 55 (c) die aantal klagtes wat deur die Raad as geldig beskou is en wat op-terrein bemiddeling vereis het, wat van behuisingsverbruikers ontvang is;
- (d) die gradering van daardie huisbouers; en
- (e) enige ander inligting wat die Raad toepaslik ag ten einde bystand te verleen aan behuisingsverbruikers om die huisbouer se vorige optrede te bepaal.
- (3) Die Raad verleen toegang tot die inligtingsdatabasisdienste bedoel in subartikels
- 60 (1) en (2)—

- (a) free of charge where this access is for the *bona fide* use of such information by a housing consumer for his or her own non-commercial use;
 - (b) free of charge to mortgagees, conveyancers and provincial housing development boards to assist them to meet their obligations in terms of section 18, and may prescribe fees for the provision of information services used for commercial or other purposes. 5
- (4) Any person may have access to the Rules, the Home Building Manual and all circulars or other documents issued by the Council, at the places and times prescribed by the Council and may obtain copies of any such document against the payment of the fees prescribed by the Council. 10

CHAPTER II

REGISTRATION OF HOME BUILDERS

Registration of home builders

10. (1) No person shall—
- (a) carry on the business of a home builder; or 15
 - (b) receive any consideration in terms of any agreement with a housing consumer in respect of the sale or construction of a home, unless that person is a registered home builder.
- (2) No home builder shall construct a home unless that home builder is a registered home builder. 20
- (3) The Council shall register a home builder, on application in the form and manner prescribed by the Council, if the Council is satisfied that the home builder—
- (a) meets the criteria prescribed by the Minister under section 7(2);
 - (b) will in carrying on the business of a home builder comply with the home builder's obligations in terms of this Act; and 25
 - (c) has appropriate financial, technical, construction and management capacity for the specific business carried on by the home builder in order to prevent housing consumers and the Council from being exposed to unacceptable risks.
- (4) Registration of a home builder shall be subject to the terms and conditions prescribed by the Minister under section 7(2) or imposed in any particular case, and the Council may register a home builder provisionally on the conditions that the Council deem fit. 30
- (5) The Council may, without prejudice to the generality of subsections (3) and (4), require any suretyship, guarantee, indemnity or other security that the Council may in its discretion deem necessary to satisfy itself in respect of the requirements contemplated in subsection (3). 35
- (6) The Council may, in addition to any other category that the Council may deem appropriate, in the registration of home builders distinguish between—
- (a) home builders themselves having the capacity to undertake the physical construction of homes or to manage the process of the physical construction of homes; and 40
 - (b) home builders who in the normal course need to enter into agreements with other home builders in order to procure the capacity referred to in paragraph (a).
- (7) A home builder registered in terms of subsection (6)(b) shall be obliged, for the purposes of the physical construction of homes, to appoint a home builder registered in terms of subsection (6)(a). 45
- (8) If an application for the registration of a home builder has been made and the Council is of the opinion that the registration of that homebuilder should be refused, the Council shall notify that home builder in writing of its intention and reasons therefor. 50
- (9) A home builder contemplated in subsection (8) shall be entitled to make representations in writing to the Council in response to any reason provided in terms of that subsection.
- (10) If the Council, after consideration of the representations contemplated in subsection (9), is of the view that the home builder has not satisfied the Council regarding the requirements of subsection (3), the Council shall notify that home builder accordingly. 55
- (11) A home builder contemplated in subsection (10) may request the Council within 30 days of receipt of a notification referred to in that subsection, to allow the home builder to present its case to a registration committee established by the Council for that 60

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- (a) gratis waar die toegang is vir *bona fide*-gebruik deur 'n behuisingsverbruiker vir sy of haar eie nie-handelsgebruik;
- (b) gratis aan verbandgewers, aktevervaardigers en provinsiale behuisingsontwikkelingsrade ten einde hulle in staat te stel om hulle verpligtinge ingevolge artikel 18 na te kom,
- 5 en mag gelde voorskryf vir die voorsiening van inligting wat vir handels- of ander doeleindes gebruik word.
- (4) Enige persoon kan insae hê in die Reëls, die Huisbouhandleiding en alle omsendbriewe of ander dokumente deur die Raad uitgereik, by die plekke en op die tye
- 10 deur die Raad voorgeskryf, en kan afskrifte van sodanige dokumente bekom teen betaling van die gelde deur die Raad voorgeskryf.

HOOFSTUK II

REGISTRASIE VAN HUISBOUERS

Registrasie van huisbouers

- 15 10. (1) Niemand mag—
- (a) die besigheid van 'n huisbouer bedryf nie; of
- (b) enige vergoeding ontvang ingevolge enige ooreenkoms met 'n behuisingsverbruiker ten opsigte van die verkoop of oprigting van 'n huis nie,
- tensy daardie persoon 'n geregistreerde huisbouer is.
- 20 (2) Geen huisbouer mag 'n huis oprig nie tensy daardie huisbouer 'n geregistreerde huisbouer is.
- (3) By aansoek in die vorm en op die wyse voorgeskryf deur die Raad registreer die Raad 'n huisbouer indien die Raad oortuig is dat die huisbouer—
- (a) voldoen aan die maatstawwe deur die Minister kragtens artikel 7(2)
- 25 voorgeskryf;
- (b) in die bedryf van 'n besigheid van 'n huisbouer die huisbouer se verpligtinge ingevolge hierdie Wet sal nakom; en
- (c) beskik oor gepaste finansiële, tegniese, konstruksie- en bestuursvermoë ten opsigte van die spesifieke besigheid bedryf deur die huisbouer ten einde te
- 30 voorkom dat behuisingsverbruikers en die Raad aan onaanvaarbare risiko's blootgestel word.
- (4) Die registrasie van 'n huisbouer is onderhewig aan die bedinge en voorwaardes wat deur die Minister kragtens artikel 7(2) of in enige besondere geval opgelê word, en die Raad kan 'n huisbouer voorlopig registreer op die voorwaardes wat die Raad
- 35 goedgevind.
- (5) Die Raad kan, sonder om afbreuk te doen aan die algemeenheid van subartikels (3) en (4), enige borgstelling, waarborg, vrywaring of ander sekerheid vereis wat die Raad in sy diskresie nodig ag om homself te oortuig ten opsigte van die vereistes in subartikel (3) beoog.
- 40 (6) Die Raad kan, bykomend tot enige ander kategorie wat die Raad toepaslik ag, by die registrasie van huisbouers onderskei tussen—
- (a) huisbouers wat self oor die vermoë beskik om die fisiese oprigting van huise te onderneem of om die proses van die fisiese oprigting van huise te bestuur;
- 45 en
- (b) huisbouers wat gewoonlik ooreenkomste met ander huisbouers moet sluit ten einde die vermoë in subartikel (a) bedoel, te bekom.
- (7) 'n Huisbouer geregistreer ingevolge subartikel 6(b) is verplig om vir die doeleindes van die fisiese oprigting van huise 'n huisbouer aan te stel wat ingevolge subartikel 7(a) geregistreer is.
- 50 (8) Indien aansoek om registrasie van 'n huisbouer gedoen is en die Raad van oordeel is dat die registrasie van daardie huisbouer afgewys moet word, stel die Raad die huisbouer skriftelik in kennis van sy voorneme en die redes daarvoor.
- (9) 'n Huisbouer beoog in subartikel (8) is geregtig om skriftelike verhoë aan die Raad te rig in antwoord op enige rede ingevolge daardie subartikel verskaf.
- 55 (10) Indien die Raad na oorweging van die verhoë beoog in subartikel (9) van mening is dat die huisbouer nie die Raad oortuig het met betrekking tot die vereistes van subartikel (3) nie, stel die Raad die huisbouer dienooreenkomstig in kennis.
- (11) 'n Huisbouer beoog in subartikel (10) kan die Raad binne 30 dae na ontvangs van 'n kennisgewing bedoel in daardie subartikel versoek om die huisbouer toe te laat
- 60 om sy saak te stel aan 'n registrasiekomitee deur die Raad vir daardie doel aangewys,

purpose, whose decision shall be the decision of the Council and which shall, subject to section 22(2), be final.

(12) If a home builder fails to exercise its rights in terms of subsection (11), the decision contemplated in subsection (10) shall, subject to section 22(2), be final.

(13) Unless it is approved by the Council and subject to the terms and conditions that the Council may impose, the registration of a home builder with the Council shall not be transferred to any other person. 5

(14) The Council shall provide information regarding home builders to housing consumers and shall publish lists of home builders and their grading and lists of deregistered home builders. 10

(15) The Council, a member of the Council or any person in the service of the Council or acting on its authority shall not be liable for any loss or damage resulting from anything done or omitted in good faith in terms of section 9, 10 or 11 of this Act.

Withdrawal and suspension of registration

11. (1) The Council may withdraw the registration of a home builder where the home builder has been found guilty by the disciplinary committee on a charge that such home builder— 15

(a) has failed to comply with any provision of or obligation in terms of this Act and fails to comply with a notice from the Council requiring rectification of that failure; 20

(b) has consistently failed to comply with any one or more provision of or condition or obligation in terms of this Act—

(i) where the Council has notified the home builder of its intended withdrawal of the home builder's registration with the Council, and has requested the home builder to provide reasons as to why the Council should not withdraw the home builder's registration with the Council; and 25

(ii) where the Council is not satisfied, on reasonable grounds, that the home builder will comply with any particular provision of or condition or obligation in terms of this Act; 30

(c) has failed to comply with a notice from the Council requiring the home builder to pay amounts due to the Council on account of any fee, charge or levy or any costs incurred or expended by the Council related to the failure of the home builder to comply with section 13(2)(b)(i);

(d) has contravened the code of conduct made under the Rules; or 35

(e) has failed to respond to correspondence from the Council.

(2) The provisions of section 10(8), (9), (10), (11) and (12) shall, with the necessary changes, apply to a withdrawal of the registration of a home builder.

(3) Where the Council has information that would—

(a) enable the Council to act in terms of subsection (1); and 40

(b) require immediate intervention by the Council in the interest of housing consumers,

the Council, after having notified the home builder and after having allowed the home builder an opportunity to urgently respond to the Council, may suspend the registered home builder's registration or refuse to enrol homes for the period that the Council deems to be necessary to investigate the matter or until the registered home builder has complied with the relevant provision of or condition or obligation in terms of this Act, as the case may be. 45

Home Building Manual

12. (1) The Council shall, for the purposes of this Act, publish a Home Building Manual containing— 50

(a) the NHBRC Technical Requirements; and

(b) guidelines prescribed by the Council to comply with the NHBRC Technical Requirements,

with which registered home builders shall comply. 55

(2) The Home Building Manual may require plans and associated documents to be approved by competent persons, and different requirements may be determined in respect of different categories of homes or different types of building techniques or materials.

welke komitee se besluit die besluit van die Raad is en wat, behoudens artikel 22(2), finaal is.

(12) Indien 'n huisbouer versuim om sy regte ingevolge subartikel (11) uit te oefen, is die besluit beoog in subartikel (10), behoudens artikel 22(2), finaal.

5 (13) Tensy die Raad dit goedkeur, en onderhewig aan die bedinge en voorwaardes wat die Raad mag opleë, word die registrasie van 'n huisbouer by die Raad aan geen ander persoon oorgedra nie.

(14) Die Raad moet inligting met betrekking tot huisbouers aan behuisingsverbruikers verstrek en moet lyste van huisbouers en hul gradering en lyste van gederegistreerde
10 huisbouers publiseer.

(15) Die Raad, 'n lid van die Raad of enige persoon in diens van die Raad of wat namens die Raad optree, is nie aanspreeklik nie ten opsigte van enige verlies of skade wat ontstaan as gevolg van enigiets wat te goeder trou ingevolge artikel 9, 10 of 11 van hierdie Wet gedoen of nie gedoen is nie.

15 Intrekking en opskorting van registrasie

11. (1) Die Raad kan die registrasie van 'n huisbouer intrek, indien die huisbouer deur die dissiplinêre komitee skuldig bevind is op 'n klagte dat daardie huisbouer—

(a) versuim het om enige bepaling van of verpligting ingevolge hierdie Wet na te kom en versuim om 'n kennisgewing van die Raad wat regstelling van
20 daardie versuim vereis, na te kom;

(b) aanhoudend versuim het om een of meer bepalings van of voorwaardes of verpligtinge ingevolge hierdie Wet na te kom—

(i) waar die Raad die huisbouer in kennis gestel het van sy voorgenome intrekking van die huisbouer se registrasie by die Raad, en die huisbouer versoek het om redes te verstrek waarom die Raad nie die huisbouer se registrasie by die Raad moet intrek nie; en
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(ii) waar die Raad op redelike gronde nie oortuig is dat die huisbouer sal voldoen aan enige bepaalde bepaling van of voorwaarde of verpligting ingevolge hierdie Wet nie;

(c) versuim het om 'n kennisgewing van die Raad na te kom wat van die huisbouer vereis dat bedrae verskuldig aan die Raad uit hoofde van enige gelde, vordering of heffing of enige koste aangegaan of uitgawes deur die Raad in verband met die huisbouer se versuim om te voldoen aan artikel 13(2)(b)(i), betaal word;
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(d) die gedragskode kragtens die Reëls uitgevaardig, oortree het; of

(e) versuim het om te reageer op korrespondensie van die Raad.

(2) Die bepalings van artikel 10(8), (9), (10), (11) en (12) is, met die nodige veranderinge, van toepassing op die intrekking van die registrasie van 'n huisbouer.

(3) Indien die Raad oor inligting beskik wat—

(a) die Raad in staat stel om ingevolge subartikel (1) op te tree; en
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(b) onmiddellike optrede deur die Raad in belang van behuisingsverbruikers vereis,

kan die Raad, nadat die huisbouer ingelig is en die huisbouer geleentheid gegee is om die Raad dringend te antwoord, die geregistreerde huisbouer se registrasie opskort of
45 weier om huise in te skryf vir die tydperk wat die Raad nodig ag om die aangeleentheid te ondersoek, of totdat die geregistreerde huisbouer die toepaslike bepaling van of voorwaarde of verpligting ingevolge hierdie Wet, na gelang van die geval, nagekom het.

Huisbouhandleiding

50 12. (1) Die Raad publiseer vir die doeleindes van hierdie Wet 'n Huisbouhandleiding wat bestaan uit—

(a) die NHBRR Tegniëse Vereistes; en

(b) riglyne deur die Raad voorgeskryf om die NHBRR Tegniëse Vereistes na te kom,
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wat deur geregistreerde huisbouers nagekom moet word.

(2) Die Huisbouhandleiding mag vereis dat planne en bykomende dokumente deur bevoegde persone goedgekeur word, en verskillende vereistes mag ten opsigte van verskillende kategorieë huise of verskillende tipes boutegniese of materiale vasgestel word.

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(3) The Council shall give home builders reasonable notice of any amendment or substitution of the Home Building Manual.

(4) The Council shall submit the Home Building Manual and any amendment thereof to the Council of the South African Bureau of Standards contemplated in section 6 of the Standards Act, 1993 (Act No. 29 of 1993), to consider possible conflict with and integration into the regulations made under the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).

(5) Nothing in this Act shall exempt any person from any provision of the National Building Regulations and Building Standards Act, 1977.

CHAPTER III

PROTECTION OF HOUSING CONSUMERS

Conclusion of agreements and implied terms

13. (1) A home builder shall ensure that the agreement concluded between the home builder and a housing consumer for the construction or sale of a home by that home builder—

- (a) shall be in writing and signed by the parties;
- (b) shall set out all material terms, including the financial obligations of the housing consumer; and
- (c) shall have attached to the written agreement as annexures, the specifications pertaining to materials to be used in construction of the home and the plans reflecting the dimensions and measurements of the home, as approved by the local government body: Provided that provision may be made for amendments to the plans as required by the local government body.

(2) The agreement between a home builder and a housing consumer for the construction or sale of a home shall be deemed to include warranties enforceable by the housing consumer against the home builder in any court, that—

- (a) the home, depending on whether it has been constructed or is to be constructed—
 - (i) is or shall be constructed in a workmanlike manner;
 - (ii) is or shall be fit for habitation; and
 - (iii) is or shall be constructed in accordance with—
 - (aa) the NHBRC Technical Requirements to the extent applicable to the home at the date of enrolment of the home with the Council; and
 - (bb) the terms, plans and specifications of the agreement concluded with the housing consumer as contemplated in subsection (1);
- (b) the home builder shall—
 - (i) subject to the limitations and exclusions that may be prescribed by the Minister, at the cost of the home builder and upon demand by the housing consumer, rectify major structural defects in the home caused by the non-compliance with the NHBRC Technical Requirements and occurring within a period which shall be set out in the agreement and which shall not be less than five years as from the occupation date, and notified to the home builder by the housing consumer within that period;
 - (ii) rectify non-compliance with or deviation from the terms, plans and specifications of the agreement or any deficiency related to design, workmanship or material notified to the home builder by the housing consumer within a period which shall be set out in the agreement and which shall not be less than three months as from the occupation date; and
 - (iii) repair roof leaks attributable to workmanship, design or materials occurring and notified to the home builder by the housing consumer within a period which shall be set out in the agreement and which shall not be less than 12 months as from the occupation date.

(3) The failure to comply with a provision of subsection (1)(a) and (c) shall not render an agreement referred to in that subsection invalid.

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(3) Die Raad gee huisbouers redelike kennis van enige wysiging of vervanging van die Huisbouhandleiding.

(4) Die Raad lê die Huisbouhandleiding en enige wysiging daarvan voor aan die Raad van die Suid-Afrikaanse Buro vir Standaarde beoog in artikel 6 van die Wet op Standaarde, 1993 (Wet No. 29 van 1993), ten einde moontlike botsing met en opname in die regulasies uitgevaardig kragtens die Wet op Nasionale Bouregulasies en Boustandaarde, 1997 (Wet No. 103 van 1977), te oorweeg.

(5) Geen bepaling van hierdie Wet onthef enige persoon van enige bepaling van die Wet op Nasionale Bouregulasies en Boustandaarde, 1977, nie.

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HOOFSTUK III

BESKERMING VAN BEHUISINGSVERBRUIKERS

Aangaan van ooreenkomste en stilswyende bedinge

13. (1) 'n Huisbouer moet toesien dat die ooreenkoms wat gesluit word tussen die huisbouer en 'n behuisingsverbruiker vir die oprigting of verkoop van 'n huis deur daardie huisbouer—

- (a) skriftelik is en deur die partye onderteken word;
- (b) alle wesentliche bedinge, met inbegrip van die finansiële verpligtinge van die behuisingsverbruiker, uiteensit; en
- (c) die spesifikasies met betrekking tot die materiale wat gebruik gaan word in die oprigting van die huis en die planne wat die grootte en afmetings van die huis weergee, soos goedgekeur deur die plaaslike owerheidsliggaam, as aanhangsels by die skriftelike ooreenkoms insluit: Met dien verstande dat voorsiening gemaak kan word vir wysigings van die planne soos deur die plaaslike owerheidsliggaam vereis.

25 (2) Die ooreenkoms tussen 'n huisbouer en 'n behuisingsverbruiker vir die oprigting of verkoop van 'n huis word geag waarborge in te sluit wat in enige hof deur die behuisingsverbruiker teenoor die huisbouer afdwingbaar is, naamlik dat—

- (a) die huis, afhangende daarvan of dit reeds opgerig is of opgerig staan te word—
 - (i) op 'n vakkundige wyse gebou is of gebou sal word;
 - (ii) geskik is of sal wees vir bewoning; en
 - (iii) gebou is of gebou sal word ooreenkomstig—
 - (aa) die NHBRR Tegniese Vereistes in die mate waarin dit op die huis van toepassing is op die datum waarop die huis by die Raad ingeskryf word; en
 - (bb) die bedinge, planne en spesifikasies van die ooreenkoms aangegaan met die behuisingsverbruiker soos beoog in subartikel (1);
- (b) die huisbouer—
 - (i) onderhewig aan die beperkings en vrystellings wat die Minister mag voorskryf, op onkoste van die huisbouer en op aanvraag deur die behuisingsverbruiker, ernstige strukturele gebreke in die huis sal regstel wat veroorsaak is deur nie-nakoming van die NHBRR Tegniese Vereistes, en wat plaasvind binne 'n tydperk bepaal in die ooreenkoms en wat nie korter sal wees as vyf jaar vanaf die okkupasiedatum nie, en waarvan kennis deur die behuisingsverbruiker aan die huisbouer gegee is binne daardie tydperk;
 - (ii) nie-nakoming of afwyking van die bedinge, planne en spesifikasies van die ooreenkoms of enige gebrek wat verband hou met ontwerp, vakmanskap of materiale, waarvan kennis deur die behuisingsverbruiker aan die huisbouer gegee is binne 'n tydperk bepaal in die ooreenkoms en, wat nie korter as drie maande vanaf die okkupasiedatum sal wees nie, sal regstel; en
 - (iii) daklekkage sal regstel wat toegeskryf kan word aan vakmanskap, ontwerp of materiale, wat plaasvind en waarvan kennis deur die behuisingsverbruiker aan die huisbouer gegee is binne 'n tydperk bepaal in die ooreenkoms en wat nie korter as 12 maande vanaf die okkupasiedatum sal wees nie.

(3) Versuim om 'n bepaling van subartikel (1)(a) en (c) na te kom, maak nie 'n ooreenkoms bedoel in daardie subartikel ongeldig nie.

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(4) Where a housing consumer has sold or disposed of a home to another housing consumer within the period contemplated in subsection (2)(b)(i), the housing consumer having sold or disposed of the home shall be deemed to have ceded his or her rights under subsection (2) to such subsequent housing consumer.

(5) Subsection (4) shall also apply to any subsequent sale or disposal during the period contemplated in subsection (2)(b)(i). 5

(6) Any provision in an agreement contemplated in subsection (1) that excludes or waives any provision of this section shall be null and void.

(7) A home builder may not—

- (a) demand or receive from a housing consumer any deposit for the construction or sale of a home unless an agreement between the home builder and the housing consumer has been concluded in terms of subsections (1) and (2); and 10
- (b) receive any other consideration unless the provisions of section 14(1) or (2), as the case may be, have been complied with.

(8) A housing consumer or a home builder may refer a complaint in respect of this section to the Council, who shall investigate such complaints in terms of the prescribed procedures and any agreement contemplated in section 5(4)(c). 15

Enrolment

14. (1) A home builder shall not commence the construction of a home falling within any category of home that may be prescribed by the Minister for the purposes of this section unless— 20

- (a) the home builder has submitted the prescribed documents, information and fee to the Council in the prescribed manner;
- (b) the Council has accepted the submission contemplated in paragraph (a) and has entered it in the records of the Council; and 25
- (c) the Council has issued a certificate of proof of enrolment in the prescribed form and manner to the home builder.

(2) A home builder shall not commence the construction of a home the acquisition of which, except in respect of any deposit payable, will be financed solely from the proceeds of a state housing subsidy, unless— 30

- (a) the home builder has submitted the prescribed documents and information to the Council in terms of the agreement contemplated in section 5(4)(c);
- (b) the Council has accepted the submission contemplated in paragraph (a) and has entered it in the records of the Council;
- (c) the Council has issued a certificate of proof of enrolment of the project in the prescribed form and manner to the home builder; and 35
- (d) the provincial housing development board has paid the prescribed fee to the Council in terms of the agreement contemplated in section 5(4)(c).

(3) A home builder shall provide the housing consumer with a copy of the certificate contemplated in subsection (1)(c) or (2)(c), as the case may be. 40

(4) The enrolment of a home with the Council may be cancelled or suspended by the Council prior to the occupation date of the home if—

- (a) the Council, on reasonable grounds, is not satisfied that the home has been constructed in accordance with the NHBRC Technical Requirements to the extent that it may apply to that home; or 45
- (b) the home builder, having commenced construction in respect of a home, has failed to complete the construction of that home and another home builder continues that construction without complying with the provisions of subsection (7).

(5) The enrolment of a home with the Council shall be deemed automatically to have been cancelled by the Council— 50

- (a) on the granting of an order by a court for the provisional liquidation or the sequestration of a home builder;
- (b) on the withdrawal of the registration of the home builder with the Council in terms of section 11; or 55
- (c) on the suspension of the registration of a home builder with the Council in terms of section 11,

where any such event occurs prior to the occupation date.

(6) The Council may reinstate an enrolment contemplated in subsection (4) or (5) within its discretion: Provided that if the Council does not reinstate such enrolment, it shall repay to the home builder, or any person entitled thereto, the enrolment fees less the reasonable costs incurred by the Council in respect of the matter. 60

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- (4) Indien 'n behuisingsverbruiker 'n huis verkoop of vervreem het aan 'n ander behuisingsverbruiker in die tydperk beoog in subartikel (2)(b)(i) word dit geag dat die behuisingsverbruiker wat die huis verkoop of vervreem het sy of haar regte kragtens subartikel (2) aan daardie opvolgende behuisingsverbruiker sedgeer het.
- 5 (5) Subartikel (4) is ook van toepassing op enige verdere verkoop of vervreemding gedurende die tydperk in subartikel (2)(b)(i) beoog.
- (6) Enige bepaling in 'n ooreenkoms beoog in subartikel (1) wat enige bepaling van hierdie artikel uitsluit of daarvan afstand doen, is nietig.
- (7) 'n Huisbouer mag nie—
- 10 (a) van 'n behuisingsverbruiker enige deposito vir die oprigting of verkoop van 'n huis vorder of ontvang nie, tensy 'n ooreenkoms tussen die huisbouer en die behuisingsverbruiker ingevolge subartikels (1) en (2) gesluit is; en
- (b) enige vergoeding ontvang nie, tensy artikel 14(1) of (2), na gelang van die geval, nagekom is.
- 15 (8) 'n Behuisingsverbruiker of 'n huisbouer mag 'n klagte ten opsigte van hierdie artikel na die Raad verwys, wat die klagte moet ondersoek ingevolge die voorgeskrewe prosedures en enige ooreenkoms in artikel 5(4)(c) beoog.

Inskrywing

14. (1) 'n Huisbouer begin nie met die oprigting van 'n huis wat val in enige
20 kategorie van huise wat die Minister vir doeelindes van hierdie artikel mag voorskryf nie, tensy—
- (a) die huisbouer die voorgeskrewe dokumente, inligting en gelde op die voorgeskrewe wyse aan die Raad voorgelê het;
- (b) die Raad die voorlegging beoog in paragraaf (a) aanvaar en opgeteken het;
- 25 (c) die Raad 'n sertifikaat as bewys van inskrywing in die voorgeskrewe vorm en op die voorgeskrewe wyse aan die huisbouer uitgereik het.
- (2) 'n Huisbouer begin nie met die oprigting van 'n huis waar die behuisingsverbruiker in aanmerking kom vir 'n staatsbehuisingssubsidie nie, tensy—
- 30 (a) die huisbouer die voorgeskrewe dokumente en inligting ingevolge die ooreenkoms beoog in artikel 5(4)(c) aan die Raad voorgelê het;
- (b) die Raad die voorlegging beoog in paragraaf (a) aanvaar en opgeteken het;
- (c) die Raad 'n sertifikaat as bewys van die inskrywing van die projek in die voorgeskrewe vorm en op die voorgeskrewe wyse aan die huisbouer uitgereik het; en
- 35 (d) die provinsiale behuisingsontwikkelingsraad die voorgeskrewe gelde aan die Raad betaal het ingevolge die ooreenkoms in artikel 5(4)(c) beoog.
- (3) 'n Huisbouer moet 'n afskrif van die sertifikaat beoog in subartikel (1)(c) of (2)(c), na gelang van die geval, aan die behuisingsverbruiker verskaf.
- 40 (4) Die inskrywing van 'n huis by die Raad kan voor die okkupasiedatum van die huis deur die Raad opgeskort of gekanselleer word indien—
- (a) die Raad op redelike gronde nie oortuig is dat die huis gebou is in ooreenstemming met die NHBRR Tegniese Vereistes in die mate wat dit op daardie huis van toepassing mag wees nie; of
- 45 (b) die huisbouer, nadat met die oprigting van 'n huis begin is, versuim het om die oprigting van daardie huis te voltooi en 'n ander huisbouer daardie konstruksie voortsit sonder nakoming van die bepalings van subartikel (7).
- (5) Die inskrywing van 'n huis deur die Raad word geag outomaties deur die Raad gekanselleer te wees—
- 50 (a) by die verlening van 'n hofbevel vir die voorlopige likwidasië of sekwestrasie van 'n huisbouer;
- (b) by die intrekking van 'n huisbouer se registrasie by die Raad ingevolge artikel 11; of
- (c) by die opskorting van 'n huisbouer se registrasie by die Raad ingevolge
55 artikel 11,
- indien enige sodanige gebeurtenis voor die okkupasiedatum plaasvind.
- (6) Die Raad kan in sy diskresie 'n inskrywing beoog in subartikel (4) of (5) herstel: Met dien verstande dat indien die Raad nie so 'n inskrywing herstel nie, die Raad die inskrywingsgelde minus die redelike koste aangegaan deur die Raad ten opsigte van die
60 aangeleentheid aan die huisbouer, of enige persoon wat daarop geregtig is, moet terugbetaal.

(7) If a registered home builder fails to complete the construction of a home contemplated in subsection (1), no home builder shall complete the construction of that home without informing the Council and without assuming the obligations of the home builder in terms of section 13(2)(b)(i) or the reasonable obligations that the Council may require.

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(8) The Council may refuse to enrol a home submitted for enrolment while the home builder's registration is suspended in terms of section 11(3).

(9) Where an enrolment has been suspended or cancelled in terms of subsection (4) or (5), the Council shall seek—

- (a) to inform the relevant housing consumer and the persons referred to in section 18 of such action; and
- (b) to advise the housing consumer on the options available to him or her.

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CHAPTER IV

FINANCIAL MATTERS

Funds of Council

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15. (1) The funds of the Council shall consist of—

- (a) any fee or charge payable by home builders or a provincial housing development board;
- (b) interest derived from investments; and
- (c) any money which may accrue to the Council from any other source.

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(2) Subject to section 17(2), the Council shall pay out of its funds—

- (a) any amount contemplated in section 17(1); and
- (b) any amount required to meet the operational costs of the Council, in accordance with an annual budget for each financial year approved by the Council.

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(3) The Council shall open an account with a financial institution and shall deposit in that account the money received by it in terms of this Act.

(4) The Council shall establish a fund for the purposes of providing assistance to housing consumers under circumstances where a home builder fails to meet his or her obligations under section 13(2)(b)(i).

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(5) After consultation with and in a manner prescribed by the Minister, the Council may establish a fund or funds for the purposes of providing assistance to housing consumers—

- (a) where a registered home builder has failed to meet his or her obligations to the housing consumer under section 13(2)(b)(iii);
- (b) where a registered home builder has failed to complete an enrolled home and the enrolment of that home has been suspended or cancelled in terms of section 14(4) or (5);
- (c) where a registered home builder has misappropriated a deposit from a housing consumer; or
- (d) for any other purpose, including the training of historically disadvantaged home builders, to enhance housing consumer protection measures covered within the scope of this Act.

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(6) The Council shall—

- (a) keep accounting records in order to fairly present the financial position of the Council, including any fund, and to explain the transactions of the Council;
- (b) as soon as possible, but not later than six months, after the end of each financial year of the Council ending in each year on a date determined by the Council, with the approval of the Minister, cause annual financial statements in respect of the Council, including any fund, to be prepared, showing, with all the appropriate particulars, the moneys received and expenditure incurred during, and assets and liabilities at the end of, the said financial year;
- (c) cause the accounting records and annual financial statements of the Council, including any fund, to be audited by the Auditor-General; and
- (d) submit to the Minister—
 - (i) the audited annual financial statements of the Council, including any fund, as contemplated in section 8; and

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HOOFSTUK IV

FINANSIËLE AANGELEENTHEDE

15 Fondse van Raad

- (7) Indien 'n geregistreerde huisbouer versum om die oprigting van 'n huis beoog in subartikel (1) te voltooi, mag geen huisbouer die oprigting van daardie huis voltooi sonder om die Raad in kennis te stel en die verpligtinge van die huisbouer ingevolge artikel 13(2)(b)(i) of die redelike verpligtinge wat die Raad mag vereis, te aanvaar nie.
- (8) Die Raad kan weier om 'n huis voorgele vir inskrywing in te skryf terwyl die huisbouer se registrasie ingevolge artikel 11(3) opgeskort is.
- (9) Waar 'n inskrywing opgeskort of gekanselleer is ingevolge subartikel (4) of (5), moet die Raad tag—
- (a) om die betrokke behuisingverbruiker en die persone bedoel in artikel 18 van sodanige optrede in te lig; en
- (b) om die behuisingverbruiker van advies te dien oor die keuses wat aan hom of haar beskikbaar is.

15. (1) Die fondse van die Raad bestaan uit—
- (a) enige gelde of vordering betaalbaar deur huisbouers of 'n provinsiale behuisingsontwikkelingsraad;
- (b) rente uit beleggings verkry; en
- (c) enige geld wat die Raad uit 'n ander bron toekom.
- (2) Die Raad moet, behoudens artikel 17(2), uit sy fondse—
- (a) enige bedrag beoog in artikel 17(1); en
- (b) enige bedrag wat benodig word om die bedryfskoste van die Raad te dek, ooreenkomstig 'n jaarlikse begroting vir elke boekjaar deur die Raad goedgekeur, betaal.

- (3) Die Raad moet 'n rekening by 'n finansiële instelling open en moet in daardie rekening die geld stort wat deur hom ingevolge hierdie Wet ontvang word.
- (4) Die Raad moet 'n fonds instel vir die doel om bystand te verleen aan behuisingverbruikers in omstandighede waar huisbouers versum om hulle verpligtinge ingevolge artikel 13(2)(b)(i) na te kom.
- (5) Die Raad mag, na oorleg met en op die wyse voorgeskryf deur die Minister, 'n fonds of fondse instel vir die doel om bystand te verleen aan behuisingverbruikers—

- (a) waar 'n geregistreerde huisbouer versum het om sy of haar verpligtinge teenoor die behuisingverbruiker ingevolge artikel 13(2)(b)(iii) na te kom;
- (b) waar 'n geregistreerde huisbouer versum het om 'n ingeskrewe huis te voltooi en die inskrywing van daardie huis was ingevolge artikel 14(4) of (5) opgeskort of gekanselleer;
- (c) waar daar 'n wanaanwending van 'n deposito deur 'n geregistreerde huisbouer was; of
- (d) vir enige ander doel, met inbegrip van die opleiding van histories benadeelde huisbouers, ten einde beskermingsmaatreels vir huisverbruikers binne die doelstellings van hierdie Wet te verbeter.

- (6) Die Raad moet—
- (a) rekeningkundige aantekeninge hou ten einde die finansiële posisie van die Raad, met inbegrip van enige fonds, korrek weer te gee en die transaksies van die Raad te verduidelik;
- (b) so spoedig moontlik, maar hoogstens ses maande na die einde van elke boekjaar van die Raad, wat in elke jaar eindig op 'n datum deur die Raad met die goedkeuring van die Minister vasgestel, finansiële jaarstate laat opmaak ten opsigte van die Raad, met inbegrip van enige fonds, wat, met gepaste besonderhede, gelde deur hom ontvang en uitgawes deur hom aangegaan gedurende, en sy bates en laste aan die einde van, bedoelde boekjaar aantoon;
- (c) die rekeningkundige aantekeninge en finansiële jaarstate van die Raad, met inbegrip van enige fonds, deur die Ouditeur-generaal laat ouditeer; en
- (d) aan die Minister—

- (1) die geouditeerde finansiële jaarstate van die Raad, met inbegrip van enige fonds, soos bedoel in artikel 8; en

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- (ii) at the end of every quarter, financial and statistical reports in respect of the Council.

(7) The Chief Executive Officer shall be the accounting officer charged with the responsibility of accounting for money and expenditure incurred by the Council.

(8) The financial statements and accounting records of the Council shall be kept at the registered office of the Council. 5

Management of funds

16. (1) The Council shall take prudent measures to manage the risks pertaining to the business of the Council, including any fund, and to secure that the fees or charges payable by home builders and provincial housing development boards to the Council are prescribed at levels which will be sufficient, in aggregate, to meet expected demands on the funds of the Council. 10

(2) The Council shall, subject to section 6, appoint—

(a) a person having appropriate expertise in respect of fund management and appropriate financial and risk management expertise to act as a fund manager to any fund; and 15

(b) a committee, called the funds advisory committee, comprising not less than three and not more than seven persons having expertise in respect of fund management or appropriate financial or risk management expertise.

(3) The Chief Executive Officer shall *ex officio* be a member of the funds advisory committee. 20

(4) The funds advisory committee shall advise—

(a) the Council on the prudent management of its funds or any fund and the risks pertaining to it and shall make recommendations to the Council regarding procedures and policies for approval and implementation by the Council, relating to— 25

(i) money obtained to be paid into its funds;

(ii) money obtained to be paid out of its funds generally and specifically for the purposes of section 15(2)(a) and (b), respectively;

(iii) the administration of its funds and any fund; 30

(iv) the investment of money in its funds or any fund; and

(v) the management of the risks pertaining to its funds or any fund;

(b) the Council Advisory Committee on any matter contemplated in section 23(9); and

(c) the Minister on his or her powers in terms of section 7(2)(e) and subsection (8). 35

(5) The funds advisory committee shall report quarterly to the Council on the status of its funds or any fund and shall, where necessary, make recommendations to the Council in respect of the fees, levies and charges of the Council contemplated in subsection (1). 40

(6) Subject to section 17(3), (4) and (5), at any time the funds of the Council appear insufficient to meet anticipated demands, the Council may, on the recommendation of the funds advisory committee, increase the fees payable by home builders and provincial housing development boards in respect of the enrolment of homes contemplated in section 14. 45

(7) The funds of the Council or any fund may, subject to subsection (4) and subject to the approval of the Minister with the concurrence of the Minister of Finance, be invested in accordance with the policies approved by the Council—

(a) with a financial institution as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984 (Act No. 39 of 1984); 50

(b) with the Public Investment Commissioners;

(c) in commercial paper, the issuers of which have been approved by the Council on advice of the funds advisory committee; or

(d) in any other debt instrument that may be approved by the Council on the advice of the funds advisory committee. 55

(8) The Minister may, if an actuarial assessment indicates excess free reserves in the funds of the Council or any fund, on the advice of the funds advisory committee, instruct the Council to lower any enrolment fee prescribed under section 7(1)(a)(iii).

Claims and recourse

17. (1) Subject to subsection (2), the Council shall pay out of the fund established for that purpose in terms of section 15(4), an amount for rectification where— 60

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(ii) aan die einde van elke kwartaal, finansiële en statistiese verslae ten opsigte van die Raad, voorlê.

(7) Die Hoof- Uitvoerende Beampte is die rekeningkundige beampte belas met die verantwoordelikheid om gelde en uitgawes aangegaan deur die Raad te boekstaaf.

(8) Die finansiële state en rekeningkundige aantekeninge van die Raad word by die geregistreerde kantoor van die Raad gehou.

Bestuur van fondse

16. (1) Die Raad moet omsigtige maatreëls tref om die risiko met betrekking tot die besigheid van die Raad, met inbegrip van enige fonds, te bestuur en te verseker dat die gelde en vorderings deur huisbouers wat aan die Raad betaalbaar is, voorgeskryf word teen koerse wat in totaal voldoende sal wees om verwagte aansprake op die fondse van die Raad te dek.

(2) Die Raad moet, behoudens artikel 6—

15 (a) 'n persoon met toepaslike kundigheid ten opsigte van fondsbestuur en toepaslike finansiële en risikobestuurskundigheid aanstel om as 'n fondsbestuurder vir enige fonds op te tree; en

(b) 'n komitee, die fondse-advieskomitee genoem, aanstel wat bestaan uit minstens drie en hoogstens sewe persone met kundigheid ten opsigte van fondsbestuur, of toepaslike finansiële of risikobestuurskundigheid.

(3) Die Hoof- Uitvoerende Beampte is *ex officio* 'n lid van die fondse-advieskomitee.

(4) Die fondse-advieskomitee dien—

25 (a) die Raad van advies oor die omsigtige bestuur van sy fondse of enige fonds en die risiko's met betrekking daartoe en doen aanbevelings aan die Raad vir goedkeuring en implementering deur die Raad oor prosedures en beleid in verband met—

(i) geld verkry om in sy fondse in te betaal;

(ii) geld verkry om in die algemeen uit sy fondse en in die besonder vir die doeleindes van onderskeidelik artikels 15(2)(a) en (b) te betaal;

30 (iii) die administrasie van sy fondse en enige fonds;

(iv) die belegging van geld in sy fondse of in enige fonds; en

(v) die bestuur van die risiko's met betrekking tot sy fondse of enige fonds;

(b) die Advieskomitee van die Raad van advies oor enige aangeleentheid beoog in artikel 23(9); en

35 (c) die Minister van advies oor sy of haar bevoegdhede ingevolge artikel 7(2)(e) en subartikel (8).

(5) Die fondse-advieskomitee doen kwartaalliks aan die Raad verslag oor die status van sy fondse of enige fonds en doen, waar nodig, aanbevelings aan die Raad ten opsigte van die gelde, heffings en vorderings van die Raad beoog in subartikel (1).

40 (6) Indien die fondse van die Raad te eniger tyd onvoldoende voorkom om verwagte aansprake te dek, kan die Raad, behoudens artikel 17(3), (4) en (5), op aanbeveling van die fondse-advieskomitee, die gelde betaalbaar deur huisbouers ten opsigte van die inskrywing van huise beoog in artikel 14 verhoog.

(7) Die fondse van die Raad of enige fonds kan, onderhewig aan subartikel (5) en 45 onderhewig aan die goedkeuring van die Minister, met die instemming van die Minister van Finansies, in ooreenstemming met die beleid deur die Raad goedgekeur, belê word—

(a) by 'n finansiële instelling soos omskryf in artikel 1 van die Wet op Finansiële Instellings (Belegging van Fondse), 1984 (Wet No. 39 van 1984);

50 (b) by die Openbare Beleggingskommissaris;

(c) op advies van die fondse-advieskomitee in handelspapier, waarvan die uitreikers daarvan deur die Raad goedgekeur is; of

(d) op advies van die fondse-advieskomitee, in enige ander skuldakte wat die Raad mag goedkeur.

55 (8) Die Minister kan, indien 'n aktuariële opname 'n oorskot vrye reserwes in die fondse van die Raad of enige fonds aandui, op die advies van die fondse-advieskomitee, die Raad opdrag gee om die inskrywingsgelde wat kragtens artikel 7(1)(a)(iii) voorgeskryf is, te verminder.

Eise en verhaalsreg

60 17. (1) Die Raad moet, behoudens subartikel (2), uit die fonds wat vir daardie doel ingevolge artikel 15(4) gestig is, 'n bedrag vir regstelling betaal—

- (a) a major structural defect has manifested itself in respect of a home within five years of the date of occupation and has been notified to the home builder within that period and as a result of non-compliance with the NHBC Technical Requirements;
 - (b) the home builder is in breach of the home builder's obligations in terms of section 13(2)(b)(i) regarding the rectification of such defect; 5
 - (c) the relevant home was constructed by a registered home builder, had been enrolled with the Council and, at the occupation date, the home was enrolled with the Council subject to section 14(4), (5) and (6);
 - (d) the home builder no longer exists or is unable to meet his or her obligations; 10 and
 - (e) in the case of a home that has been enrolled with the Council on a project basis in terms of section 14(2), the application has been made by the provincial housing development board pursuant to an agreement in terms of section 5(4)(c). 15
- (2) Subject to subsections (3), (4) and (5), if money is not available or is expected not to be available for that purpose due to future demands on the fund, the Council may, reduce any amount, subject to section 7(2)(e), that may be expended in terms of subsection (1) or refuse such claims.
- (3) Prior to exercising its powers in terms of subsection (2), the Council shall consult 20 with and make recommendations to the Minister in respect of its obligations under section 16(1) and 16(6).
- (4) The Minister shall make a decision on any recommendation contemplated in subsection (3) within a period of three months.
- (5) The Council may not— 25
- (a) exercise its powers in terms of subsection (2); or
 - (b) prescribe increased enrolment fees under section 16(6)
- unless the Minister has approved such action or the period referred to in subsection (4) has expired.
- (6) Subject to section 13(2), no housing consumer shall have a claim against the 30 Council pursuant to the failure of a home builder to meet his or her obligations in terms of this Act.
- (7) If the Council has incurred costs or expenditure contemplated in subsection (1), a home builder who fails to meet his or her obligations in terms of section 13(2)(b)(i) shall, on demand by the Council, reimburse the Council with all reasonable costs or 35 expenditure incurred by the Council as a result of the failure of the home builder.
- (8) If a home builder registered in terms of section 10(6)(a) fails to meet his or her obligations in terms of section 13(2)(b)(i), the home builder having constructed a home enrolled with the Council in terms of an agreement concluded pursuant to the provisions of section 10(6)(b) shall be liable to perform the obligations of the defaulting home 40 builder in terms of section 13(2)(b)(i) or to reimburse the Council in respect of the costs or expenditure of the Council where the Council, after having obtained judgment against the defaulting home builder, or after insolvency proceedings having been instituted against the defaulting home builder by any person, has been unable to obtain settlement of the Council's claim against such defaulting home builder. 45
- (9) If the Council has incurred costs or expenditure where a home builder has failed to meet his or her obligations in terms of section 13(2)(b)(i), the Council shall be entitled to institute any action which the housing consumer or home builder may have or would have had in contract or in delict against any person for having caused or contributed to the failure of the home builder in respect of his or her obligations in terms of section 50 13(2)(b)(i).
- (10) The provisions of this section shall apply, with the necessary changes, to any other fund established in terms of section 15(5).

CHAPTER V

LEGAL ENFORCEMENT

Obligations of mortgagees, conveyancers and provincial housing development boards

18. (1) No financial institution shall lend money to a housing consumer against the security of a mortgage bond registered in respect of a home, with a view to enabling the housing consumer to purchase the home from a home builder, unless that institution is 60

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- (a) 'n ernstige strukturele gebrek ten opsigte van 'n huis binne vyf jaar vanaf die okkupasiedatum en waarvan kennis aan die huisbouer binne daardie tydperk gegee is, en as gevolg van nie-nakoming van die NHBRR Tegnieiese Vereistes aan die dag gekom het;
- 5 (b) die huisbouer in versuim is ten opsigte van sy of haar verpligtinge ingevolge artikel 13(2)(b)(i) met betrekking tot die herstel van so 'n defek;
- (c) die betrokke huis gebou is deur 'n geregistreerde bouer, ingeskryf was by die Raad en, op die okkupasiedatum van die huis, die huis, behoudens artikel 14(4), (5) en (6) by die Raad ingeskryf was;
- 10 (d) die huisbouer nie meer bestaan nie of nie in staat is om sy of haar verpligtinge na te kom nie; en
- (e) in die geval van 'n huis wat by die Raad op 'n projekbasis ingevolge artikel 14(2) ingeskryf was, die aansoek gedoen is deur die provinsiale behuisingsontwikkelingsraad uit hoofde van 'n ooreenkoms ingevolge artikel 5(4)(c).
- 15 (2) Behoudens subartikels (3), (4) en (5), indien geld nie beskikbaar is nie of ver wag word dat geld nie beskikbaar sal wees vir daardie doel nie weens toekomstige beroepe op die fonds, kan die Raad enige bedrag wat ingevolge subartikel (1) bestee mag word, behoudens artikel 7(2)(e), verminder of sodanige eise afwys.
- (3) Alvorens die Raad sy bevoegdhede ingevolge subartikel (2) uitoefen, moet die
- 20 Raad oorleg pleeg met of aanbevelings doen aan die Minister in verband met sy verpligtinge kragtens artikel 16(1) en (6).
- (4) Die Minister moet oor enige aanbeveling beoog in subartikel (3) binne 'n tydperk van drie maande 'n besluit neem.
- (5) Die Raad—
- 25 (a) oefen nie sy bevoegdheid ingevolge subartikel (2) uit nie; of
- (b) skryf nie verhoogde inskrywingsgelde kragtens artikel 16(6) voor nie, tensy die Minister sodanige optrede goedgekeur het of die tydperk in subartikel (4) bedoel, verstryk het.
- (6) Behoudens artikel 13(2), het geen behuisingsverbruiker 'n eis teen die Raad op
- 30 grond van die versuim van 'n huisbouer om sy of haar verpligtinge ingevolge hierdie Wet na te kom nie.
- (7) Indien die Raad koste of uitgawes beoog in subartikel (1) aangegaan het, moet 'n huisbouer wat versuim om sy of haar verpligtinge ingevolge artikel 13(2)(b)(i) na te kom, op versoek van die Raad, die Raad vergoed vir alle redelike kostes of uitgawes
- 35 deur die Raad opgeloop as gevolg van die versuim van die huisbouer.
- (8) Indien 'n huisbouer geregistreer ingevolge artikel 10(6)(a) versuim om sy of haar verpligtinge ingevolge artikel 13(2)(b)(i) na te kom, is die huisbouer wat 'n huis ingeskryf by die Raad opgerig het ingevolge 'n ooreenkoms aangegaan op grond van die bepaling van artikel 10(6)(b) aanspreeklik om die verpligtinge ingevolge artikel
- 40 13(2)(b)(i) van die versuimende huisbouer na te kom, of om die Raad te vergoed ten opsigte van die koste of uitgawes van die Raad waar die Raad, nadat vonnis teen die versuimende huisbouer verkry is, of nadat insolvensieverrigtinge deur enige persoon teen die versuimende huisbouer ingestel is, nie in staat was om 'n skikking ten opsigte van die Raad se eis teen sodanige versuimende huisbouer te bewerkstellig nie.
- 45 (9) Indien die Raad koste of uitgawes aangegaan het waar 'n huisbouer versuim het om sy of haar verpligtinge ingevolge artikel 13(2)(b)(i) na te kom, is die Raad geregtig om enige kontraktuele of deliktuele aksie in te stel wat die behuisingsverbruiker of huisbouer mag hê of sou gehad het teen enige persoon wat die versuim van die huisbouer met betrekking tot sy of haar verpligtinge ingevolge artikel 13(2)(b)(i)
- 50 veroorsaak of daartoe bygedra het.
- (10) Die bepaling van hierdie artikel is, met die nodige veranderinge, van toepassing op fondse wat ingevolge artikel 15(5) ingestel word.

HOOFSTUK V

WETSTOEPASSING

55 Verpligtinge van verbandhouders, aktevervaardigers en provinsiale behuisingsontwikkelingsrade

18. (1) Geen finansiële instelling mag geld aan 'n behuisingsverbruiker leen teen registrasie van 'n verband ten opsigte van 'n huis as sekuriteit, met die doel om die behuisingsverbruiker in staat te stel om die huis van 'n huisbouer te koop nie, tensy
- 60 daardie instelling oortuig is dat die huisbouer ingevolge hierdie Wet geregistreer is, dat

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satisfied that the home builder is registered in terms of this Act and that the home is or shall be enrolled with the Council and that the prescribed fees have been or shall be paid.

(2) Any conveyancer attending to the registration of a mortgage bond in favour of an institution contemplated in subsection (1) shall ensure that the home builder is registered in terms of this Act, has enrolled the home with the Council and has paid the prescribed fees in respect of that enrolment. 5

(3) A provincial housing development board shall not—

- (a) approve a housing development project in respect of which a housing consumer is eligible for a state housing subsidy in respect of a dwelling unit that has been or is to be constructed as part of that project; 10
- (b) grant a state housing subsidy to a housing consumer for the construction or sale of a home by a home builder; or
- (c) pay a home builder any portion of housing subsidy funds in respect of a housing development project approved by it,

unless that home builder is registered in terms of this Act and has enrolled the home in terms of section 14(2). 15

(4) A provincial housing development board shall enter into an agreement with the Council in terms of section 5(4)(c).

Inspectors

19. (1) The Council shall for the purposes of this Act— 20

- (a) appoint inspectors in terms of section 6; and
- (b) enter into agreements or liaise with local government bodies or other bodies or persons for the inspection of homes.

(2) An inspector may, for the purpose of inspecting a home during its construction, enter and inspect the premises constituting the site of the construction at any reasonable time. 25

(3) For the purposes of an investigation, an inspector may—

- (a) require the production of the drawings and specifications of a home or any part of a home, including plans approved by the local authority and plans and specifications prescribed in the Rules or the Home Building Manual, for inspection from the home builder and may require information from any person concerning any matter related to a home or any part of a home; 30
- (b) be accompanied by any person employed or appointed by the Council who has special or expert knowledge of any matter in relation to a home or part of a home; and 35
- (c) alone or in conjunction with any other person possessing special or expert knowledge, make any examination, test or enquiry that may be necessary to ensure compliance with the Home Building Manual.

(4) The Council may recover the costs of any examination or test contemplated in subsection (3)(c) from a home builder where the home builder has failed to comply with the NHBRC Technical Requirements. 40

(5) No person shall hinder, obstruct, interfere with or withhold information from an inspector, or attempt to do so, in the exercise of a power or performance of a duty in terms of this Act.

Interdicts

20. If the Council is of the opinion that a home builder does not comply with this Act, the Council may, despite the imposition of any penalty in respect of that non-compliance and in addition to any other right that the Council may have, at any time on notice to the home builder apply to a court for an order, irrespective of whether any other remedy is available to the Council or not— 50

- (a) to direct that home builder to comply with the relevant provision;
- (b) to stop construction of a home; or
- (c) to grant any other assistance that may be appropriate in the circumstances.

Offences

21. (1) Any person who— 55

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die huis by die Raad geregistreer is of geregistreer sal word en dat die voorgeskrewe gelde betaal is of betaal sal word.

- (2) 'n Aktevervaardiger wat die registrasie van 'n verband ten gunste van 'n instelling beoog in subartikel (1) behartig, moet toesien dat die huisbouer geregistreer is ingevolge hierdie Wet, die huis by die Raad ingeskryf het en die voorgeskrewe gelde ten opsigte van daardie inskrywing betaal het.

(3) 'n Provinsiale behuisingsontwikkelingsraad—

- (a) keur nie 'n behuisingsontwikkelingsprojek goed nie ten opsigte waarvan 'n behuisingsverbruiker in aanmerking kom vir 'n staatsbehuisingssubsidie ten opsigte van 'n wooneenheid wat opgerig is of opgerig staan te word as deel van daardie projek;

(b) ken nie 'n staatsbehuisingssubsidie aan 'n behuisingsverbruiker toe vir die bou of verkoop van 'n huis deur 'n huisbouer nie; of

- (c) betaal nie aan 'n huisbouer enige gedeelte van behuisingssubsidiefondse ten opsigte van 'n behuisingsprojek wat deur hom goedgekeur is nie, tensy daardie bouer ingevolge hierdie Wet geregistreer is en die huis ingevolge artikel 14(2) ingeskryf het.

(4) 'n Provinsiale behuisingsontwikkelingsraad moet 'n ooreenkoms met die Raad ingevolge artikel 5(4)(c) sluit.

20 Inspekteurs

19. (1) Die Raad moet vir die doeleindes van hierdie Wet—

- (a) inspekteurs ingevolge artikel 6 aanstel; en
(b) ooreenkomste aangaan of skakel met plaaslike regeringsliggame of ander liggame of persone vir die inspeksie van huise.

- (2) 'n Inspekteur kan, vir die doel om 'n huis tydens die oprigting daarvan te inspekteer, te eniger redelike tyd die perseel wat die bouterrein uitmaak, betree en inspekteer.

(3) Vir die doeleindes van 'n ondersoek kan 'n inspekteur—

- (a) die voorlegging van die tekeninge en spesifikasies van 'n huis of enige deel van 'n huis, met inbegrip van planne goedgekeur deur die plaaslike owerheid en planne en spesifikasies voorgeskryf in die Reëls of die Huisbouhandleiding, van die huisbouer vereis vir inspeksie, en kan inligting van enige persoon met betrekking tot enige aangeleentheid in verband met 'n huis of enige deel van 'n huis vereis;

- (b) vergesel word deur enige persoon in diens van of aangestel deur die Raad wat oor spesiale of deskundige kennis beskik oor enige aangeleentheid in verband met 'n huis of enige deel van 'n huis; en

- (c) alleen of in samewerking met sodanige ander persoon wat oor spesiale of deskundige kennis beskik, enige ondersoek, toets of navraag doen wat nodig mag wees om nakoming van die Huisbouhandleiding te verseker.

(4) Indien die huisbouer versuim het om die NHBRR Tegniese Vereistes na te kom, kan die Raad die koste van enige ondersoek of toets beoog in subartikel 3(c) van 'n huisbouer verhaal.

- (5) Niemand mag 'n inspekteur in die uitvoering van 'n bevoegdheid of uitoefening van 'n plig ingevolge hierdie Wet hinder, belemmer, met hom of haar inneng of inligting van daardie inspekteur weerhou of poog om dit te doen nie.

Interdikte

20. Indien die Raad van mening is dat 'n huisbouer nie hierdie Wet nakom nie, kan die Raad, niesteenstaande die oplegging van enige straf met betrekking tot daardie nie-nakoming en bykomend tot enige ander reg wat die Raad mag hê, te eniger tyd met kennisgewing aan die huisbouer by 'n hof aansoek doen om 'n bevel, ongeag of enige ander remedie tot beskikking van die Raad is al dan nie, om—

(a) daardie huisbouer te beveel om die betrokke bepaling na te kom;

(b) oprigting van 'n huis te staak; of

- (c) enige ander bystand te verleen wat in die omstandighede toepaslik mag wees.

Misdrywe

21. (1) Iemand wat—

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- (a) knowingly withholds information required in terms of this Act or furnishes information that he or she knows to be false or misleading; or
- (b) contravenes a provision of section 10(1) or (2), 13(7), 14(1) or (2), 18(1) or 19(5),

and every director, trustee, managing member or officer of a home builder who knowingly permits such contravention, shall be guilty of an offence and liable on conviction to a fine not exceeding R25 000, or to imprisonment for a period not exceeding one year, on each charge.

(2) Notwithstanding anything to the contrary in any other Act, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

Review, arbitration and appeal

22. (1) Without prejudice to the constitutional right of any person to gain access to a court of law, the proceedings of the Council may be brought under review before any division of the High Court within its area of jurisdiction.

(2) A home builder whose application for registration has been finally declined in terms of section 10 or withdrawn in terms of section 11, may lodge an appeal with any division of the High Court within its area of jurisdiction.

(3) The Council shall establish an internal complaints procedure for housing consumers and home builders to review any decision or action of the Council's staff or its agents.

(4) After exercising his or her rights in terms of subsection (3), a housing consumer or a home builder may refer—

- (i) any decision or action of the Council, its staff or its agents to the Public Protector for review in terms of the Public Protector Act, 1994 (Act No. 23 of 1994); or
- (ii) any decision of the Council to arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965).

CHAPTER VI**MISCELLANEOUS MATTERS****Council Advisory Committee**

23. (1) The Minister shall appoint a Council Advisory Committee on National Home Builder Registration Council Matters within two years of the commencement of this Act.

(2) The Council Advisory Committee shall consist of at least three but not more than seven members, including a chairperson.

(3) The Minister shall ensure that the Council Advisory Committee consists of persons having skills and experience regarding housing consumer protection, insurance, competition and regulation matters, and construction dispute resolution.

(4) The members of the Council Advisory Committee shall be appointed only after—

- (a) the Minister has through the media and by notice in the *Gazette* invited applications for the respective positions; and
- (b) the Minister has consulted with the MEC of every province and the parliamentary committees for housing of the National Assembly and the National Council of Provinces.

(5) The Director-General may pay to a member of the Council Advisory Committee, who is not in the full-time employ of the State or an organ of state, from money appropriated by Parliament for that purpose, the allowances which the Minister may determine in general or in a specific case, in consultation with the Minister of Finance.

(6) A member of the Council Advisory Committee shall hold office for the period that the Minister may determine and shall be eligible for reappointment upon the expiration of the period of his or her office.

(7) Section 4(4), (5) and (6) shall, with the necessary changes, apply to the Council Advisory Committee.

(8) The Council Advisory Committee shall in respect of witnesses and their evidence have the powers of a commission duly appointed under the Commissions Act, 1947 (Act No. 8 of 1947).

(9) The Council Advisory Committee shall, after consultation with the funds

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- (a) opsetlik inligting wat deur hierdie Wet vereis word; weerhou of inligting verstrek wat na sy of haar wete vals of misleidend is; of
- (b) 'n bepaling van artikel 10(1) of (2), 13(7), 14(1) of (2), 18(1) of 19(5) oortree,
- 5 en elke direkteur, trustee, besturende lid of beampte van 'n huisbouer wat opsetlik sodanige oortreding toelaat, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens R25 000, of gevangenisstraf vir 'n tydperk van hoogstens een jaar, op elke aanklag.
- (2) Ondanks die bepalings van enige ander Wet, het 'n landdroshof die bevoegdheid
- 10 om 'n straf deur hierdie Wet voorgeskryf, op te lê.

Hersiening, arbitrasie en appèl

22. (1) Sonder om afbreuk te doen aan die konstitusionele reg van enige persoon om toegang tot 'n geregshof te verkry, kan die verrigtinge van die Raad voor enige afdeling van die Hooggeregshof binne sy gebied van jurisdiksie op hersiening geneem word.
- 15 (2) 'n Huisbouer wie se aansoek om registrasie finaal ingevolge artikel 10 afgewys of ingevolge artikel 11 ingetrek is, kan appèl aanteken by enige afdeling van die Hoë Hof in sy regsgebied.
- (3) Die Raad moet 'n interne klagtesprosedure vir huisverbruikers en huisbouers instel om enige besluit of optrede van die Raad se personeel of agente te hersien.
- 20 (4) 'n Behuisingsverbruiker of huisbouer mag na uitoefening van sy of haar regte ingevolge subartikel (3)—
- (a) enige besluit of optrede van die Raad, sy personeel of agente na die Openbare Beskermer verwys vir hersiening ingevolge die Wet op die Openbare Beskermer, 1994 (Wet No. 23 van 1994); en
- 25 (b) enige besluit van die Raad verwys vir arbitrasie ingevolge die Wet op Arbitrasie, 1965 (Wet No. 42 van 1965).

HOOFSTUK VI**ALGEMENE AANGELEENTHEDE****Advieskomitee van Raad**

- 30 23. (1) Die Minister moet 'n Advieskomitee van die Raad oor Nasionale Huisbouersregistrasieraadsaangeleenthede instel binne twee jaar na die inwerkingtreding van hierdie Wet.
- (2) Die Advieskomitee van die Raad bestaan uit minstens drie maar nie meer as sewe lede nie, met inbegrip van 'n voorsitter.
- 35 (3) Die Minister moet toesien dat die Advieskomitee van die Raad bestaan uit persone met vaardighede en ervaring met betrekking tot behuisingsverbruikers-beskerming, versekering, mededingings- en reguleringsmaatreëls, en die beslegting van konstruksiegeskille.
- (4) Die lede van die Advieskomitee van die Raad word aangewys slegs nadat—
- 40 (a) die Minister deur die media en by kennisgewing in die *Staatskoerant* nominasies van persone as kandidate vir die onderskeie posisies op die Raad aangevra het; en
- (b) die Minister oorleg gepleeg het met die LUR van elke provinsie en die parlementêre komitees vir behuising van die Nasionale Vergadering en die
- 45 Nasionale Raad van Provinsies.
- (5) Die Direkteur-generaal kan aan 'n lid van die Advieskomitee van die Raad wat nie in die heeltydse diens van die Staat of 'n staatsorgaan is nie, uit geld wat die Parlement vir daardie doel bewillig, die toelaes betaal wat die Minister in die algemeen of in 'n besondere geval, in oorleg met die Minister van Finansies, bepaal.
- 50 (6) 'n Lid van die Advieskomitee van die Raad bekleed sy of haar amp vir die termyn wat die Minister mag bepaal en is benoembaar vir heraanstelling by die verstryking van sy of haar ampstermyn.
- (7) Die bepalings van artikel 4(4), (5) en (6) is, met die nodige veranderinge, op die Advieskomitee van die Raad van toepassing.
- 55 (8) Die Advieskomitee van die Raad het ten opsigte van getuiens en hulle getuienis die bevoegdheid van 'n behoorlik aangestelde kommissie kragtens die Kommissiewet, 1947 (Wet No. 8 van 1947).
- (9) Die Advieskomitee van die Raad moet, na oorleg met die fondse-advieskomitee,

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advisory committee, after five years from the date of commencement of this Act, submit proposals to the Council, for recommendation to the Minister, regarding—

- (a) the feasibility of introducing a requirement that a home builder's obligations in terms of section 13(2)(b) shall be insured by an insurer exempted from the provisions of the Insurance Act, 1943 (Act No. 27 of 1943); 5
- (b) the availability of catastrophic loss insurance to reinsure the exposure of an insurer contemplated in paragraph (a);
- (c) differentiation between inspection and administration fees payable to the Council and premiums payable to an insurer contemplated in paragraph (a);
- (d) the relevant categories of homes in respect of which such insurance shall be required; 10
- (e) measures to ensure the availability of actuarial and risk related information in order to enable all insurers wishing to participate, to participate;
- (f) the conversion of any fund into an insurer contemplated in paragraph (a), registered under section 21 of the Companies Act, 1973; 15
- (g) measures to ensure that insurers contemplated in paragraph (a) shall compete on an equal basis;
- (h) measures to avoid adverse selection and discriminatory practices and to ensure that home builders from historically disadvantaged backgrounds shall not be prejudiced; 20
- (i) the contribution by insurers contemplated in paragraph (a) to the operational costs of the Council; and
- (j) any other relevant matter.

(10) Subject to subsection (5) and section 5, the Minister may refer any matter in respect of any objective or provision of this Act to the Council Advisory Committee for investigation and recommendation. 25

Notices

24. Any notice or document required to be served in terms of this Act may be served by hand or sent by telefacsimile or registered letter addressed to the person to whom notice is to be served at that person's registered address or telefacsimile number, as the case may be, and knowledge of the contents shall be deemed to exist— 30

- (a) where the notice or document was hand delivered, when it was delivered;
 - (b) where the notice was sent by telefacsimile, upon the recordal thereof by the sending station; and
 - (c) where the notice or document was posted, 21 days after it was sent, 35
- in the absence of evidence to the contrary that the person on whom it was served, acting in good faith, through absence, accident, illness or other cause beyond that person's control, did not receive the notice, or did not receive the notice until a later date.

Evidential matters

25. A statement as to— 40

- (a) the registration or non-registration of any home builder or the enrolment or non-enrolment of any home; or
 - (b) any fact relating to any matter which is apparent from the records or the information technology system of the Council, 45
- purporting to be certified by the chairperson of the Council or the Chief Executive Officer is, without proof of the office or signature of the chairperson or Chief Executive Officer, receivable in evidence, in the absence of evidence to the contrary, as proof of the facts stated therein for all purposes in any court proceedings or criminal prosecution.

Delegation

26. (1) The Council may on any condition that it deems fit delegate any of its powers, obligations or duties in terms of the Act, save a power to prescribe anything, to either the 50

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na verloop van vyf jaar na die inwerkingtreding van hierdie Wet voorstelle aan die Raad voorlê, vir aanbeveling aan die Minister, met betrekking tot—

- (a) die uitvoerbaarheid om 'n vereiste in te voer dat 'n huisbouer se verpligtinge ingevolge artikel 13(2)(b) verseker word deur 'n versekeraar vrygestel van die bepalings van die Versekeringswet, 1943 (Wet No. 27 van 1943);
 - (b) die beskikbaarheid van rampspoedige verliesversekering om die blootstelling van 'n versekeraar beoog in paragraaf (a) te herverseker;
 - (c) onderskeid tussen inspeksie- en administrasiegelde betaalbaar aan die Raad en premies betaalbaar aan 'n versekeraar beoog in paragraaf (a);
 - (d) die betrokke kategorieë huise ten opsigte waarvan sodanige versekering vereis word;
 - (e) maatreëls om die beskikbaarheid van aktuariële en risikoverwante inligting te verseker ten einde alle versekeraars wat wil deelneem, in staat te stel om deel te neem;
 - (f) die omskakeling van enige fonds na 'n versekeraar beoog in paragraaf (a), geregistreer kragtens artikel 21 van die Maatskappywet, 1973;
 - (g) maatreëls om te verseker dat versekeraars beoog in paragraaf (a) op 'n gelyke basis meeding;
 - (h) maatreëls om nadelige keuse- en diskriminerende praktyke te vermy en te verseker dat huisbouers van histories verontregte agtergronde nie benadeel word nie;
 - (i) die bydrae deur versekeraars beoog in paragraaf (a) tot die bedryfskoste van die Raad; en
 - (j) enige ander tersaaklike aangeleentheid.
- 25 (10) Behoudens subartikel (6) en artikel 5, kan die Minister enige aangeleentheid in verband met enige doelstelling of bepaling van hierdie Wet vir ondersoek en aanbevelings na die Advieskomitee van die Raad verwys.

Kennisgewings

24. Enige kennisgewing of dokument wat ingevolge hierdie Wet beteken moet word, kan per hand beteken word of kan per telefaksimilee of per geregistreerde pos gestuur word, geadresseer aan die persoon aan wie kennis gegee moet word by daardie persoon se geregistreerde adres of telefaksimileenommer, na gelang van die geval, en kennis van die inhoud sal geag word te bestaan—
- (a) waar die kennisgewing of dokument per hand afgelewer is, wanneer dit afgelewer is;
 - (b) waar die kennisgewing per telefaksimilee gestuur is, by die notulering daarvan deur die senderstasie; en
 - (c) waar die kennisgewing of dokument gepos is, 21 dae nadat dit gestuur is, behoudens weerleggende getuienis dat die persoon op wie dit beteken is, te goeder trou as gevolg van afwesigheid, ongeluk, siekte of ander oorsaak buite daardie persoon se beheer, nie die kennisgewing ontvang het nie, of die kennisgewing op 'n later datum ontvang het.

Bewysregtelike aangeleenthede

25. 'n Verklaring met betrekking tot—
- (a) die registrasie of nie-registrasie van enige huisbouer of die inskrywing of nie-inskrywing van enige huis; of
 - (b) enige feit in verband met enige aangeleentheid wat blyk uit die optekeninge of die tegnologiese inligtingstelsel van die Raad,
- wat voorgee om gesertifiseer te wees deur die voorsitter van die Raad of die Hoof-
50 Uitvoerende Beampte is, sonder bewys van die amp of handtekening van die voorsitter of Hoof- Uitvoerende Beampte, behoudens weerleggende getuienis toelaatbare getuie-
nis as bewys van die feite daarin vermeld vir alle doeleindes in enige hofverrigtinge of strafregtelike vervolging.

Delegering

- 55 26. (1) Die Raad kan op enige voorwaarde wat dit goedvind enige van sy bevoegdhede, verpligtinge of pligte ingevolge hierdie Wet, behalwe 'n bevoegdheid om

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chairperson of the Council or the Chief Executive Officer, or to a committee of the Council.

(2) The Chief Executive Officer may delegate any power, obligation or duty conferred upon him or her by the Council to an employee of the Council.

(3) A delegation in terms of subsection (1) or (2) shall not prevent the exercise of the delegated power, obligation or duty by the Council or Chief Executive Officer. 5

(4) The Council may enter into any agreement for the rendering of any specific expertise or service to assist the Council or to perform any specific power on behalf of the Council: Provided that the powers contemplated in sections 7, 12, 14(1) and (2), 16(1) and 17(1) shall be exercised by the Council itself. 10

Regulations

27. (1) The Minister may make regulations in respect of any matter which is required to be prescribed by the Minister or which is necessary or desirable in order to achieve the objectives of this Act, and any such regulation may create offences and provide for penalties in respect thereof. 15

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations regarding the protection of persons or housing institutions established to provide housing to persons on a tenure basis other than the direct sale and transfer of homes in private ownership to housing consumers.

(3) In the exercise of his or her powers under subsection (1), the Minister shall be obliged to consider the recommendations of the Council but shall not be obliged to accept such recommendations. 20

(4) The Minister shall publish any regulation to be made under subsection (1) for comment and information in the *Gazette* prior to such regulation coming into effect.

Dissolution of Council

25

28. The Council shall be dissolved only by an Act of Parliament.

Exemption

29. The Minister may, on the recommendation of the Council on application made to it, in exceptional circumstances and on the conditions that the Minister may determine in general or in any particular case, exempt a person or a home from any provision of this Act, if the Minister is satisfied that— 30

- (a) the granting of the exemption would be in the public interest;
- (b) the granting of the exemption would not undermine the objectives of this Act, or the effectiveness of the Council; or
- (c) should the exemption not be granted, the effect would be extremely 35
prejudicial to the interests of the applicant and housing consumers.

Transitional provisions

30. On the commencement of this Act the provisions of the Schedule shall apply in respect of sections 4, 6, 7, 12, 13, 14 and 17.

Short title and commencement

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31. This Act shall be called the Housing Consumers Protection Measures Act, 1998, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

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enigiets voor te skryf, aan óf die voorsitter van die Raad óf die Hoof- Uitvoerende Beampte, of aan 'n komitee van die Raad, delegeer.

(2) Die Hoof- Uitvoerende Beampte kan enige bevoegdheid, verpligting of plig aan hom of haar deur die Raad verleen aan 'n werknemer van die Raad delegeer.

- 5 (3) 'n Delegering ingevolge subartikel (1) of (2) belet nie die uitoefening van die gedelegeerde bevoegdheid, verpligting of plig deur die Raad of Hoof- Uitvoerende Beampte nie.

- (4) Die Raad kan enige ooreenkoms aangaan vir die lewering van enige spesifieke kundigheid of diens om die Raad by te staan of om enige spesifieke bevoegdheid
10 namens die Raad uit te oefen: Met dien verstande dat die bevoegdhede beoog in artikels 7, 12, 14(1) en (2), 16(1) en 17(1) deur die Raad self uitgeoefen word.

Regulasies

27. (1) Die Minister kan regulasies maak ten opsigte van enige aangeleentheid wat deur die Minister voorgeskryf moet word of wat noodsaaklik of wenslik is ten einde die
15 doelstellings van hierdie Wet te bereik, en enige sodanige regulasie kan misdrywe skep en voorsiening maak vir strawwe ten opsigte daarvan.

- (2) Sonder om afbreuk te doen aan die algemeenheid van subartikel (1), kan die Minister regulasies maak met betrekking tot die beskerming van persone of behuisinginstellings wat ingestel is om behuising aan persone te verskaf op 'n basis van
20 besitreg behalwe die direkte verkoop en oordrag van huise in private eienaarskap aan behuisingsverbruikers.

- (3) Die Minister moet in die uitoefening van sy of haar bevoegdhede kragtens subartikel (1) die aanbevelings van die Raad oorweeg, maar is nie verplig om sodanige aanbevelings te aanvaar nie.

- 25 (4) Die Minister moet enige regulasie wat kragtens subartikel (1) uitgevaardig staan te word in die *Staatskoerant* publiseer vir kommentaar en inligting voordat sodanige regulasie in werking tree.

Ontbinding van Raad

28. Die Raad word slegs deur 'n Wet van die Parlement ontbind.

30 Vrystelling

29. Die Minister kan, op aanbeveling van die Raad by 'n aansoek gerig aan die Raad, in uitsonderlike omstandighede en op die voorwaardes wat die Minister in die algemeen of in enige besondere geval bepaal, 'n persoon of 'n huis vrystel van enige bepaling van hierdie Wet, indien die Minister oortuig is dat—

- 35 (a) die verlening van die vrystelling in die openbare belang sal wees;
(b) die verlening van die vrystelling nie die doelstellings van hierdie Wet, of die doeltreffendheid van die Raad, sal ondermyn nie; of
(c) indien die vrystelling nie verleen word nie, die effek daarvan die belange van die applikant en behuisingsverbruikers uiters nadelig sal raak.

40 Oorgangsbepalings

30. Die bepalinge van die Bylae is by die inwerkingtreding van hierdie Wet van toepassing op artikels 4, 6, 7, 12, 13, 14 en 17.

Kort titel en inwerkingtreding

31. Hierdie Wet heet die Wet op Beskermingsmaatreëls vir Behuisingsverbruikers,
45 1998, en tree in werking op 'n datum wat die President by proklamasie in die *Staatskoerant* bepaal.

SCHEDULE

Composition of Council Transitional Provisions

1. (1) On the commencement of this Act, the council of the "National Home Builders Registration Council", an association incorporated under section 21 of the Companies Act, 1973, and with the registration number of 95/08647/08, shall be deemed to constitute the Council.

(2) On the first meeting of the Council after the appointment of the members of the Council as contemplated in section 4(1)—

- (a) all liabilities, rights and obligations of the associations referred to in subitem (1) and item 2(1) shall pass to the Council; and
- (b) anything done by or on behalf of the said association shall be deemed to have been done by the Council, subject to this Act.

(3) The Council constituted as contemplated in subitem (1) dissolves immediately before the first meeting of the Council appointed as contemplated in section 4(1).

(4) The first meeting referred to in subitem (3) must be held within one year after the commencement of this Act.

Fund and assets

2. (1) The "National Home Builders Registration Council Fund" being an association incorporated under section 21 of the Companies Act, 1973, and with the registration number 96/03550/08, shall cease to function on the meeting contemplated in item 1(3).

(2) The members of the associations referred to in item 1(1) and subitem (1), may, before or after the commencement of this Act, but before their deregistration contemplated in item 3, make a determination in respect of its assets in accordance with section 21(2)(b) of the Companies Act, 1973, and may, notwithstanding that section, determine that such assets be transferred to the Council.

Deregistration of companies

3. (1) The Director-General shall as soon as practical after the appointment of the members of the Council in writing notify the Registrar of Companies thereof and of the relevant provisions of this Schedule.

(2) On receipt of the notification contemplated in subitem (1) the Registrar of Companies must deregister the associations referred to in items 1(1) and 2(1).

(3) No transfer duties, stamp duties, fees or taxes have to be paid for the purposes of this Schedule.

Staff

4. (1) The Chief Executive Officer and every person who was in the service of the association referred to in item 1(1) immediately before the commencement of this Act shall, as from the commencement, be deemed to be transferred to the service of the Council and be deemed to be appointed in terms of section 6.

(2) The remuneration and other terms and conditions of service of any person transferred as contemplated in subitem (1), may not be less favourable than the remuneration, terms and conditions applicable to that person immediately before the commencement of this Act, and he or she remains entitled to all rights, benefits and privileges to which he or she was entitled immediately before that date, including—

- (a) membership of a pension fund;
- (b) membership of a medical aid scheme;
- (c) employer contributions in connection with such membership;
- (d) accrued pensionable service;
- (e) accrued leave benefits; and
- (f) retirement at a specific age.

(3) Every person transferred as contemplated in subitem (1) remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately before the commencement of this Act.

BYLAE**Oorgangsbepalings****Samestelling van Raad**

1. (1) By die inwerkingtreding van hierdie Wet word die raad van die “Nasionale Huisbouersregistrasieraad”, ’n vereniging ingelyf kragtens artikel 21 van die Maatskappywet, 1973, en met die registrasienommer 95/08647/08, geag die Raad uit te maak.

(2) By die eerste vergadering van die Raad na die aanstelling van die lede van die Raad soos beoog in artikel 4(1)—

(a) gaan alle laste, regte en verpligtinge van die verenigings vermeld in subitem (1) en item 2(1) oor op die Raad; en

(b) word enigiets wat gedoen is deur of namens vermelde verenigings, behoudens hierdie Wet, geag gedoen te gewees het deur die Raad.

(3) Die Raad, saamgestel soos beoog in subitem (1), ontbind onmiddellik voor die eerste vergadering van die Raad saamgestel soos beoog in artikel 4(1).

(4) Die eerste vergadering bedoel in subitem (3) moet binne een jaar na die inwerkingtreding van hierdie Wet gehou word.

Fondse en bates

2. (1) Die “Nasionale Huisbouersregistrasieraadfonds”, ’n vereniging ingelyf kragtens artikel 21 van die Maatskappywet, 1973, en met die registrasienommer 96/03550/08, hou by die vergadering beoog in item 1(3) op om te funksioneer.

(2) Die lede van die verenigings bedoel in item 1(1) en subitem (1) kan, voor of na die inwerkingtreding van hierdie Wet, maar voor hulle deregistrasie beoog in item 3, ’n vasstelling ten opsigte van hulle bates maak in ooreenstemming met artikel 21(2)(b) van die Maatskappywet, 1973, en kan, ondanks daardie artikel, bepaal dat sodanige bates aan die Raad oorgedra word.

Deregistrasie van maatskappye

3. (1) Die Direkteur-generaal moet so gou doenlik na die aanstelling van die lede van die Raad die Registrateur van Maatskappye skriftelik daarvan en van die betrokke bepalinge van hierdie Bylae in kennis stel.

(2) By ontvangs van die kennisgewing beoog in subitem (1) moet die Registrateur van Maatskappye die verenigings bedoel in items 1(1) en 2(1) deregistreer.

(3) Geen hereregte, seëlregte, gelde of belastinge hoef vir doeleindes van hierdie Bylae betaal te word nie.

Personeel

4. (1) Die Hoof- Uitvoerende Beampte en elke ander persoon wat in diens was van die vereniging bedoel in item 1(1) onmiddellik voor die inwerkingtreding van hierdie Wet word vanaf die inwerkingtreding geag oorgeplaas te gewees het na die diens van die Raad en geag aangestel te wees ingevolge artikel 6.

(2) Die vergoeding en ander bedinge en voorwaardes van diens van ’n persoon wat oorgeplaas is soos beoog in subitem (1) mag nie minder gunstig wees as die vergoeding, bedinge en voorwaardes van toepassing op daardie persoon onmiddellik voor die inwerkingtreding van hierdie Wet nie, en hy of sy bly geregtig op alle regte, voordele en voorregte waarop hy of sy geregtig was onmiddellik voor daardie datum, met inbegrip van—

(a) lidmaatskap van ’n pensioenfonds;

(b) lidmaatskap van ’n mediese hulpskema;

(c) werkgewersbydraes met betrekking tot sodanige lidmaatskap;

(d) opgehoopte pensioendraende diens;

(e) opgehoopte verlofvoordele; en

(f) aftrede op ’n spesifieke ouderdom.

(3) Elke persoon oorgeplaas soos beoog in subitem (1) bly onderhewig aan enige besluite, verrigtinge, beslissings en aanwysings van toepassing op daardie persoon onmiddellik voor die inwerkingtreding van hierdie Wet.

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(4) For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), the persons referred to in subitem (1) shall be deemed to have remained with the same employer.

General

5. (1) The Rules and the Standards and Guidelines, the standard warranty, and all circulars or documents issued by the association referred to in item 1(1) prior to the commencement of this Act, shall be deemed to have been prescribed in terms of this Act and shall be binding on all home builders until amended or substituted in terms of this Act.

(2) The Standards and Guidelines referred to in subitem (1) shall be deemed to be the Home Building Manual.

(3) Any power exercised or any agreement entered into by the association referred to in item 1(1), its members, directors or employees prior to the commencement of the Act, shall be deemed to have been exercised or entered into in terms of the provisions of this Act.

(4) Any housing consumer who has acquired benefits under a standard warranty referred to in subitem (1) issued prior to the commencement of this Act, shall be entitled to the benefits set out in section 17(1) of the Act, subject to the limitations set out in that section.

WET OP BESKERMINGSMAATREËLS VIR
BEHUISINGSVERBRUIKERS, 1998

Wet No. 95, 1998

(4) Vir die doeleindes van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), word die persone vermeld in subitem (1) geag by dieselfde werkgewer te gebly het.

Algemeen

5. (1) Die Reëls en die Standaarde en Riglyne, die standaardwaarborg en alle omsendbriewe of dokumente uitgereik deur die vereniging bedoel in item 1(1) voor die inwerkingtreding van hierdie Wet word geag voorgeskryf te wees ingevolge hierdie Wet en is van toepassing op alle huisbouers totdat dit gewysig of ingevolge hierdie Wet vervang word.

(2) Die Standaarde en Riglyne bedoel in subitem (1) word geag die Huisbouhandleiding te wees.

(3) Enige bevoegdheid uitgeoefen of ooreenkoms aangegaan deur die vereniging vermeld in item 1(1), sy lede, direkteure of werknemers voor die inwerkingtreding van die Wet word geag uitgeoefen of gesluit te wees ingevolge die bepalings van hierdie Wet.

(4) 'n Behuisingsverbruiker wat voordele verkry het kragtens 'n standaardwaarborg bedoel in subitem (1) wat voor die inwerkingtreding van hierdie Wet uitgereik is, is geregtig op die voordele uiteengesit in artikel 17(1) van die Wet, behoudens die beperkings in daardie artikel uiteengesit.

