

SUMMARY

Real Estate (Dealers & Developers) Act 1987

Briefly stated the aim and objective of the Real Estate (Dealers and Developers) Act is twofold. In the first place the Act seeks to regulate and control the practice of those who engage in the real estate business as agents, auctioneers, appraisers, estate managers and salesmen by a system of registration in a permanent register and by annual practicing licences.

2. Registration will depend on attainment of prescribed levels of professional qualifications and on ethical standing. Annual licensing will be automatic upon registration save where certain derelictions occur.

3. In the second place the Act seeks to regulate and control certain aspects of the business of land development, namely the sale of land and housing units in housing schemes. Advertisements for the sale of lots in housing schemes (defined in the Act as “development schemes”) and contracts for the sale of such land and units are absolutely prohibited unless all statutory approvals required under the Local Improvements Act and the Town and Country Planning Act for the sub-division of the land used in the scheme and the carrying out of the development have been obtained, and the developer has lodged with the Real Estate Board referred to below authenticated copies of such approvals together with the relevant plans. Furthermore, where the developer proposes to enter into pre-sale (defined in the Act as “pre-payment contracts) the land which is the subject of the scheme must be free and clear of any mortgage or charge (except a charge given in favour of a bank or other authorized financial institution (defined in the Act) for the purpose of providing interim finance for the construction of the building project. Where deposits and other part payments are collected by the developer pursuant to pre-payment contracts those moneys must be lodged in a special trust account with an authorized financial institution and cannot be withdrawn except for the purpose of paying for construction work already carried out as evidenced by quantity surveyors’ certificates and unless the developer gives a statutory charge in favour of the Real Estate Board to secure the moneys withdrawn from the trust account.

4. For the purpose of carrying out the regulatory and controlling functions of the Act a Real Estate Board consisting of not less than seven nor more than eleven members is appointed by the Minister. The Board will be charged with the functions of granting or refusing applications for registration as real estate dealers and real estate salesmen, the granting of annual licences to persons who are so registered, the exercising of disciplinary functions in relation to persons so registered, and the gathering of necessary information to assist the Board in the discharge of its functions and to detect breaches of the Act, regulations made thereunder or conditions attaching to registration. To this end the Board is empowered to appoint suitable persons as inspectors as well as other necessary staff.

The Board keeps a register of developers, and in the event of failure of a development scheme the Board is charged with the important function of getting in the moneys collected by the developer and paid into the trust account and realising any statutory charge that may have been

given over the land in respect of moneys withdrawn from the trust account fund for the purpose of distributing all these moneys to the persons entitled thereto under the pre-payment contracts.

5. The funds of the Board are comprised of moneys appropriated by Parliament and fees collected by the Board in respect of applications for registration and licensing.

6. Details of the system as outlined above will appear from the specific comments on the individual clauses of the Act which indicate what each clause is designed to achieve.

CLAUSE 1- SHORT TITLE AND COMMENCEMENT

7. The Act has been given the title of “Real Estate (Dealers and Developers) Act. The Act is only dealing with certain aspects of real estate and land development. The Act came into force on September 1, 1988 being the date appointed by the Minister with portfolio responsibility following necessary administrative machinery, that is, the appointment of the Board and the establishment of offices and the provision of staff being put in place to allow the Act to become operative. Most of these matters can be undertaken by the Minister in exercise of the powers conferred by section 33 of the Interpretation Act.

8. It might be mentioned that the Act contains transitional provisions (Clause 48) designed to deal with persons who were engaged in the practice of real estate business at the date of commencement of the Act (September 1, 1988). The position with regard to this is explained in the comment on Clause 48.

CLAUSE 2/3: INTERPRETATION / THE PRACTICE OF REAL ESTATE BUSINESS

9. The point to which particular attention should be directed under this clause is the definition of “development” which is an adaptation of the definition of that word appearing in section 5(2) of the Town and Country Planning Act and the definition of “to dispose”, as well as the definitions of “condominium”, “developer”, “land”.

10. Attention is also invited to the definition of “pre-payment contract” with which should be read the definition of “connected contract”. The definition of pre-payment contract is designed to cover contracts which are entered into by a developer with a purchaser for the sale of the purchase of land on which is to be built a house or townhouse and also the sale of a strata lot in a condominium building and under which contract the purchaser pays to the developer a deposit and further instalment payments as the building work progresses. It was thought necessary to have a definition of “connected contract” because it frequently happens that there is one contract for the sale of land and another for the construction of the building and each contract is conditional upon completion of the other hence the definition of “connected contract”.

11. Attention should also be directed to the provisions of sub-section (2) which define what is meant by engaging in the practice of real estate business for the purposes of the Act. Among other things it limits the areas in which an attorney may operate without being regarded as engaging in the business of real estate; these areas include the furnishing to any person legal advice and services ancillary thereto, in connection with real estate matters.

CLAUSE 4 – ESTABLISHMENT OF REAL ESTATE BOARD

12. The clause provides for the establishment of the Real Estate Board and is in the usual form.

CLAUSE 5 – FUNCTIONS OF THE BOARD

13. This clause sets out the functions of the Board which are broadly stated as “to regulate and control the practice of real estate business, the disposition of land in development schemes and the operation of such schemes” which is intended to cover the two main functions of the Board under the Act.

CLAUSE 6 – POWER OF THE MINISTER TO GIVE DIRECTIONS TO THE BOARD

14. This clause provides for ministerial directions and is in the usual form.

CLAUSE 7 – ACCOUNTS AND AUDIT

15. This clause provides for the keeping of proper accounts and records, the audit thereof, the reports and statements to be furnished to the Minister and so on. It is in the usual form.

CLAUSE 8 – ANNUAL REPORT

16. This clause provides that the Board shall furnish to the Minister an annual report which is to be laid on the Table of the House of Representatives and the Senate. It is in the usual form.

CLAUSE 9 – POWER TO HOLD ENQUIRIES

17. This clause authorises the Board to hold enquiries or to appoint a person to hold an enquiry, into the practice of any real estate dealer or real estate salesmen, and the activities of any developer in relation to a development scheme and confers on the Board or any such person the powers of commissioners appointed under the Commissions of Enquiry Act. It is considered to be a useful provision and is not unusual.

CLAUSE 10 – RESTRICTIONS ON ENGAGING IN THE PRACTICE OF REAL ESTATE BUSINESS

18. Clause 10 makes it an offence for any person to engage in the practice of real estate business as set out and provides penalties applicable on conviction on indictment in a Circuit Court or on summary conviction. It is considered having regard to the subject matter that these penalties should be substantial.

19. Attention is invited particularly to sub-section (3) of this clause which is designed to give some exemption to a person who might carry out an isolated transaction without being the holder of a licence. It is considered that in the rural areas particularly an absolute prohibition without

any such exempting provision would cause unnecessary hardship. The exemption is however limited to an isolated transaction, and a small one, and requires that all the moneys payable thereunder shall have been paid if the exemption is to be relied on.

CLAUSE 11 – RESTRICTIONS ON EMPLOYMENT OF UNLICENSED PERSONS

20. This clause require persons who hold licences as real estate dealers (that is, persons who by definition of that term are independent and not subject to anyone’s directions in carrying on their practice) to employ only licensed persons to carry on any part of their practice of real estate business. The intention is that the employer and the employee carrying on such practice must both be qualified persons subject to the jurisdiction of the Real Estate Board through the registration and licensing provisions.

CLAUSE 12 – REGISTER OF REAL ESTATE DEALERS AND REAL ESTATE SALESMEN

21. This clause provides for the keeping of the register of real estate dealers and real estate salesmen. It is an important clause as only those persons whose names appear on the register will be entitled to be granted licences to engage in the practice of real estate business.

CLAUSE 13 – APPLICATIONS FOR REGISTRATION

22. Under this clause, persons desiring to be registered must make an application to the Board in accordance with the procedure to be set out in the regulations and must pay the fee prescribed by such regulations. The form of the application and the particulars which it must contain as well as the documents which must accompany it is also prescribed in the regulations.

CLAUSE 14 – DETERMINATION ON APPLICATIONS FOR REGISTRATION

23. This clause provides how the Board is to deal with applications for registration. The Board must first of all satisfy itself that the application complies with section 13, that is, must be in the prescribed form, contain the prescribed particulars and be accompanied by the prescribed documents as well as the prescribed fee. Secondly, the Board must satisfy itself that the applicant is a fit and proper person to be registered or where the applicant is a body corporate its directors are all persons of good character.

It is to be noted that it is only in this respect that the Board exercises a judgement factor as all the other questions which they must examine are questions of fact. Thirdly the Board must be satisfied that the applicant is not disqualified for registration as a real estate dealer if, in the case of an individual, he does not possess the prescribed professional qualifications, is under the age of eighteen years or has an undischarged order in bankruptcy against him, or of, in the case of a body corporate, a resolution has been passed, or an order made for its winding up, or any proceeding has been taken for distribution of its property amongst its creditors, or a receiver has been appointed for any of its property, or if at least one of its directors does not possess the prescribed professional qualifications for registration, or any of its directors are otherwise disqualified for registration as individuals.

24. Also a person will not be qualified for registration as a real estate salesman unless he is an individual, he has attained the age of eighteen, and he possesses the prescribed professional qualifications for registration as a real estate salesman, or if he has an undischarged order in bankruptcy against him.

25. In approving registration the Board is free to impose conditions, or not to impose them, and those conditions may either be such as are prescribed by regulations (which would be usual conditions should the Board decide to utilise them) or may be conditions which the Board itself specifies. Furthermore the Board may limit the registration of the applicant so as to permit him to practise only in specified branches of real estate business.

26. Where the Board grants an application for registration it must give the applicant a certificate of registration. Where the Board refuses an application it must inform the applicant of his right of appeal to the Court of Appeal under section 22.

CLAUSE 15 – CANCELLATION OR SUSPENSION OF REGISTRATION AND REMOVAL FROM REGISTER

27. This clause empowers the Board to cancel or suspend the registration of any person whose name has been entered on the register in the events specified, including derelictions found by the Board upon enquiry to have been committed by such person. In lieu of cancelling or suspending the registration of any person the Board may censure him (sub-section (2) (c)). Where the Board decides to cancel or suspend the registration of any person it must direct that his name be removed from the register and in the case of suspension the period for which it shall be removed. Under sub-section (4) the Board may order any such person against whom it has taken action to pay costs of any enquiry which was undertaken, and under sub-section (5) where the Board cancels the registration of any person it may fix a time during which that person cannot reapply for registration.

CLAUSE 16 - NOTICE

28. Where the Board has exercised any of its disciplinary powers under section 15 it must notify the person against whom it has acted of its decision and inform him that he may apply for a suspension of the Board's directions under section 17 and appeal to the Court of Appeal under section 22.

CLAUSE 17 – SUSPENSION OF DIRECTIONS OR ORDERS OF THE BOARD

29. If any person against whom the Board has acted applies to the Board in the prescribed manner and within the prescribed period the Board may direct that any direction or order given or made by it under section 15 will be suspended until the expiration of the period within such person may lodge an appeal or a further appeal.

CLAUSE 18 – COSTS AND EXPENSES OF BOARD

30. This clause provides that all costs and expenses which the Board has ordered any person to pay under section 15 is to be recoverable as a debt due to the Board.

CLAUSE 19 – APPLICATION FOR RE-REGISTRATION

31. Except where the Board has fixed a time within which a person cannot apply for re-registration it will be open for any person whose name has been removed from the register to apply for re-registration.

CLAUSE 20 – LICENSING OF REAL ESTATE DEALERS
AND REAL ESTATE SALESMEN

32. This clause provides for the annual licensing of persons whose names have been entered on the register of real estate dealers and real estate salesmen. Normally such person would be entitled to have the licence issued automatically upon payment of the prescribed fee. His licence would only authorise him to practise in accordance with his registration and if under his registration he is limited to only certain branches of practice and excluded from others the licence will confer no greater authority on him.

33. A licence to practice as real estate salesman will only be granted to an individual, and will only authorise him to practise if he is employed by a real estate dealer who is himself authorized to practise in that branch of real estate business in which he employs the salesman.

34. The prescribed fee must be paid in respect of all applications for annual licenses and such licences will be automatically revoked if the holder becomes disqualified from registration by virtue of section 21.

35. Sub-section (5) makes a certified copy of a licence prima facie evidence in proceedings for any offence under the Act or regulations.

CLAUSE 21 – DISQUALIFICATION FOR REGISTRATION

36. The qualifications provided by this section in respect of real estate dealers, and real estate salesmen, are enumerated in the comment under clause 15.

CLAUSE 22- APPEALS

37. The right of appeal to the Court of Appeal is given to any person whose qualification for registration has been refused or who is dissatisfied with any condition which the Board attaches to his registration or with the cancellation or suspension of his registration or the refusal to issue him a licence. The appeal must be lodged within forty- two days of the date when he is served with the notice of the Board's decision and must be brought in accordance with the rules made by the Chief Justice for the purposes of this section.

38. The Appeal may after hearing the appeal give such discretions in the matter as it shall think proper and the Board and the appellant shall comply with the Court's directions.

CLAUSE 23 – DETERMINATION OF LICENCES

39. Where a licence has been determined under section 20 (4) i.e., upon the holder of the licence becoming disqualified for registration, the holder of the licence must surrender it to the Board and if he fails to do so he will be guilty of an offence punishment on summary conviction with a fine not exceeding five hundred dollars.

CLAUSE 24 – CLIENTS' MONEY TO BE HELD ON TRUST

40. This clause provides that moneys received by real estate dealers or a real estate salesmen in respect of the purchase price of the disposition of any land or interest in land is to be held by the real estate dealers or real estate salesman on trust for the person entitled to it and will be available for payment of any other debts or liabilities.

CLAUSE 25 – KEEPING CLIENTS' ACCOUNTS

41. This clause provides that all clients' money (as defined) received by a real estate dealer or real estate salesman is to be lodged in an account designated clients' account with a bank or other authorized financial (as defined). Sub-section (2) authorized the Board to make regulations regarding the opening and keeping of clients' accounts (including exemptions) and with regard inter alia to the payment of interest accruing on balances in clients account. Regulation would provide for the auditing of clients' accounts and sub-section (3) authorizes an inspector to call fore the production of the latest auditor's reports in respect of clients' accounts. A substantial maximum penalty i.e. fifty thousand dollars and six month imprisonment is provided for contravention of the requirement for the keeping of clients' accounts.

CLAUSE 26 – RESTRICTIONS ON ENTERING INTO CONTRACTS

42. This clause prohibits any person from entering into a pre-payment contract (as defined) as a vendor in connection with any land which is, or is intended to be, the subject of a development scheme unless the land is free from any mortgage or charge (other than a mortgage given to a bank or authorized financial institution to secure the interim financing), and all approvals required by law for the carrying out of development scheme and for carrying out of the vendor's obligation under the pre- payment contracts have obtained and all conditions subject to which said approval were granted (except condition which cannot be carried out or are not required to be carried out) have been fulfilled and the vendor has deposited with the Board copies of all approvals under the Local Improvement s Act and the Town and Country Planning Act together with all relevant plans, drawing and specifications referred to in those approvals, authenticated in such manner as may be prescribed by regulations.

43. Sub- section (2) provides that a contract entered into in contravention of sub-section (1) shall be void and the purchaser shall be entitled to payment of any moneys paid by him with interest at the commercial bank's prime lending rates.

CLAUSE 27 - RESTRICTIONS ON ADVERTISING

44. Under this provision a person shall not advertise for sale any land or building in a development scheme unless all the requirements mentioned above under section 26 have been complied with any unless the advertisement is one which states from whom and when the relevant approvals for the scheme were obtained, where the relevant plans, drawings and specifications may be inspected, accurately describe the location of the land in question and its physical features and contain such other information as may be prescribed by regulations made under the Act.

CLAUSE 28 – COPIES OF PRE- PAYMENT CONTRACTS TO BE FORWARDED TO BOARD

45. This clause provides that a copy of every pre-payment contract shall be forwarded to the Board by the vendor within fourteen days of the signing of the contracts. Although this clause may at first sight appear onerous it is nevertheless considered essential as under section (33) the duty is imposed upon the Board, if a scheme fails to distribute the money which it is entitled thereto under the pre-payment contracts pursuant to which moneys were collected. The Board would not be able to discharge this duty unless it has evidence of each person who is a purchaser under pre- payment contracts and the terms and conditions under which he paid moneys thereunder as well as the other terms and conditions of the contract affecting the matter.

CLAUSE 29 – PAYMENT OF MONEYS RECEIVED UNDER PRE-PAYMENT CONTRACTS INTO TRUST ACCOUNTS

47. Under this clause every vendor under a pre-payment contract in a development scheme who receives any money from a purchaser under such contract must forthwith pay that money into a trust account to be maintained by him with an authorized financial institution (as defined) and held and applied in accordance with the provision of the Act.

48. Sub-section (2) provides that upon every payment of moneys into a trust account the person making the payment must furnish to the Board a report of the payment specifying the contracts to which the moneys comprised in such payment relate, and such particulars as may be prescribed by regulations.

49. Sub-section (3) provides that upon every payment of moneys into a trust account the person making the payment must furnish to the Board a report of the payment specifying the contracts t which the moneys comprised in such payment relate, and such particulars as may be prescribed by regulations.

CLAUSE 30 – MONEYS PAID INTO ACCOUNT TO BE HELD ON TRUST

50. This clause declares that all moneys received by a vendor under a pre-payment contract and deposited in a trust account shall be held in trust in that account (or in another account substituted therefore) until completion or rescission of the contract under which the moneys were received, to be paid to the persons legally entitled thereto pursuant to the terms of the contract

upon its completion or recession. This means in effect that except where the vendor is permitted under sub-section (3) of section 32 to withdraw from the trust account moneys to be applied in payment of construction work carried out by him against quantity surveyor's certificates and execution of the statutory charge to secure the withdrawals from the trust account, the moneys standing in which they were received have been completed or have been rescinded. Where the contracts have been completed there would be no difficulty as the vendor would have discharged his obligations and the moneys paid under the contract will become his. Where the contract has been rescinded it will depend on whether it has been rescinded by the vendor by reason of some default of the purchaser (an unlikely event) in which event the vendor may be entitled to the moneys under the terms of the contract, or whether it has been rescinded by the purchaser by reason of the vendor's default. In the case of development schemes (the subject dealt with by these provisions) a default by the vendor entitling one purchaser to rescind will normally be a default entitling all (or at least a substantial majority) of the other purchasers to rescind similar contracts. In such an event the Board will be under a duty pursuant to section 33 to call upon the financial institution with which the trust account is kept to pay over to the Board all moneys standing at the credit of that account and to apply such moneys in payment, or towards payment of the purchasers from whom payments were received by the vendor.

CLAUSE 31 – DEALINGS WITH MONEYS IN TRUST ACCOUNT

51. Sub-section (1) of this clause provides that except in the circumstances specified in sub-sections (2) and (3) moneys deposited in a trust account and any interest earned thereon are not to be withdrawn from the trust account until completion or rescission of the contracts under which the moneys were received by the vendor.

52. Sub-section (2) allows the moneys deposited in a trust account to be withdrawn and deposited in another trust account with another authorized financial institution subject to fulfilment of such conditions as may be prescribed by regulations. This is designed to allow some flexibility where for example a better rate of interest may be obtained by removing the moneys from one institution to another.

53. Sub-section (3) allows withdrawals from the account by the vendor prior to completion of the contracts where such withdrawals are to be applied by the vendor to the payment of Stamp Duty and Transfer Tax or in partial reimbursement of the costs of materials supplied and work done in the constructions of any building which is the subject of the contract, limited to the amounts certified by a qualified quantity surveyor or architect as properly due for such work already done and materials already supplied and not previously paid for and subject to the owner of the land on which the building is being constructed executing and lodging with the Registrar of Titles a charge upon the land in accordance with sub-section (3).

54. Sub-section (4) provides that this charge is to be a charge upon the land on which the building is being constructed made in favour of the Board and charging the land with the repayment of all amounts received by the vendor pursuant to the contract which shall become repayable by him upon breach thereof by him. The charge will rank in priority to all other mortgagee or charges on the land (except a charge created by statute for taxes etc.) and will be enforceable by the Board by sale of the land by public auction or by private treaty. The only

exception to the priority of the statutory charge will be where a mortgage or charge of the land has been created in favour of an authorized financial institution to secure interim financing in which event the statutory charge will rank pari passu to the mortgage in favour of that financial institution.

CLAUSE 32 - WITHDRAWAL FROM ACCOUNT UPON COMPLETION ETC. OF CONTRACTS

55. This clause provides that upon the completion of a pre-payment contract in accordance with its terms or upon the vendor rescinding it lawfully by reason of a default of the purchaser the vendor shall be entitled to withdrawal from the trust account the moneys deposited in respect of that contract and shall be entitled to pay those moneys to the person legally entitled thereto which may be himself.

CLAUSE 33 - DEALINGS WITH MONEYS IN TRUST ACCOUNT UPON DEFAULT OF VENDOR

56. As previously mentioned where the vendor fails to complete a prepayment contract in a development scheme in accordance with its terms and conditions the Board if satisfied that the default will trigger other defaults so substantial as to amount to a failure of the scheme shall call upon the financial institution keeping the trust account to pay over all moneys in it to the Board, which must then enforce the statutory charge, if any, either by the sale of land subject to the charge, or by such other action as the Board thinks fit, and apply the proceeds of the sale rateably in satisfaction of any mortgage to an authorized financial institution and the statutory charge to the Board, and thereafter apply the balance of such proceeds of sale together with the money received by the Board from the trust account in payment of the persons legally entitled thereto pursuant to the prepayment contracts in question.

CLAUSE 34 – DUTY OF AUTHORIZED FINANCIAL INSTITUTION

57. This clause imposes the duty on an authorized financial institution with which a trust account is maintained to take reasonable measures to ensure that withdrawals are not made from the account except in compliance with the provisions of the Act and to comply with any requirement of the Board to pay over the moneys at credit in the account. Sub-section (2) provides that all moneys payable to the Board by an authorized financial institution shall be recoverable as a debt.

CLAUSE 35 – REGISTER OF DEVELOPERS

58. Under this clause every person, unless he has been previously registered, who proposes to carry out any development in a development scheme must lodge with the Board a statement showing his name and address, and in the case of a company the address of its directors, the location and area of the land to be used in the scheme and any other particulars prescribed by regulations. A fee is payable upon the lodgement of such statement and upon the Board receiving the statement and fee it will cause the name and address of the person in question to be entered in a register to be known as the Register of Developers. Under sub-section (4) an annual fee

becomes payable unless the Board is satisfied that any person whose name is entered on the Register of Developers is no longer engaged in carrying out development schemes.

59. Sub-section (6) limits the application of these provisions to development schemes in excess of five lots unless the person in question has carried out a development scheme of whatever size within the preceding twenty-four months.

CLAUSE 36 – APPEALS BY APPLICANTS FOR REGISTRATION AS DEVELOPERS

60. This clause allows for an applicant for registration as a developer who has been refused such registration by the Board to appeal against this decision to the Court of Appeal.

CLAUSE 37 – APPOINTMENT OF INSPECTORS

61. This clause empowers the Board to appoint inspectors for the purposes of the Act. Notice of each appointment and revocation thereof is to be published in the Gazette and a daily paper.

CLAUSE 38 – POWER OF INSPECTORS TO DEMAND INFORMATION

62. This clause authorises inspectors to seek information from applicants for registration or for licences under the Act or from the holders of licences, in respect of their practice of real estate business.

63. Sub-section (3) which applies to the person listed in sub-section (4) authorises an inspector to give to those persons directions in writing requiring them to produce such documents as the inspector may specify and if such person is not able to produce the document he is required to state where it is to the best of his knowledge. Failure to comply with a requirement to produce a document will be an offence. Safe guards in law are ensured through subsection (6) for a person from whom information is demanded by a real estate inspector.

CLAUSE 39 – ENTRY AND SEARCH OF PREMISES

64. This clause empowers an inspector to enter at all reasonable times premises (not a private dwelling house) where he has reasonable grounds for believing any documents to be and to make examinations and exercise such powers as may be necessary for carrying out the provisions of the Act and any regulations thereunder.

65. The owner or person in charge of any premises entered by an inspector must give him all reasonable assistance and persons who obstruct an inspector will be guilty of an offence.

65. Inspectors must be furnished with certificates of identity and must obtain a warrant from a Justice of the Peace before entering a premise.

CLAUSE 40 – ISSUE OF WARRANT TO INSPECTOR

66. This clause provides the usual authority for the issue of search warrants by Justice of the Peace.

CLAUSE 41 – DUTY OF BOARD TO AFFORD OPPORTUNITY TO BE HEARD

67. This clause provides the usual provision for an applicant to be given reasonable opportunity to be heard in respect of his application.

CLAUSE 42 – NOTICES

68. This clause is in the usual form.

CLAUSE 43 – REGULATIONS

69. This clause empowers the Minister after consultation with the Board to make regulations for the better carrying out of the objects and purposes of the Act and in particular certain items are listed as set out.

70. Sub-section (2) provides that regulations made by the Minister shall be subject to negative resolution.

CLAUSE 44 – FURTHER OFFENCES AND PENALTIES

71. This clause creates the offences specified in items (a) to (e) and makes them punishable by a maximum fine of five thousand dollars and six months imprisonment. The offences created are all necessary sanctions to enable the scheme of the legislation to be enforced and there is nothing particularly noteworthy about any of them.

72. Sub-section (2) ensures that a person required to produce records, documents or answer questions is entitled to the same rights or privileges as before a Court of Law.

CLAUSE 45 – PENALTIES FOR HOLDING OFFICE WHILST DISQUALIFIED AND FOR RENDERING FALSE ACCOUNTS

73. This clause prohibits any person who is disqualified from registration as a real estate dealer from becoming or acting as a director or principal officer of any company which holds a licence to act as a real estate dealer. Contravention of the section will be an offence carrying a maximum penalty of one thousand dollars and imprisonment of six months plus twenty dollars for every day during which the offence continues.

74. Sub-section (2) makes it an offence for any person to render a false account of any money received by him in his capacity as a real estate dealer or a real estate salesman knowing it to be false in any material particular. Conviction of such an offence will carry a maximum penalty of three thousand dollars and imprisonment for a term not exceeding six months.

CLAUSE 46 – PENALTIES FOR OFFENCES NOT OTHERWISE PROVIDED FOR

75. Offences not otherwise specifically provided for will carry on conviction a maximum penalty of one thousand dollars and imprisonment for six months.

CLAUSE 47 – EXCLUSION OF RIGHT TO SUE FOR FEES, ETC.

76. This clause disentitles a person who engages in the practise of real estate business as a real estate dealer or a real estate salesman without a licence or in contravention of the conditions of his licence from suing for the recovery of fees of commissions of from having any lien on money or property for the recovery of fees or commission.

CLAUSE 48 – TRANSITIONAL

77. Under the provisions of this clause persons who have been engaged in the practice of real estate business as real estate dealers or real estate salesmen whole time for a continue period of two years prior to the commencement of the Act will have six months in which to apply to the Board for registration under that section and for a licence pursuant to such registration.

78. If the Board is satisfied that any such person is qualified by ability and experience to practice in the branches of real estate business in which he has been engaged, and that he is not disqualified except as to the academic or professional prescribed qualifications, the Board will grant registration and issue a licence. In granting registration, however, the Board may impose certain conditions including a condition that the person must attain such academic or professional qualifications as the Board may consider appropriate within a time to be specified by the Board.

79. Part 4 of the Act which relates to development schemes does not apply to any development scheme which is in operation as at September 1, 1988 provided that all statutory approvals for the scheme has been obtained and the developer has entered into a pre-payment contract.

SCHEDULE

80. The whole Schedule is in the usual form for the creation of a statutory corporation.