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THE HOUSE BUILDING FINANCE CORPORATION ACT, 1952.

TACT NO. XVIII OF 1952

[18 April, 1952]

An Act to establish a House Building Finance Corporation.

WHEREAS it is expedient to establish a House Building Finance Corporation for the purpose of providing financial facilities for the construction, reconstruction, repair and purchase of houses]

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the House Building Finance Corporation Act, 1952.

! For Statement of Objects and Reasons, see Gaz. of P., Ext., 1952, pp. 310 and 311.

The Act was brought into force in Baluchistan (with effect on and from the 8th day of November, 1952), see Baluchistan, by the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950).

It has been applied also in the Federated Areas of Baluchistan, see Gaz. of P., 1953, pt. 1, p. 152.

It has also been extended to —

(i) the Baluchistan States Union, by the Baluchistan States Union) (Federal Laws) (Extension) Order, 1953

(ii) the Khairpur State by the Khairpur (Federal Laws) (Extension Order, 1953 (G.G.O. 5 of 1953).

The Act has been and shall be deemed to have been brought into force in Gwadur (with effect from the 8th day of November, 1960 (37 of 1960).

The Act and the rules, notifications and orders made thereunder have been applied to the whole of the Federated Areas of Baluchistan, if they do not already apply, by Regulation No. 1 of 1975, s. 2. and the Sch.

The Act and the rules, notifications and orders made thereunder, is in force in N.W.F.P. before the 15th July 1975, in the Malakand Protected Area of the N.W.F.P. by Regulation No. III of 1975, s. 2 and the Sch.

? Subs. by the House Building Finance Corporation (Amdt.) Act, 1974 (8 of 1974) (wef 27-2-1974), for “of”

1[(2) It extends to the whole of Pakistan [and also applies to the business of the Corporation transacted outside Pakistan and to persons conducting such business].]

(3) It shall come into force on such date? as the “[Federal Government] may, by notification in the Official Gazette, appoint.

2. Interpretation. In this Act, unless there is anything repugnant in the subject or context, —

(a) “Act” means the House Building Finance Corporation Act.

(b) “Board” means the Board of Directors of the Corporation

(c) “Borrower” means any person or persons or body of persons whether incorporated or not to whom a loan is made by the Corporation >* * *.

6l(cc) “certificate” means a certificate issued by the Corporation to a bank or institution entitling that bank or institution to participate in the profits and losses of the Corporation on specified terms and conditions;]

(d) “Corporation” means the House Building Finance Corporation.

1 Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s.3 and 2" Sch., for the origi

2 Added by the House Building Finance Corporation (Amdt.) Act, 1975 (80 of 1975), s. 2 (wee.f 13-12-19

3 i.e. the 8" November, 1952, see Gaz. of P, Ext. 1952, p. 1199.

4 Subs. by the House Building Finance Corporation (Amdt.) Act, 1973 (9 of 1973) s. 13 (w.e,f, 1-2-1973),

5 The words “or the construction [or purchase] of a house or for the purchase of land for constructing a ho
(Amdt.) Act, 1974 (8 of 1974), s. 3. (wef 27-2-74) The words in crotchets were ins. by Act 9 of 1973, s. 2.

6 Ins. by the House Building Finance Corporation (Amdt.) Ordinance, 1979 (40 of 1979), s. 2.

(e) "House" means any building intended for human habitation together with the land upon which it is situated and may comprise of one or more family housing units, and structures appurtenant thereto.

'l(ee) "investment" means the money advanced by the Corporation to a partner for construction or purchase of a house or for purchase or development of land, or, if so directed by the Federal Government, for repair or reconstruction of houses damaged by natural calamities; and

(eee) "partner" means any person or persons or body of persons, whether incorporated or not, with whom the Corporation enters into an agreement of partnership;]

(f) "prescribed" means prescribed by rules or regulations under this Act.

3. Establishment and incorporation of the Corporation.—(1) A Corporation to be called the House Building Finance Corporation shall be established as soon as may be to carry out the purposes of this Act.

(2) The Corporation shall be a body corporate by the name of the House Building Finance Corporation having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property, both movable and immovable, and shall by the said name sue and be sued.

214. Authorised capital and return payable—(1) The authorised capital of the Corporation shall be two hundred million rupees divided forty fully paid up shares of the value of five million rupees each to be subscribed from time to time by the Federal Government or any bank or financial institution with the previous approval of the Federal Government:

Ins. by the House Building Finance Corporation (Amendment) Ordinance, 1979 (40 of 1979), s. 2.
2 Section 4 was previously amended by Act 35 of 1953, s. 2. and 27 of 1956, s. 2 has been subs. by the 2.

Provided that the Federal Government may, by notification in the official Gazette, increase the authorised capital to such extent and in such manner as may be specified in the notification.

TQ) The Federal Government and other shareholders shall be entitled to payment of dividend out of profit as the Corporation may, from time to time, declare.]

5. [Guarantee by ?[Federal Government.] Omitted by the House Building Finance Corporation (Amdt.) Act, 1956 (27 of 1956), s. 3.

6. Managements.—(1) The general direction and administration of the Corporation and its affairs shall vest in a Board of Directors which, with the assistance of an Executive Committee and a Managing Director, may exercise all powers and do all acts and things which may be exercised or done by the Corporation.

(2) The Board in discharging its functions shall act on commercial considerations and shall be guided on questions of policy by such directions as the [Federal Government] (which shall be the sole judge whether a question is a question of policy) may give it.

(3) If the Board fails to carry out any direction as aforesaid, the [Federal Government] may remove the Directors including the Chairman and notwithstanding, anything in section 9, may appoint other persons in their place to be Directors temporarily until a fresh Board is constituted in accordance with the provisions of that section.

1 Subs. by Ord. 65 of 2006, s. 2.

2Subs. by the House Building Finance Corporation (Amdt.), Act, 1973 (9 of 1973), s. 13 for “Central Gove

7. Constitution and powers of the Executive Committee.— '[(1) The Executive Committee shall consist of four members, that is to say, the Managing Director (who shall be the Chairman of the Committee) and three Directors to be elected by the Board].

(2) Subject to such general or special directions as may from time to time be given by the Board, the Executive Committee shall be competent to deal with any matter within the competence of the Board.

(3) The minutes of every meeting of the Executive Committee shall be laid before the Board at its next following meeting.

218. Managing Director (1) The Managing Director shall be appointed by the >[Federal

Government] for such period and on such salary and terms and conditions of service as the 3[Federal Government] may determine.

(2) The Managing Director shall be the Chief Executive Officer and shall, on behalf of the Board, direct and control the whole affairs of the Corporation and manage the affairs of the Corporation.

(3) In matters not specifically required by this Act or by regulations made thereunder to be done by the Board, the Managing Director shall have authority to conduct the business, control the function and manage the affairs of the Corporation.].

1 Sub-section (1) was originally subs. by Act 35 of 1953, s. 3 had subsequently amended by Act 27 of 1972 (6 of 1972), 8. 2 (wef. 16-12-1971), has been amended by the House Building Finance Corporation

? Subs. by the House Building Finance Corporation (Amdt.) Act, 1956 (27 of 1956), s. 5, for the original s

3 Subs. by the House Building Finance Corporation (Amdt,) Act, 1973 (9 of 1973), s. 13, for "Central Gov

119, Board of Directors. The Board of Directors shall consist of the following 7Teight] Directors, namely:—

(a) Four Directors to be appointed by the >[Federal Government] “[one from each Province on the recommendation of the Provincial Government];

(b) Two Directors to be appointed by the 3[Federal Government] from amongst the officials of the 3[Federal Government]; >

5[(bb) One Director to be appointed by the Federal Government on the recommendation of the State Bank of Pakistan; and].

(c) The Managing Director.].

10. Term of office of Director—®*[(1) A Director shall hold office during the pleasure of the 3[Federal Government] 7* * *.

(2) A casual vacancy in the office of Director shall be filled by the appointment of another Director 8* * *,

(3) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the composition of the Board.

11. Disqualification. No person shall be or shall continue to be a Director who—

(a) is a salaried official of the Corporation other than the Managing Director, or

(b) is or at any time has been adjudicated insolvent, or

Subs. by the House Building Finance Corporation (Amdt.) Act, 1956 (27 of 1956), s. 6 (w.e.f, 18-4-1956), Corporation (Amdt.) Act, 1953 (35 of 1953). s. 4 (wef 8-11-1952).

? Subs. by the House Building Finance Corporation (Amdt.) Ordinance, 1979 (9 of 1979), s. 4, for. “Sever

3 Subs. by the House Building Finance Corporation (Amdt.) Act, 1973 (9 of 1973), s. 13 for “Central Gove

4 Subs. by Act 9 of 1973,s .3, for “two each from East Pakistan and West Pakistan and one ofeach such

5 Omitted and ins, by Ordinance 40 of 1979, s. 4.

6 Subs. by Act 27 of 1956, s. 7, for sub-section (1) and (2).

The words “but not for a period exceeding two years” omitted by Act 9 of 1973, s. 4.

§ The words “who, subject to the provisions of sub-section (1), shall hold office for the un-expired period of Corporation (Amdt.) Act, 1974 (8 of 1974). 8. 5. (wef 27-2-1974).

(c) is found to be a lunatic or of unsound mind, or

(d) is or at any time has been convicted of an offence which in the opinion of the '[Federal Government]' is an offence involving moral turpitude, or

2[(e) is for the time being disqualified for membership of any body established by or under any law for the time being in force, of which the constituent members are wholly or partly chosen by means of election, or.]

(f) is a minor,

12. Directors absent from three consecutive meetings. A person shall cease to be a Director if he absents himself from three consecutive meetings of the Board without leave of absence from the

Chairman, or, in the case of the Chairman, from the '[Federal Government]'.

13. Appointment of officers, advisers. The Corporation may appoint or employ such persons including advisers as it considers necessary for the efficient performance of its functions.

14. Chairman of the Board.—(1) The '[Federal Government]' shall appoint one of the Directors * * to be the Chairman of the Board.

41(2) Subject to his continuing to hold office as a Director, the Chairman shall hold office as such until his successor is appointed.

(3) In the event of the office of the Chairman falling vacant, the office shall be filled by an appointment of a Chairman from amongst the Directors].

1 Subs. by the House Building Finance Corporation (Amdt, Act, 1973 (9 of 1973), s. 13 (wef 1-2-1973), for

? Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II

3 The original words "other than the Managing Director" omitted by the House Building Finance Corporation

4 Subs. by the House Building Finance Corporation (Amdt.) Act, 1974 (8 of 1974), s. 6 (wef, 27-2-1974),

15. Technical Advisory Committee. The Corporation 'Tmay] appoint a Standing Committee of experts to be called technical Advisory Committee to give it technical advice on schemes submitted to the Corporation for financial assistance or on any point that may be referred to the Committee by the Board.

16. Meetings of the Board and the Committee.— (1) The meetings of the Board and the Executive Committee shall be held at such times and at such places as may be prescribed:

Provided that until, regulations are made in this behalf such meetings shall be convened by the Chairman of the Board or the Committee, as the case may be.

21(2) The quorum at meetings shall be as follows :—

(a) of the Board, 3 [three] Directors including the Managing Director;

(b) of the Executive Committee, three members including the Chairman.].

(3) At meetings of the Board and of the Executive Committee, each Director or Member present shall have one vote and in the event of an equality of votes, the Chairman shall have a second or casting vote.

(4) No Director shall vote on any matter relating to any application for a loan in which he is directly or indirectly interested.

Subs. by the House Building Finance Corporation (Amdt.) Act, 1963 (6 of 1963), s. 2 (wef 27-4-1963), for 2 sub-section (2) which was omitted by the House Building Finance Corporation (Amdt.) Ordinance, 1955 Finance Corporation (Amdt) Act, 1956 (27 of 1956), s. 9 (wef, 18-4-1956).

3 Subs. by the House Building Finance Corporation (Amdt.) Ordinance, 1972 (6 of 1972), s. 3, for “four” (

(5) If for any reason the Chairman is unable to be present :—

(a) at a meeting of the Board, a Director !* * * authorised in writing by the Chairman shall preside at the meeting, and in the absence of any such authorisation the Directors present shall elect a Chairman to preside at the meeting ;

(b) at a meeting of the Executive Committee, a Member authorised in writing by the Managing Director shall preside at the meeting, and in the absence of such authorisation the members present shall elect a Chairman to preside at the meeting.

17. Fees for attending meetings. Directors, other than the Managing Director or those who are servants of the Government, shall be paid such fees for attending meetings of the Board or of the Executive Committee, as may be prescribed.

18. Regional Office. The Corporation shall have its Head Office at ?[Karachi] and shall, as soon as may be, establish such offices and agencies and at such places as the 3[Federal Government] may determine [.]^{*}

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19. Deposit Accounts. The Corporation may open deposit accounts with the National Bank of Pakistan or where there is no branch of that Bank, with such other banks as the [Federal Government] may approve.

20. Investment of funds. The Corporation may invest its funds in such securities or in such other manner as may be prescribed and may sell or mortgage such securities.

! The Original words “Other than the Managing Director” omitted by the House Building Finance Corporation

? Subs. by the House Building Finance Corporation (Amdt.) Ordinance, 1972 (6 of 1972), s. for “Dacca” (Corporation (Amdt.) Act, 1963 (6 of 1963), for “Karachi”.

3 Subs. by the House Building Finance Corporation (Amdt.) Act, 1973 (9 of 1973), s. 13 (w.e.f 1-2-1973),

4 Subs. by Act 6 of 1963, s. 3, for colon.

5 The original proviso omitted *ibid*.

"21. Raising of funds.—(1) The Corporation may, for the purpose of its working capital, raise funds under any Shariah compliant mode but the total amount due by the Corporation on such financing and on its other liabilities, contingent or otherwise, shall not, at any time, be allowed to exceed such limits as the Federal Government may, by notification in the official Gazette, fix.

(2) The repayment of the principal after adjustment of profits and losses of the Corporation under the terms of fund-raising agreement with its financier shall be guaranteed by the Federal Government and the Corporation shall not enter into any contact for interest based funding.]

22, Deposits to the Corporation. The Corporation may accept ~[term deposits] on such terms and conditions as may be approved by the 3 [Federal Government].

4[23. Business which the Corporation may transact. Subject to the provisions of this Act, the Corporation may —

(a) *[make investment in collaboration with partners] for construction or purchase of houses or for purchase or development of land on which

1 Subs. by Ord. 65 of 2001, s. 3.

? Subs. by Act 9 of 1973, s. 6, for “deposits”.

3 Subs. by the House Building Finance Corporation (Amdt.) Act 1973 (9 of 1973), s. 13 (wee,f 1-2-1973),

4 Subs. by the House Building Finance Corporation (Amdt.) Act, 1974 (80f 1974), s. 7 (wef. 27-2-1974) fo

5 Subs. by Ord., 40 of 1979 s. 6 for “grant loans to borrowers”.

houses are to be constructed or, if so directed by the Federal Government, for repair or reconstruction of houses damaged by ![usage of by] natural calamities;

(b) give, on such terms and conditions as may be prescribed, guarantee in respect of a house-building loan granted by a scheduled bank or by a financial institution approved by the Federal Government; and

(c) undertake housing projects, including acquisition of land, planning and development of sites and construction of houses for disposal by sale.]

2[24. Conditions for investments.— (1) No investment shall be made unless it is fully secured by assignment of the land and the house constructed or to be constructed thereon or by such guarantee as may be prescribed :

Provided that where the land on which it is proposed to construct the house is held by the partner not as owner but as mortgages, lessee, sub-licensee, or in any other capacity, then, notwithstanding anything contained in any other law for the time being in force, investment may be made against assignment of such land and the house to be constructed thereon.

(2) No property shall be accepted for assignment under sub-section (1) unless it is free from all encumbrances and charges :

1 Ins. by the House Building Finance Corporation (Amdt,) Ordinance, 1982 (9 of 1982), s. 2.

? Subs. by the House Building Finance Corporation (Amendment) Ordinance, 1979 (40 of 1979), s. 7.

'| Provided that the Corporation may, subject to the maximum limit provided in section 25,—

(a) make additional investment on the security of any property already assigned or mortgaged to the Corporation;

(b) make investment on the security of any property already assigned or mortgaged to the Federal Government, a Provincial Government, or a bank, a banking company or any other financial institution established by or under any law and controlled, directly or indirectly, by the Federal Government or Provincial Government or by a Corporation set up a controlled by any of them.]

(3) No land or house in respect of which investment is made shall be transferred, sold or charged without the prior consent of the Corporation in writing and payment of the Corporation's dues, including share in the capital appreciation ; and any such transfer, sale or charge made without such consent shall be void, and in the case of a sale, the Corporation shall have the option to buy out the partner's share in the property at the price settled between the partner and the intending buyer.

No investment shall be made unless the Corporation is satisfied that the partner has clear title to the property and is in possession of the land, the area in which the house is to be situated has been adequately planned, and the permission of the lessor, lessee, licensor, licensee or other competent authority for participation of the Corporation as partner in the construction or purchase of the house has been obtained.

1 Subs. by the House Building Finance Corporation (Second Amendment) Ordinance, 1982 (15 of 1982),

- (5) No investment shall be made unless the partner agrees that —
- (a) the assessment of cost of land and cost of construction thereon;
 - (b) the assessment of gross and net rental income of the property;
 - (c) the share of the Corporation in the said income in consideration of its investment;
 - (d) the share of the Corporation in capital gains, if property is sold or transferred during the currency of the deed of assignment and partnership;
 - (e) demand charges in case of default in scheduled repayment; and
 - (f) date of completion of the house;

as fixed by the Corporation shall prevail and be binding upon him.

- (6) No investment shall be made unless the Corporation is satisfied that—

- (a) where the investment is for the construction of a house, the partner will be able to provide necessary funds which, added to the investment made by the Corporation, will cover the entire cost of construction of the house;
- (b) the partner or his surety or both, as the case may be, and where the partner is more than one person, any one or more of such persons or their sureties will have sufficient means to repay the amount invested by the Corporation during the prescribed period in the prescribed manner; and
- (c) the plan and the design of the house is approved by the competent authority and the specifications provide for a sound and durable construction.

(7) Before accepting any movable or immovable property as security, due allowance shall be made for depreciation and probable fall in value; and whenever such property is found to fall in value below the margin allowed, additional security shall be obtain.

(8) No investment shall be made with a partner for construction or purchase of more than one house on income sharing basis.

V9) The investment shall be adjusted through transfer of investment units in such manner and on such terms as provided in the deed of assignment and partnership.]

(10) The total estimated cost of a house constructed or to be constructed and the investment to be made shall be determined by the Corporation.

'[(11) The net rental income shall be assessed by the Corporation for an initial period as provided in deed of assignment and partnership and thereafter shall be revised periodically notwithstanding anything to the contrary contained in any other law for the time being in force till the entire investment units of the Corporation are transferred to the partner.]

(12) The share of the Corporation in the net rental income shall be fixed as the ratio between the investment of the Corporation and the total estimated cost of the house at the time of the execution of

deed of assignment and partnership and shall be revised 'Ton each adjustment of the investment through transfer of investment units as provided in sub-section (9) and shall be payable on such periodical basis as provided in the deed of assignment and partnership.]

(13) The share in the capital gains when the property is sold or transferred shall be determined in the prescribed manner.

(14) The income on the investment shall start accruing on completion of the agreed period.

1 Subs. by Ord. 65 of 2001, s. 4

(15) The Corporation shall share the losses which may be caused by natural calamities, war or civil commotion only.

(16) No investment shall be made for a period exceeding twenty-five years.

(17) Investment shall be made in suitable installments concomitant with the construction of the house.

(18) No information given by any person applying for financial assistance and communicated to any of the Directors or employees of the Corporation shall be disclosed or used by such Directors or employees except for lawful purposes of the Corporation without the written consent of such person.

(19) Investment may be made in collaboration with Cooperative Societies and such other authorities and housing corporations as may be prescribed.

11(20) Loans made before the first day of July, 1979, shall become due and payable along with accruals as on the last day of June, 2000, and all borrowers shall within three months from the commencement of the House Building Finance Corporation (Amendment) Ordinance, 2001, pay their entire obligations and the investment made after the 30th of June, 1979, shall, unless the Federal Government otherwise directs, continue to be governed by the terms and conditions on which they were made:

Provided that-

(a) the repayment of the principal amount shall be deemed to be the purchase of investment units as provided in sub-section (9);

(b) the share of the Corporation in the net rental income shall be revised on payment of the full value of each investment unit as provided in the deed of assignment and partnership or, as the case may be, on each repayment of the principal;

! Subs. by ord. 65 of 2001, s. 3.

(c) service charges based on the amount of investment made by the Corporation shall not accrue nor shall be charged after the 30th of June, 2000; and

(d) demand charges accrued and recovered by the Corporation from the first day of July, 2000, shall be credited to a separate account to be spent on meeting actual out of pocket expenses on recovery of overdue investments and the balance shall be used only for charitable purposes and shall not be credited to the income account of the Corporation.]

(21) The Corporation may, in compliance with any instruction issued by the Federal Government in that behalf, relax or modify any of the conditions provided under this Act for any class of investment.]

25. Limit on investments. The Corporation shall not —

(i) make an investment which exceeds such amount, or is in respect of a house the covered area of which exceeds such limits as the Federal Government may, by notification in the official Gazette, specify; or

(ii) enter into partnership with a cooperative society, local authority or a housing corporation without the approval in writing of the Federal Government.

1 Subs. by Ord. 65 of 2001, s. 4.

25A. Partner to pay Fees etc. The Corporation may require the partner to pay such fees and charges as may be prescribed.]

26. Power to Impose conditions. The Corporation shall make such agreements with 'TPartners] 24 * * as it may deem necessary or expedient to safeguard its interests.

326A. —[Certificate under Ordinance IV of 1947 not required] Omitted by the House Building Finance Corporation (Amdt.) Ordinance, 1979 (40 of 1979), s. 9.

27. Prohibited business. The Corporation shall not:—

(a) accept any deposits except as provided by this Act; or

(b) subscribe directly to the shares or stock of any company “[except, with the prior approval of the Federal Government, a corporation or an agency, whether incorporated or not, set up with the object of construction and management of houses:]

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Provided that nothing in clause (b) shall effect the right of the Corporation to acquire the shares or stock of any company accepted as security from the borrower 6 or partner].

28. Rights of Corporation in cases of default. —(1) When fa borrower or a partner or the surety of either of them] makes default in repayment or otherwise fails to comply with the terms of

the agreement Tfor letter of guarantee] with the Corporation, the Corporation may sell or realise any

property pledged, mortgaged, hypothecated or assigned by ®[the borrower or the partner or the surety of either of them] to the Corporation by way of security.

! Subs. by the House Building Finance Corporation (Amdt.) Ordinance, 1979 (40 of 1979), s. 8.

? Certain words omitted by the House Building Finance Corporation (Amdt.) Act, 1957 (4 of 1958), s. 3, (3 Section 264 ins. by the House Building Finance Corporation (Amdt,) Act, 1973 (9 of 1973) s. 9.

4 Subs. by the House Building Finance Corporation (Amdt) Act, 1974 (8 of 1974), s. 10, for “or” (w.e.f. 27

> Omitted ibid.

§ Added and Subs. by Oridnance 40 of 1979, ss. 10-11.

7 Ins. by the House Building Finance Corporation (Amdt.) Act, 1956 (27 of 1956) s. 13 (wef. 18-4-56).

(2) Any transfer of property made by the Corporation in exercise of its powers under sub-section (1) shall vest in the transferee all rights in or to the property transferred as if the property had been sold to the transferee by the owner.

(3) All sums due to the Corporation from a borrower 'or a partner or the surety of either of them] shall be recoverable as arrears of land revenue.

2129. Power to call for payment before agreed period. In case it is found that—

(a) a loan or investment was obtained by providing false or misleading information in any material particular; or

(b) a breach of the terms of agreement with the Corporation has been committed; or

(c) the amount disbursed by the Corporation is not being utilized for the purpose for which it was made; or

(d) the house is not constructed or completed within the period prescribed in the agreement; or

(e) there is reason to apprehend that the dues of the Corporation will become irrecoverable; or

(f) the property pledged, mortgaged, hypothecated or assigned to the Corporation is not being properly maintained, or that such property has depreciated in value by more than the prescribed percentage and the borrower or the partner is unable to give additional security to the satisfaction of the Corporation; or

(g) the property pledged, mortgaged, hypothecated or assigned to the Corporation has in any way been disposed of or charged without the prior consent of the Corporation; or

in the opinion of the Board it is necessary to do so in order to protect the interest of the Corporation for any other reason, the Corporation may, notwithstanding any agreement to the contrary, by

1 Subs. by the House Building Finance Corporation (Amdt.) Ordinance 1979 (40 of 1979), ss. 10-11.
? Subs. *ibid.*, s. 12.

notice require the borrower, the partner or the surety of either of them, as the case may be, to repay the loan or the amount invested by the Corporation in full.].

30. Special provisions for enforcement of claim by the Corporation.—(1) Where by reason of the breach of any agreement by the borrower ![or the partner] the Corporation becomes entitled to

require the immediate payment of the amount due by the borrower 'Tor the partner] to the Corporation, any officer of the Corporation authorised generally or specially by the Board in this

behalf may apply to the District Judge within the local limits of whose jurisdiction the borrower's ![or the partner's] house is situated for any one or more of the following reliefs, namely :—

(a) an order for the 2[delivery to the Corporation of the vacant possession, or for the sale,] of any property or properties pledged, mortgaged, hypothecated or assigned to the

Corporation as security for the sums due by the borrower 3[or the partner] ;

(b) for an injunction restraining the borrower Tor Sthe partner or the surety of either of them]] from in any manner removing, transferring or disposing of any of the properties referred

to in [clause] (a);

(c) for an ad interim attachment attaching the properties referred to in clause (a) above and

such other properties of the borrower 4Tor [the partner or the surety of either of them]] as in the opinion of the District Judge were sufficient to cover the claim of the

Corporation against the borrower Stor the partner, including costs, interests, share in rental income, share in capital gains and demand charges, as the case may be].

1 Ins. by the House Building Finance Corporation (Amendment) Ordinance, 1979 (40 of 1979), s. 13.

? Subs. by the House Building Finance Corporation (Amdt.) Act, 1973 (9 of 1973), s. 12 (w.ef. 1-2-1973),

3 Added by Ord. 40 of 1979, s. 13.

4 Ins. by the House Building Finance Corporation (Amdt.) Act, 1953 (35 of 1953), s. 9.

5 Subs. by Ord. 40 of 1979, .13.

6 Subs. by the Act, 35 of 1953, s. 9. for “sub-clause.”

(2) An application under subsection (1) shall state the nature and extent of the liability of the borrower [for the partner and the surety of either of them] to the Corporation, the grounds on which it is made and such other particulars as may be prescribed.

(3) The District Judge may if he thinks fit hear the applicant and where the reliefs mentioned in [clauses (b) and (c) of sub-section (1)] are prayed for in the application shall pass ad interim orders granting such reliefs as in the opinion of the District Judge are sufficient to safeguard the full claim of the Corporation against the borrower [for the partner].

(4) At the time of passing his orders under "[sub-section] (3) the District Judge shall order notice of the application to issue to the borrower [for the partner and the surety of either of them] together with copies of the application, the order passed by the District Judge under "[sub-section] (3), and any evidence which may have been recorded at the time of the order under 4 sub-section] (3), calling upon the borrower [for the partner and the surety of either of them] to show cause on a date to be specified in the notice, why the interim orders should not be confirmed and the reliefs sought in the application be granted.

(5) If no cause is shown on or before the date specified in the notice under 4 sub-section] 5 [(4)] the District Judge shall dispose of the application.

1 Subs. by the House Building Finance Corporation (Amdt.) Ordinance, 1979, (40 of 1979), s. 13.

? Subs. by the House Building Finance Corporation (Amdt.) Act, 1953 (35 of 1953), 8.9 for "sub-clauses (b) and (c)" 3 Added and ins. by Ordinance, 40 of 1979 s. 13.

4 Subs. by Act 35 of 1953, s. 9, for "clause".

5 Ins. by the House Building Finance Corporation (Amdt.) Act, 1974 (8 of 1974), s. 11 (wef 27-2-1974)

(6) If the borrower !2[or the partner and the surety of either of them] appear and show cause, the District Judge shall grant them]and the Corporation reasonable opportunity to produce their evidence relating to the reliefs claimed in the application ; and after considering such evidence and hearing the parties the District Judge shall pass his orders disposing of the application.

(7) When passing his order under 3[sub-section] (5) or 3f sub-section] (6), the District Judge shall—

(a) record his finding as to the 'Ttotal amount] due by the borrower 2[or the partner] to the Corporation, and the interest payable thereon ;

(b) direct or refuse to direct the sale of the properties attached ;

(c) confirm, discharge or vary any ad interim orders passed restraining the borrower 5?

the partner and the surety of either of them] or attaching their] properties ; and

{or

(d) pass any other incidental orders.

(8) No order passed by the District Judge ordering the release of any property of the borrower

Tor 2[the partner or the surety of either of them]] from attachment shall be given effect to until after the expiry of 30 days from the date of

! Subs. by the House Building Finance Corporation (Amdt.) Act, 1953 (35 of 1953), 8. 9 (w.e,f 8-11-1952)

? Subs. by the House Building Finance Corporation (Amdt,) Ordinance, 1979 (40 of 1979), s. 13.

3 Subs. by Act, 35 of 1953, s. 9 for “clause”.

4 Subs. by Ord. 40 of 1979, s. 13, for “amount”.

5 Subs. by Act 35 of 1953, s. 9, for “or attaching his”.

9 Ins. ibid.

that order except with the written consent of the Corporation, or where an appeal has been preferred to the High Court, under the orders of the High Court.

(9) An order under this section for the attachment or sale of property shall be carried into effect as far as may be in the manner provided in the Code of Civil Procedure, 1908, for the attachment or sale of property in execution of a decree as if the Corporation were the decree-holder.

(10) Any party aggrieved by an order under 'Tsub-section] (5) or 'Tsub-section] (6) may within thirty days from the date of the order appeal to the High Court, and upon such appeal the High Court may after hearing the parties pass such orders as it thinks proper.

2[Explanation —Where the extent of the liability of the borrower or the partner and the surety of either of them to which the application relates exceeds pecuniary jurisdiction of District Courts, this section shall, in its application, have effect as if reference therein to “District Judge” were reference to “High Court”.]

3[30A. Act to override other laws, etc. Notwithstanding anything to the contrary contained in any law, custom or usage for the time being in force, it shall be lawful for—

(a) a person to pledge, mortgage, hypothecate or assign in favour of the Corporation any property, movable or immovable, as a security for the purpose of obtaining loan “[or availing investment] for the construction, purchase, repair or reconstruction of a house, or for the purchase of development of land for constructing a house thereon; and

1 Subs. by the House Building Finance Corporation (Amdt,) Act, 1953 (35 of 1953), for “clause”.
? subs. by Act 4 of 1999, s. 6.

3S. 30A ins. by Act 8 of 1974, s. 12.

4 Ins. by Ord. 40 of 1979, s. 14.

(b) the Corporation to accept such pledge, mortgage, hypothecation or assignment for such purpose and to sell or realise any property pledged, mortgaged, hypothecated or assigned and to enforce its rights in accordance with the provisions of section 30.

31. Act XVIII of 1891 to apply to the books of the Corporation. The Corporation shall be deemed to be a Bank for the purposes of the Bankers' Books Evidence Act, 1891 (XVII of 1891).

1132. Maintenance of accounts and disposal of profits.—(1) The Corporation shall maintain separate accounts for —

- (a) investment of partnership basis; and
- (b) operations other than those stated in clause (a).

(2) The net profits and losses determined in accordance with generally accepted principles of accounting on investment made on partnership basis shall be distributed amongst the Federal Government, the financing agencies and the Corporation in accordance with the decision of the Board.

(3) The net profits and losses determined in accordance with generally accepted principles of accounting on operations other than on partnership basis shall be dealt with in accordance with the instructions of the Federal Government.]

1 Section 32 which was previously subs. by Act 27 of 1956, s. 15 has been Subs. by the House Building

33. [General Meetings.] Omitted by the House Building Finance Corporation (Amdt.) Act, 1956 (27 of 1956), section 16.

34, Audit. —! {(1) The accounts of the Corporation shall be audited by not less than two auditors 2[being chartered accountants within the meaning of the Chartered Accountants Ordinance 1961],

who shall be appointed by the 31Federal Government], in consultation with the Comptroller and Auditor-General of Pakistan, (hereinafter referred to as the Auditor-General) on such remuneration,

to be paid by the Corporation, as the 3[Federal Government] may fix, and the Auditor-General shall have the power to give directions to the auditors in regard to the extent and method of their audit subject to the provisions of the Companies Act, and to prescribe the forms of accounts to be maintained by the Corporation consistent with the requirements of that Act.

(1A) Notwithstanding the provisions of the preceding sub-section, the Auditor-General, where the 3[Federal Government] is required to make any payment on account of a guarantee given by it under sub-section (2) of section 21, shall, and in other cases, may, either of his own motion or upon a request received in this behalf from the 3[Federal Government], under take such audit of the accounts of the Corporation at such time as may be considered necessary, and the Corporation shall, at the time of such audit, produce the account books and connected documents at such place or places as the Auditor-General may fix, and furnish such explanations and information as the Auditor-General or an officer of officers authorized by him in this behalf may ask for.]

(2) Every auditor appointed under sub-section (1) shall be given a copy of annual balance-sheet of the Corporation, and shall examine it together with the accounts and vouchers relating thereto, and shall have a list delivered to him of all books kept by the

Subs. by the House Building Finance Corporation (Amdt. Act, 1956 (27 of 1956), s. 17 (w.e.f, 18-4-1956)
? Subs. by the Repealing and Amending Ordinance 1965 (10 of 1965), s. 3. and 2nd Sch., (wef 17-4-1965)
3 Subs. by the House Building Finance Corporation (Amdt.) Act, 1973 (9 of 1973), s. 13, (w.e.f 1-2-1973)

Corporation, and shall at all reasonable times have access to the books, accounts and other documents of the Corporation, and may in relation to such accounts examine any Director or officer of the Corporation.

(3) The auditors shall report to the 'Federal Government] upon the annual balance-sheet and accounts and in their report they shall state whether in their opinion the balance-sheet is a full and a fair balance-sheet containing all necessary particulars and property drawn up so as exhibit a true and correct view of the state of the Corporation's affairs, and in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(4) The 2[Federal Government] may at any time issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by the Corporation for the protection of the interests of 3[the 2[Federal Government] and of the creditors of the Corporation] or upon the sufficiency of their procedure in auditing the affairs of the Corporation, and may at any time enlarge or extend the scope of the audit or direct that a different procedure in audit be adopted or that any other examination be made by the auditor if in its opinion the public interest so requires.

35. Return.—(1) The Corporation shall furnish to 'Tthe 2[Federal Government]] within ten days of the date to which the statement relates, a statement in the prescribed form of its assets and liabilities as they stand at the close of business on the last Friday of each month, or if that day is a public holiday under the Negotiable Instruments Act, 1881 (XXVI of 1881), then as they stand at the close of business on the preceding working day.

! Subs. by the House Building Finance Corporation (Amdt.) Act, 1973 (9 of 1973), s. 13 (wef. 1-2-1973), f Finance Corporation (Amdt) Act, 1956 (27 of 1956), s. 17 (w.e.f. 18-4-1956), for "shareholders".

? Subs. by Act, 9 of 1973, s. 13, for "Central Government".

3 Subs. by Act, 27 of 1956, s. 17 for "its shareholders and creditors".

4 Subs. *ibid.*, s. 18, for "all shareholders".

(2) The Corporation shall furnish in the prescribed form to the '[Federal Government]' such returns and statements at such intervals as the '[Federal Government]' may require from time to time.

(3) The Corporation shall furnish to the 'Federal Government' within 2Tfour] months of the close of the financial year an audited statement in the prescribed form of its assets and liabilities as they stand at the close of that year together with a profit and loss account for the year and a report on the working of the Corporation during the year, and copies of the said statement, account and report shall be published in the official Gazette and shall be laid before the Central Legislature.

36. Liquidation of Corporation. No provision of law relating to the winding up of companies or corporations shall apply to the Corporation and the Corporation shall not be wound up save by order of the '[Federal Government]' and in such manner as it may direct.

37. Indemnity of Directors.—(1) Every Director shall be indemnified by the Corporation against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own wilful act or default.

(2) A Director shall not be personally responsible for the acts of any other Director or of any officer or servant of the Corporation for any loss or expense resulting to the Corporation by reason of the insufficiency or deficiency in value of or title to any property or security acquired or taken on behalf of the Corporation, or by the wrongful act of any person under a liability to the Corporation, or by anything done by him in good faith in the execution of the duties of his office.

Subs. by the House Building Finance Corporation (Amdt.) Act, 1973 (9 of 1973), s. 13 (wef, 1-2-1993), fo
? Subs. by the House Building Finance Corporation (Amdt.) Act, 1975 (80 of 1975), s. 4, for "two" (w.e.f 1

38. Declaration of fidelity and secrecy. Every Director, auditor, officer or servant of the Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule to this Act.

39. Provisions relating to income-tax and super-tax. For purposes of the 'Income-tax-Ordinance, 1979 (XXXI of 1979),] the Corporation shall be deemed to be a company within the meaning of that 'Ordinance] and shall be liable to income-tax and super-tax accordingly on its income, profits and gains:

Provided that any sum paid by the 2[Federal Government] BH ee Ae > Under any guarantee given in pursuance of sub-section (2) of section 21 shall not be treated as part of the income, profits and gains of the Corporation and any interest on debentures or bonds paid by the Corporation out of such sum shall not be treated as expenditure incurred by it.

40. Offences.—(1) Whoever wilfully makes a false statement or knowingly makes use of any false statement for the purpose of obtaining a loan from S[or an investment by,] the Corporation or of inducing the Corporation to accept security of any form or kind shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

(2) Whoever without the consent in writing of the Corporation uses the name of the Corporation in any prospectus or advertisement shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(3) Whoever being a Director, auditor officer or servant of the Corporation contravenes his declaration of fidelity and secrecy shall be punishable with

1 Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II

2 Subs. by the House Building Finance Corporation (Amdt.) Act 1973 (9 of 1973), s. 13 (wef 1-2-1973 (fo

3 The original words “under the guarantee given” omitted by the House Building Finance Corporation (An

The original words “in pursuance of section 5 or” omitted by the House Building Finance Corporation (A
5 Ins. by the House Building Finance Corporation (Amdt.) Ordinance, 1979 (40 of 1979), s. 16.

imprisonment for a term not exceeding six months or with fine which may extend to one thousand rupees, or with both. .

(4) Whoever being a member of the Board or of any Committee of the Corporation discloses or uses for a purpose not connected with the discharge of his duties as a member of the Board or of such Committee any information supplied to the Corporation or to the Board or to the Committee by a person applying for financial assistance shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

(5) No Court shall take cognizance of any offence punishable under this Act otherwise than on a complaint in writing signed by an officer of the Corporation authorised by the Board in this behalf.

41. Power of Federal Government to make rules. The [Federal Government] may make rules not inconsistent with this Act for the purpose of giving effect to the provisions of this Act, and where the rules framed under this section are inconsistent with the regulations framed under, the next succeeding section, the rules shall prevail.

42. Power of the Board to make regulations.—(1) The Board may, with the previous sanction

of the [Federal Government], make regulations” not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

3: Kok KOR OK OK

Subs. by the House Building Finance Corporation (Amdt.) Act 1973 (9 of 1973), s. 13 (wef 1-2-1973), for

? For such Regulations, see Gaz. of P, 1953, Pt. VIL, pp. 57-65.

For the House Building Finance Corporation (Loans to Co-operative Societies) Regulations. 1954, see ibi

For the House Building Finance Corporation Employees Provident Fund Regulations, see ibid., pp. 97-10

3 The original cls. (a), (b), (c) and (d) omitted by the House Building Finance Corporation (Amdt) Act, 195

(e) the calling of the meetings of the Board and of the Executive Committee, fees for attending the meetings thereof and the conduct of business thereat;

(f) the manner and terms of issue and redemption of '[certificates] and debentures by the Corporation ;

11(g) the terms and conditions on or subject to which the Corporation may grant loans or make investments in collaboration with partners ;].

(h) the form and manner of determining the sufficiency of the security taken under sub-section (5) of section 3/24];

(i) the form of returns and statements required under this Act ;

4{(j) the recruitment of officers and staff of the Corporation the terms and conditions of service, the duties and conduct of such officers and staff and of the agents of the Corporation, the constitution and management of provident funds for such officers and staff, and all matters connected with any of these things ;]

(k) the disclosure of interest, direct or indirect of a Director of the Board in any application for loan ;

1 Ins. and subs. by the House Building Finance Corporation (Amdt.) Ordinance. 1979 (40 of 1979), s. 17

2 For the House Building Finance Corporation Loan Regulations, 1954, see Gaz. of P, 1954, Pt. VII, pp. 1

3 Subs. by the House Building Finance Corporation (Amdt.) Act, 1953 (35 of 1953), 8. 10 (wef, 8-11-1952)

4 Subs. by the House Building Finance Corporation (Amdt.) Act, 1957 (4 of 1958), s. 5, for els. (j) and (jj)

For the House Building Finance Corporation Service Regulations, 1957 see Gaz. of P, 1957, Pt. V, pp. 28

(j) preparation of annual estimates of income and expenditure of the Corporation in the prescribed form and their submission to the Board and the 'Federal Government] for approval on prescribed date ;

(m) the efficient conduct of the affairs of the Corporation generally.

21(3) All regulations made under this section shall come into force on the date specified in each case, and shall be published in the official Gazette and shall also be laid on the Table of the National Assembly. |

THE SCHEDULE

(See section 38)

Declaration of Fidelity and Secrecy

I hereby declare that I will faithfully, truly and to the best of my judgment, skill and ability, execute and perform the duties required of me as a Director, officer, employee or auditor (as the case may be) of the House Building Finance Corporation and which properly relate to any office or position in the said Corporation held by me.

I further declare that I will not communicate to any person not legally entitled thereto any information relating to the affairs of the Corporation nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Corporation and relating to the business of the Corporation.

Signed before me.

Signature..... eee

Signature...

Date.

Signature..... eee

1 Subs. by the House building Finance Corporation (Amdt.) Act, 1973 (9 of 1973), s. 13 (wef 1-2-1973), f

2 Subs. by the House Building Finance Corporation (Amdt.) Act, 1956 (27 of 1956), 8. 20 (wef. 18-4-1956)

