

**THE REAL ESTATE (DEALERS AND DEVELOPERS)
ACT**

ARRANGEMENT OF SECTIONS

PART I—Preliminary

1. Short title.
2. Interpretation.
3. The practice of real estate business.

PART II—The Real Estate Board

4. Establishment of Real Estate Board.
5. Functions of the Board.
6. Power of Minister to give directions to Board.
7. Accounts and audit.
8. Annual report.
9. Power to hold enquiries.

PART III—Real Estate Dealers and Real Estate Salesmen

10. Restrictions on engaging in the practice of real estate business.
11. Restrictions on employment of unlicensed persons.
12. Register of Real Estate Dealers and Real Estate Salesmen.
13. Applications for registration.
14. Determination on applications for registration.
15. Cancellation or suspension of registration and removal from register.
16. Notice.
17. Suspension of directions or orders of the Board.
18. Costs and expenses of Board.
19. Application for re-registration.
20. Licensing of real estate dealers and real estate salesmen.
21. Disqualification for registration.
22. Appeals.
23. Determination of licences.

REAL ESTATE (DEALERS AND DEVELOPERS)

24. Clients' money to be held on trust.
25. Keeping clients' accounts.

PART IV—Development Schemes

26. Restriction on entering into contracts.
27. Restrictions on advertising.
28. Copies of prepayment contracts to be forwarded to Board.
29. Payment into trust accounts of moneys received under prepayment contract.
30. Moneys paid into account to be held on trust.
31. Dealings with moneys in trust account.
32. Withdrawal from account upon completion, etc. of contracts.
33. Dealings with moneys in trust account upon default of vendor.
34. Duty of authorized financial institution.
35. Register of Developers.
36. Appeals by applicants for registration as developers.

PART V—Real Estate Inspectors

37. Appointment of Inspectors.
38. Power of Inspectors to demand information.
39. Entry and search of premises.
40. Issue of warrant to Inspector.

PART VI—Miscellaneous

41. Duty of Board to afford opportunity to be heard.
42. Notices.
43. Regulations.

PART VII—Further Offences, Penalties and Sanctions

44. Further offences and penalties.
45. Penalties for holding office whilst disqualified and for rendering false accounts.
46. Penalties for offences not otherwise provided for.
47. Exclusion of right to sue for fees, etc.

SCHEDULE

[The inclusion of this page is authorized by L.N. 17/1969]

THE REAL ESTATE (DEALERS AND DEVELOPERS)
ACT

Acts
18 of 1987,
17 of 2014
S. 27.

[1st September, 1988.]

PART I—*Preliminary*

1. This Act may be cited as the *Real Estate (Dealers and Developers) Act*. Short title.

2.—(1) In this Act—

Inter-
pretation.

“authorized financial institution” means a bank licensed to carry on banking business under the *Banking Act*, a building society registered and incorporated under the *Building Societies Act*, or any person licensed under the *Financial Institutions Act* to carry on the business of accepting deposits;

“Board” means the Real Estate Board established under section 4;

“clients’ money” means any money received by a real estate agent or a real estate salesman which is paid to him in his capacity as such being money paid, in whole or in part, as consideration for the disposition of any interest in land or as an earnest on the part of any person of his intention to acquire such an interest;

“condominium” means a building, or a group of buildings—

(a) included in a strata plan registered under the *Registration (Strata Titles) Act*; or

(b) comprising two or more habitable units within the boundaries of a parcel of land on which areas of the land, or buildings or facilities thereon, are held in common

REAL ESTATE (DEALERS AND DEVELOPERS)

by the owners of those units or by a company or other agency in which those owners have a controlling interest;

“connected contract”, in relation to any land, means any one of two or more contracts which provides for disposition of the land or for building thereon or for matters ancillary to such disposition or building on terms, either expressed or implied, whereby the completion of any such contract is conditional upon completion of any other such contract;

“developer” means a person who carries on, whether in whole or in part, the business of development of land;

“development” means the carrying out of building, engineering, or other operations in, on, over or under any land, or the making of any material change in its use or in the use of any buildings or other land for the purpose of disposal of such land or any part thereof in a development scheme;

“development scheme” means a scheme or intended scheme for the development of land the sub-division or proposed sub-division of which is subject to the provisions of the *Local Improvements Act* or the *Town and Country Planning Act*;

“to dispose of” with grammatical variations and cognate expressions, means, in relation to land, to sell, lease, let, transfer, convey, exchange, grant licences over, or in any way alienate the land or any interest therein or the right to possession or user thereof whether for valuable consideration or by way of gift or any other means but does not include a disposition of land by will;

“habitable unit” means a set of apartments, a tenement, a shop, or office or other similar unit of separate occupancy;

“Inspector” means an Inspector appointed under section 37;

“land” includes—

- (a) all estates and interest, whether freehold or leasehold, in real property including (where appropriate) an estate or interest comprised in a strata title under the Registration (Strata Titles) Act;
- (b) any building and any part of a building; and
- (c) in relation to any transaction relating to land that also relates to any goods, chattels or other property, those goods, chattels or other property;

“the practice of real estate business” has the meaning ascribed to that expression in section 3;

“prepayment contract” means any contract under which at the time of entering into the contract, or any connected contract, there are to be performed or discharged by one party for the benefit of the other party, or for the benefit of a party to a connected contract, obligations, expressed or implied, with regard to—

- (a) the building of roads or the carrying out of engineering or other operations in, on, over or under any land the subject of the contract or any connected contract; or
- (b) the carrying out of any building operations, including, but not limited to, the construction or completion of any house, townhouse, or apartment in a condominium building, and of the structures or works for use in connection therewith upon any such land,

REAL ESTATE (DEALERS AND DEVELOPERS)

and under which moneys are payable by the party to benefit from the performance and discharge of such obligations prior to the performance and discharge thereof; and in relation to any such contract “vendor” means the person who is to perform and discharge the said obligations and “purchaser” means the person for whose benefit they are to be performed and discharged;

“real estate dealer” means—

- (a) a person who, on his own account, engages in the practice of real estate business; and
- (b) an individual who is—
 - (i) a member of a partnership or
 - (ii) a director or officer of a corporate body,
 which itself engages, on its own account, in the practice of real estate business;

“real estate office” means any premises on or from which the practice of real estate business is carried on;

“real estate salesman” means an individual who engages in the practice of real estate business in whole or in part, as an agent of, or subject to the direction, control or management of, a real estate dealer;

“the register” means the Register of Real Estate Dealers and Real Estate Salesmen referred to in section 12.

The practice
of real estate
business.

3.—(1) Subject to subsection (2), a person engages in the practice of real estate business, for the purposes of this Act, if, on behalf of another person, for compensation or valuable consideration directly or indirectly paid, or expressly or impliedly promised, or, with intent to collect or

receive compensation or valuable consideration therefor, he—

- (a) appraises, auctions, sells, exchanges, buys, leases, or rents or offers, attempts or agrees to appraise, auction or negotiate the sale, exchange, purchase, lease or rental of, any land or otherwise functions as a broker in relation to any land;
- (b) advertises or holds out to the public by any oral or printed representation that he is engaged in the business of appraising, auctioning, buying, selling, exchanging, leasing or renting, land;
- (c) manages land or engages in any other business concerned with the management of land either in a consultative capacity or as an agent;
- (d) takes any part in the procuring of sellers, purchasers, lessors, lessees, landlords or tenants of land; or
- (e) directs or assists in the procuring of prospects, or the negotiation or closing of any transaction which results in a sale, exchange, lease or rental of land of another or is calculated to have that result.

(2) A person shall not be regarded as engaging in the practice of real estate business by reason only of the fact that—

- (a) he acts as an attorney for another under a valid power of attorney for the purposes of negotiating or executing contracts, transfers or conveyance in respect of interest in real estate;
- (b) being a person practising as an attorney-at-law, he furnishes to any person legal advice and services ancillary thereto in connection with real estate business within the scope of his profession as such or within such narrower limits as may be prescribed by regulations under this Act;

- (c) he is—
- (i) an officer of any court acting under or in pursuance of a judgment or order of any court of competent jurisdiction; or
 - (ii) an administrator, executor, receiver or trustee acting under or by virtue of an appointment by will or written instrument or by order of a court of competent jurisdiction;
- (d) he deals with land of which he is a part owner;
- (e) he is a public officer acting in the course of his official duties;
- (f) being a person employed as, or acting in the capacity of, a manager of a condominium or co-operative apartment building or complex, he carries out duties in relation to the renting of individual units within that condominium or co-operative apartment or complex.
- (3) Regulations under this Act may—
- (a) add to the category of persons listed in subsection (2); and
 - (b) prescribe the extent to which the scope of any profession or business carried on by a category of persons so added or by a person referred to in paragraph (b) of subsection (2) is such as to exclude the application of subsection (1).

PART II — *The Real Estate Board*

Establishment of Real Estate Board.
Schedule.

4.—(1) There shall be established for the purposes of this Act a body to be called the Real Estate Board.

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

5. The functions of the Board shall be to regulate and control the practice of real estate business, the disposition of land in development schemes and the operation of such schemes and, without prejudice to the generality of the foregoing, the Board shall have power—

Functions of
the Board.

(a) to consider and determine applications for—

- (i) registration as real estate dealers and real estate salesmen; and
- (ii) licences and the renewal of licences to engage in the practice of real estate business as real estate dealers and real estate salesmen;

(b) to monitor the activities of developers;

(c) to make enquiries and collect information as it may think necessary or desirable for the purpose of carrying out its functions;

(d) to hold and conduct such examinations of applicants for registration as real estate dealers or real estate salesmen as it thinks necessary or desirable; and

(e) generally to take all such other lawful measures as it may consider necessary or desirable to assist it in carrying out its functions under this Act, or the *Timeshare Vacations Act, 2014* and in protecting the mutual interests of persons entering into land transactions.

17/2014
S. 27(3).

6. The Minister may, after consultation with the chairman, give to the Board directions of a general character as to the policy to be followed by the Board in the exercise and performance of its functions in relation to matters appearing to him to concern the public interest, and the Board shall give effect to such directions.

Power of
Minister
to give
directions
to Board.

7.—(1) The Board shall keep proper accounts and other records in relation to the business of the Board and shall

Accounts
and audit.

prepare annually a statement of accounts in a form satisfactory to the Minister.

(2) The accounts of the Board shall be audited by an auditor or auditors appointed annually by the Board.

(3) Within six months after the end of each financial year or within such further time as may in special circumstances be allowed by the Minister, the Board shall send a statement of its accounts referred to in subsection (1) to the Minister, together with a copy of any report made by the auditors on that statement or on the accounts of the Board.

(4) The auditor's fees and any expenses of the audit shall be paid by the Board.

(5) The Auditor-General shall be entitled, on the direction of the Minister, at all reasonable times to examine the accounts and other records in relation to the business of the Board.

Annual
report.

8.—(1) The Board shall, within six months after the end of each financial year or within such further time as may be allowed by the Minister, cause to be made and transmitted to the Minister a report dealing generally with the affairs of the Board during that financial year.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon to be laid on the Table of the House of Representatives and the Senate.

Power to
hold en-
quiries.

9. The Board shall have the power to enquire into or appoint any person to enquire into—

- (a) the practice of any real estate dealer or real estate salesman; or
- (b) the activities of any developer in relation to a development scheme,

and the Board or such other person shall, in respect of any

such enquiry, have the powers of Commissioners appointed under the Commissions of Enquiry Act.

*PART III — Real Estate Dealers and
Real Estate Salesmen*

10.—(1) Subject to subsection (3), a person shall not engage in the practice of real estate business or in any branch of such practice—

Restrictions on engaging in the practice of real estate business.

- (a) in the capacity of a real estate dealer unless he is the holder of a valid licence issued under subsection (1) of section 20 authorizing him so to do;
- (b) in the capacity of a real estate salesman unless he is—
 - (i) the holder of a valid licence issued under subsection (2) of section 20 authorizing him so to do; and
 - (ii) an employee or agent of a duly authorized real estate dealer.

(2) Every person who contravenes subsection (1) shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment;
- (b) on summary conviction in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment and in the case of a continuing offence to a further fine not exceeding one thousand dollars for each day during which the offence continues.

(3) No person shall be deemed to have contravened subsection (1) by reason only of his having engaged in—

- (a) a transaction involving the sale or exchange of land if he proves that—
- (i) the sale or exchange was an isolated transaction not undertaken in the course of, or in furtherance of, or with intent to carry on the practice of real estate business;
 - (ii) the commission charged by him did not exceed five *per centum* of the consideration for the sale or exchange;
 - (iii) all moneys payable to or by the vendor and purchaser respectively under the contract for sale or exchange have been so paid;
- (b) a transaction involving the lease or rent of any land if he proves that—
- (i) the lease or rent was an isolated transaction not undertaken in the course of, or in furtherance of, or with intent to carry on the practice of real estate business; and
 - (ii) the commission charged by him whether to the landlord or tenant or both, did not exceed the equivalent of one month's rental under the tenancy; and
 - (iii) all moneys collected by him for or on behalf of either the landlord or tenant have been duly paid to, or in accordance with the directions of, the person entitled thereto.

Restrictions on employment of unlicensed persons.

11.—(1) A person who is the holder of a licence authorizing him to engage in the practice of real estate business as a real estate dealer shall not employ another person to engage in such business in that capacity or in the capacity of a real estate salesman unless the person so employed is the holder of a valid licence authorizing him to engage in such practice in that capacity.

(2) Every person who contravenes subsection (1) shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year.

12.—(1) The Board shall cause to be kept in such form as it may determine a register to be known as the Register of Real Estate Dealers and Real Estate Salesmen in which shall be entered the names and such other particulars as may be prescribed of every person whose registration as a real estate dealer or a real estate salesman has been approved by the Board under section 14.

Register of
Real Estate
Dealers
and Real
Estate Sales-
men.

(2) The register shall be kept at the office of the Board and shall be available for inspection by the public at all reasonable times.

13.—(1) A person who desires to be registered as a real estate dealer or a real estate salesman shall apply to the Board for approval of such registration and shall pay the prescribed fee.

Applica-
tions for
registration.

(2) Every application for registration shall be made in such manner and contain such particulars and be accompanied by such documents as may be prescribed.

14.—(1) If, in relation to any application for registration as a real estate dealer or real estate salesman, the Board is satisfied—

Determina-
tion on
applications
for regis-
tration.

- (a) that the provisions of section 13 have been complied with;
- (b) that the applicant is a fit and proper person to be so registered; and

(c) that the applicant is not disqualified for registration under section 21,
the Board shall, subject to subsection (2), approve the registration of the applicant as a real estate dealer or, as the case may be, a real estate salesman.

(2) An approval by the Board pursuant to subsection (1) may be unconditional or subject to such conditions as may be prescribed or such other conditions as the Board may determine and any such conditions may limit the registration of the applicant to a specified branch or specified branches of the practice of real estate business and may prohibit the issue of a licence under section 20 to the applicant to engage in other branches of such practice.

(3) Upon approval of an application for registration as a real estate dealer, the Board shall furnish the applicant with a certificate of registration in the prescribed form.

(4) If the Board is not satisfied as to any of the matters specified in subsection (1) the Board shall refuse to register the applicant and shall notify him in writing accordingly and inform him of the right of appeal conferred by section 22.

15.—(1) If any person registered under this Act as a real estate dealer or a real estate salesman—

- (a) is convicted of an offence under this Act or of any offence involving fraud or dishonesty; or
- (b) has been deprived of or suspended from membership of any professional body constituted to regulate the practice of real estate dealers or salesmen, whether constituted in Jamaica or elsewhere, as a disciplinary penalty imposed by such professional body; or
- (c) upon enquiry by the Board made in the prescribed manner, has been found—

Cancellation or suspension of registration and removal from register.

- (i) to have procured his registration under this Act as a result of any misleading, false or fraudulent representation; or
- (ii) to be guilty in his capacity as a real estate dealer or a real estate salesman of grave impropriety or infamous conduct or gross negligence or incompetence in the performance of his duties, or of any act, default or conduct which violates the prescribed code of ethics; or
- (iii) to have failed to comply with any of the conditions subject to which his registration was approved, or subject to which a licence has been granted to him under section 20,

the Board may, if it thinks fit, exercise in respect of that person any of the powers conferred on the Board by subsection (2).

(2) Where in relation to any person registered as a real estate dealer or a real estate salesman the Board is satisfied that any one or more of the matters specified in subsection (1) has been established the Board may—

- (a) cancel the registration of such person; or
- (b) suspend the registration of such person for such period as the Board may think fit; or
- (c) censure such person.

(3) Where, in exercise of the powers conferred by paragraph (a) or paragraph (b) of subsection (2), the Board cancels or suspends the registration of any person it shall direct that the name and particulars of such person be removed from the register until further order of the Board or, in the case of suspension, until such time as shall be specified by the Board.

(4) Where in relation to any person registered as a real estate dealer or a real estate salesman the Board exercises any of the powers conferred by subsection (2), the

Board may order such persons to pay to the Board such sum as it shall specify in respect of costs and expenses of and incidental to any enquiry under paragraph (c) of subsection (1).

(5) Where pursuant to paragraph (a) of subsection (2) the Board cancels the registration of a real estate dealer or a real estate salesman the Board may fix a time before which that real estate dealer or that real estate salesman, as the case may be, shall not be eligible to apply to the Board for re-registration under this Act.

Notice.

16. In any case where the Board has exercised any of the powers conferred by section 15 in respect of any person the Board shall notify that person in writing of its decision and shall inform him of the rights conferred by sections 17 and 22.

Suspension
of directions
or orders of
the Board.

17. Upon application to the Board made in the prescribed manner and within the prescribed period the Board may direct that any direction or order of the Board given or made in exercise of the powers conferred by section 15 shall be suspended until the expiration of the period within which the person affected by the direction or order may lodge an appeal under section 22, or, if an appeal has been lodged within that period, until the appeal has been heard and no further appeal has been lodged within the time limited for such further appeal.

Costs and
expenses of
Board.

18. All costs and expenses payable to the Board pursuant to any order made under subsection (4) of section 15 shall be recoverable as a debt due to the Board.

Application
for re-regis-
tration.

19. Subject to subsection (5) of section 15, a person whose name has been removed from the register may apply for re-registration at any time and all the provisions of

this Act relating to registration shall *mutatis mutandis* apply to re-registration under this section.

20.—(1) Subject to the provisions of this Act, the registration of any person as a real estate dealer under section 14 shall entitle him, upon payment of the prescribed fee, to be granted a licence issued by the Board in the prescribed form authorizing him to engage in the practice of real estate business in the capacity of a real estate dealer subject to such prohibitions as may have been imposed upon his registration.

Licensing of
real estate
dealers
and real
estate sales-
men.

(2) Subject to the provisions of this Act, any individual who has been registered under section 14 as a real estate salesman shall, upon being employed by a person who is the holder of a licence issued under subsection (1) be entitled, upon payment of the prescribed fee, to be granted a licence issued by the Board in the prescribed form authorizing him to engage in the practice of real estate business in the capacity of a real estate salesman whilst he is in the employment of any person who is the holder of a licence issued under subsection (1), subject to such prohibitions as may have been imposed upon the registration of that individual or of the person by whom he is employed.

(3) A licence issued in accordance with subsection (1) or subsection (2) shall be granted subject to such conditions, if any, as may be prescribed, and such licence shall, subject to the provisions of this Act, remain in force for such period as may be specified therein not exceeding three years but may be renewed from time to time for periods not exceeding three years upon payment of the prescribed fee.

(4) If at any time during the period for which a licence has been granted to any person he becomes disqualified by virtue of section 21 (1) (a) (iii) or of any provision of section 21 (1) (b), from being registered or the Board has cancelled his registration under subsection (2) of section 15, the licence so granted shall thereupon determine.

(5) Where the Board has suspended the registration of any person under subsection (2) of section 15, the licence granted to that person shall cease to have effect for the period of the suspension.

(6) In any proceedings for an offence against this Act or any regulations made thereunder any document purporting to be a copy of a licence under this section and bearing the Board's certificate purporting to have been endorsed thereon that the same is a true copy of a licence issued and granted to any person, shall be *prima facie* evidence of such issue and grant and of the contents of the licence.

Disqualifi-
cation for
registration.

21.—(1) A person shall not be qualified for registration as a real estate dealer if—

- (a) in the case of an individual—
 - (i) he does not possess the prescribed qualifications for such registration; or
 - (ii) he is under the age of eighteen years; or
 - (iii) he has had an order in bankruptcy made against him which remains undischarged; or
- (b) in the case of a body corporate—
 - (i) a resolution has been passed or an order made by a court of competent jurisdiction for its winding-up;
 - (ii) any proceeding has been taken whereby its property may be distributed among its creditors;
 - (iii) a receiver has been appointed for any of its property;
 - (iv) if at least one of its directors do not possess the prescribed qualifications for registration; or

- (v) any of its directions are otherwise disqualified for registration, as individuals under paragraph (a).

(2) An individual shall not be qualified for registration as a real estate salesman if—

- (a) he is under the age of eighteen years;
 (b) he does not possess the prescribed qualifications for registration as a real estate salesman; and
 (c) he has had an order in bankruptcy made against him which remains undischarged.

22.—(1) Any person aggrieved by a decision of the Board to refuse an application by that person for registration under section 14 or to impose any condition or prohibition in respect of his registration under that section or to cancel or suspend his registration under section 15 or to give any direction or make any order under that section, or to refuse to issue a licence to him under section 20, may, within forty-two days after the date on which he is served with notice of the Board's decision, appeal against the decision to the Court of Appeal.

Appeals.

(2) The Court shall after considering the appeal give such directions in the matter as it shall think proper and the Board, or as the case may be the appellant, shall comply with such directions.

23.—(1) Upon the determination of any licence pursuant to subsection (4) of section 20 the person to whom such licence was granted shall surrender it to the Board forthwith.

Determina-
tion of
licences.

(2) Upon suspension of any registration pursuant to subsection (5) of section 20, the Board may require the holder of the licence to surrender it to the Board for the period of the suspension.

(3) Any person who without reasonable excuse (the proof whereof shall lie upon him) contravenes subsection (1) or fails to comply with a requirement of the Board under subsection (2), shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five hundred dollars.

Clients' money to be held on trust.

24.—(1) It is hereby declared that clients' money received by a real estate dealer or, subject to subsection (2), by a real estate salesman—

- (a) is held by him on trust for the person who is entitled to call for it to be paid over to that person or to be paid on the direction of that person, or to have it otherwise credited to such person; or
- (b) if it is received by him as stakeholder is held by him on trust for the person who may become so entitled on the occurrence of the event against which the money is held,

and accordingly clients' money shall not be available for payment of any debt or liability of the real estate dealer or the real estate salesman to any person other than the person for whom he holds the clients' money in trust.

(2) A real estate salesman or a real estate dealer acting on behalf of another real estate dealer is relieved of the trust imposed by subsection (1) if, and to the extent that, he promptly pays over the full amount of clients' money received by him to the real estate dealer on whose behalf the money had been received; and the latter real estate dealer shall thereupon, as respects amounts so paid over, assume the trust imposed by subsection (1).

Keeping clients' accounts.

25.—(1) Subject to such provisions as may be made by regulations under subsection (2), every real estate dealer who receives clients' money (whether paid to himself or to any other real estate dealer or real estate salesman employed

by him) shall without delay pay such clients' money into an account maintained by him with an authorized financial institution which account shall contain in its title the word "client"; and every real estate dealer or real estate salesman who, being employed to a real estate dealer, receives clients' money shall forthwith pay it to his employer for the purpose of being paid into such clients' account.

(2) The Minister may make provisions by regulations as to the opening and keeping of accounts under subsection (1), the keeping of accounts and records relating to clients' money and the auditing of such accounts, and without prejudice to the generality of the foregoing such regulations may in particular specify—

- (a) any persons or classes of persons to whom, or any circumstances in which, the obligation imposed by subsection (1) does not apply;
- (b) any circumstances in which money other than clients' money may be paid into an account maintained under subsection (1);
- (c) the occasions on which and the persons to whom moneys held in such an account may be paid out;
- (d) the circumstances in which a real estate dealer who maintains an account under subsection (1) shall be liable to account to any person for interest received by him on money in that account; and
- (e) the accounting periods for which such accounts shall be drawn up and the time within which they shall be audited by an auditor and the reports to be furnished by such auditor and the matters to be dealt with in such reports.

(3) Every person required to maintain an account under subsection (1) shall produce to an Inspector on demand the latest auditor's report in respect of that account.

(4) Any person who contravenes the provisions of this section or of any regulations made under this section shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars and in default of payment to imprisonment for a term not exceeding six months or to both such fine and imprisonment and, in the case of a continuing offence, to a further fine not exceeding five thousand dollars for each day on which the offence continues after conviction or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

PART IV—*Development Schemes*

Restrictions
on entering
into con-
tracts.

26.—(1) A person shall not enter into a prepayment contract as a vendor in connection with any land which is, or is intended to be, the subject of a development scheme to which section 35 applies unless—

- (a) the vendor under the prepayment contract is a registered developer;
- (b) such land is free from any mortgage or charge securing money or money's worth (other than a mortgage or charge in favour of an authorized financial institution referred to in the proviso to subsection (5) of section 31);
- (c) all approvals required by or pursuant to any law for the carrying out of the development scheme and for the carrying out of the vendor's obligations under the prepayment contract have been obtained and where any such approvals have been obtained subject to conditions unless—
 - (i) all the conditions have been complied with; or
 - (ii) if any condition has not been complied with that condition is one which cannot or is

not, by the terms thereof, required to be complied with prior to entering into the contract; and

- (d) the vendor under the prepayment contract has deposited with the Board copies of all approvals given under the Local Improvements Act and the Town and Country Planning Act together with all plans, drawings and specifications referred to in such approvals, authenticated in such manner as may be prescribed.

(2) Where a contract is entered into by a vendor in contravention of subsection (1) the purchaser or any person succeeding to the rights of the purchaser under the contract may, within such time as may be reasonable in the circumstances of each case, withdraw therefrom and recover from the vendor any moneys paid to him under the contract together with interest thereon computed from day to day at the prime lending rate of commercial banks in Jamaica for the time being prevailing as certified by the Bank of Jamaica, but without prejudice however to the provisions of section 44 (2) (relating to the penalty for contravention of subsection (1) of this section).

27.—(1) A person shall not advertise for sale any land or building in a development scheme unless all the requirements specified in paragraphs (a), (b), (c) and (d) of subsection (1) of section 26 have been complied with, whether or not the person advertising proposes to enter into prepayment contracts, and unless the advertisement complies with the provisions of subsection (2) of this section.

Restrictions
on adver-
tising.

(2) The provisions referred to in subsection (1) are that the advertisement—

- (a) shall state from whom and when the relevant approvals were obtained;
- (b) shall state when and where the relevant plans,

drawings and specifications may be inspected;

- (c) shall accurately describe the location of the land in question and its physical features; and
- (d) shall contain such other information as may be prescribed.

(3) For the purposes of this section "relevant approvals" means the approvals referred to in subsection (1) of section 26 and "relevant plans, drawings and specifications" means plans, drawings and specifications referred to in the relevant approvals.

Copies of
prepayment
contracts to
be forward-
ed to Board.

28. A signed copy of every prepayment contract shall be forwarded to the Board by the vendor within fourteen days from the signing of the contract by the parties thereto.

Payment of
moneys re-
ceived under
prepayment
contracts
into trust
accounts.

29.—(1) Subject to such conditions as may be prescribed, every person who as a vendor under any prepayment contract relating to any land which is, or is intended to be, the subject of a development scheme, receives any money from the purchaser pursuant to such contract, shall without delay pay such money into a trust account to be maintained by him with an authorized financial institution and held and applied in accordance with the provisions of this Act.

(2) Upon every payment of moneys into a trust account pursuant to subsection (1) the person making such payment shall furnish to the Board a report of such payment specifying the contracts to which the moneys comprised in such payment relate, and such other particulars as may be prescribed.

(3) All moneys deposited in a trust account pursuant to subsection (1) and all interest earned thereon shall, subject to section 31, be held in such account and paid to, or applied for the benefit of, the persons entitled thereto in accordance with the provisions of this Act.

30. It is hereby declared that, subject to subsection (3) of section 31, the moneys received by a vendor under a prepayment contract in connection with land in a development scheme and deposited in a trust account pursuant to section 29 shall be held in trust in such account, or any other account substituted therefor pursuant to subsection (2) of section 31, until completion or rescission, as the case may be, of the contract under which such moneys were received, to be paid to the persons legally entitled thereto pursuant to the terms of the contract upon completion or rescission of the contract.

Moneys paid into account to be held on trust.

31.—(1) Subject to subsections (2) and (3) moneys deposited in a trust account pursuant to section 29 and any interest earned thereon shall not be withdrawn from the account until the completion or rescission, as the case may be, of the contract under which the moneys were received by the vendor.

Dealings with moneys in trust account.

(2) Moneys so deposited in a trust account may be withdrawn and deposited in another trust account with another authorized financial institution subject to such conditions as may be prescribed and the provisions of this Act shall apply to that other account and the moneys held therein as they apply to the original account.

(3) Moneys so deposited in respect of a prepayment contract may be withdrawn from the account prior to the completion or rescission of the contract and applied by the vendor in the payment of stamp duty and transfer tax payable in respect of that contract and in partial reimbursement of the costs of materials supplied and work done in the construction of any building or works which is the subject of the contract, subject to the undermentioned conditions, that is to say—

- (a) the moneys withdrawn shall not exceed ninety per cent of the amount certified by a qualified quantity

surveyor or architect or other person having such qualification as the Board may prescribe for the purposes of this section (not being a person in the employment of, or having an interest in the business of, the vendor or the developer) as being properly due for work already done and materials already supplied in the construction of the building or works and not previously paid for; and

- (b) the owner of the land on which the building or works is being constructed has executed and lodged with the Registrar of Titles a charge upon the land in accordance with subsection (4).

(4) The charge mentioned in paragraph (b) of subsection (3) shall be a charge upon the land on which the building or works in question is being constructed in favour of the Board 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 by him of the contract.

(5) Such charge shall rank in priority before all other mortgages or charges on the said land except any charge created by statute thereon in respect of unpaid rates or taxes, and shall be enforceable by the Board by sale of the said land by public auction or private treaty as the Board may consider expedient:

Provided that where a mortgage or charge of the said land has been duly created in favour of an authorized financial institution to secure repayment of amounts advanced by that financial institution in connection with the construction of any buildings or works on the said land the charge created by this section shall rank *pari passu* in point of security with the mortgage or charge in favour of that authorized financial institution.

(6) For the purposes of subsection (5) a loan or advance by an authorized financial institution shall *prima facie* be taken to be made in connection with the construction of any building or works if it is expressed in the instrument creating the mortgage or charge securing the repayment of that loan or advance that the loan or advance was so made.

(7) A charge executed pursuant to this section shall be deemed to be a mortgage under the Registration of Titles Act and shall be enforceable accordingly but shall be exempt from registration fees under that Act, transfer tax under the Transfer Tax Act and stamp duty under the Stamp Duty Act.

32.—(1) Upon completion of a prepayment contract in accordance with its terms, or upon the vendor lawfully rescinding it by reason of default of the purchaser, the vendor shall be entitled to withdraw from the trust account the moneys deposited therein pursuant to section 29 in respect of that contract and shall be entitled to pay such moneys to the person legally entitled thereto (including himself) under such contract.

Withdrawal
from
account
upon
completion,
etc. of
contracts.

(2) Where moneys are withdrawn from a trust account in accordance with subsection (1), the authorized financial institution in which such moneys are held shall give written notice of such withdrawal to the Board.

33. Where a vendor defaults in completing any prepayment contract for the sale of land in a development scheme in accordance with the terms and conditions of such contract and the Board is satisfied that such default (together with any default by the vendor in the completion of other prepayment contracts for the sale of land in that scheme) are of such a substantial nature as to amount to a failure of the scheme, the Board shall—

Dealings
with moneys
in trust
account
upon default
of vendor.

(a) require the financial institution with which the

- trust account is maintained pursuant to section 29 to pay over to the Board all money (including interest) standing at credit of the trust account; and
- (b) enforce any charge in favour of the Board executed pursuant to section 31 either by the sale of the land subject to the charge or by such other action, consequent on the charge, as the Board thinks fit; and
 - (c) if it sells the land—
 - (i) apply the proceeds of such sale (after deducting the expenses thereof) in satisfaction rateably of the amount due to the Board under such charge and of the amount due to any authorized financial institution under any mortgage or charge ranking *pari passu* with the charge in favour of the Board; and
 - (ii) thereafter apply the balance of such proceeds of sale together with the moneys received by the Board out of the trust account pursuant to a requirement made under paragraph (a) rateably to the person legally entitled thereto pursuant to the prepayment contracts under which moneys were received by the vendor and deposited in the trust account.

Duty of
authorized
financial
institution.

34.—(1) It shall be the duty of an authorized financial institution with which a trust account is maintained pursuant to section 29 to take reasonable measures to ensure that withdrawals are not made from such trust account save in compliance with paragraphs (a) and (b) of subsection (3) of section 31 and to comply with any requirement of the Board made upon it under paragraph (a) of section 33.

(2) All moneys payable to the Board by an authorized financial institution pursuant to a requirement made by the

Board under paragraph (a) of section 33 shall be recoverable as a debt due to the Board.

35.—(1) Every person who proposes to carry out any development under a development scheme to which this section applies shall before commencing such development apply to the Board, in such form and manner as may be prescribed, for registration as a developer and lodge with the Board a statement showing his name, his address for the purposes of the development scheme, the location and area of the land to be used for the development scheme and such other particulars as may be prescribed and, in the case of a company, the address of its registered office and the names and addresses of all its directors.

Register
of Develop-
ers.

(2) Every application to the Board under subsection (1) shall be accompanied by the prescribed fee.

(3) Upon receipt of such application and fee the Board, subject to subsection (4), shall cause the name and address of the applicant to be entered in a register to be known as the Register of Developers and the person so registered shall be a registered developer for the purposes of this Act.

(4) The Board shall not register an applicant under this section if the applicant—

(a) in the case of an individual—

- (i) has been convicted at any time of any offence involving fraud or dishonesty in relation to real estate matters; or
- (ii) has had an order in bankruptcy made against him which remains undischarged; or

(b) in the case of a body corporate if—

- (i) a resolution has been passed or an order made by a court of competent jurisdiction for its winding-up;

- (ii) any proceeding has been taken whereby its property may be distributed among its creditors;
- (iii) a receiver has been appointed for any of its property; or
- (iv) any of its directors is an individual referred to in paragraph (a).

(5) A registered developer shall in every year, on or before the 1st day of April after the date of registration, pay to the Board a prescribed fee unless the Board is satisfied that such registered developer is no longer engaged in the business of carrying out any development scheme.

(6) This section applies to all development schemes where the number of lots into which the land is, or is intended to be, subdivided exceeds five, or where the number of strata lots comprising building units constructed or intended to be constructed in the development scheme exceeds five, or where the person carrying out or proposing to carry out the development scheme is also carrying out, or has within the preceding twenty-four months carried out, another development scheme of whatever size.

(7) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year.

(8) When the Board refuses to register an applicant pursuant to subsection (4) the Board shall notify the applicant in writing accordingly and of the right of appeal conferred by section 36.

36.—(1) Any person aggrieved by a decision of the Board to refuse an application by that person for registration under section 55, may within forty-two days after he is served

Appeals by applicants for registration as developers.

with notice of the decision appeal against the decision to the Court of Appeal.

(2) The Court shall after considering the appeal give such directions in the matter as it shall think proper and the Board, or as the case may be the appellant, shall comply with such directions.

PART V—*Real Estate Inspectors*

37.—(1) The Board may appoint such persons as it thinks fit to be Inspectors for the purposes of this Act.

Appoint-
ment of
Inspectors.

(2) Notice of each appointment of an Inspector, and of any revocation of such appointment, shall be published in the *Gazette* and in at least one daily newspaper circulating in Jamaica.

38.—(1) An Inspector may, for the purpose of assisting the Board in the discharge of its functions under this Act, require an applicant for registration under section 13 or 35 or for a licence under section 20 or the holder of a licence issued under that section, to supply in writing, such information as relates to the applicant's practice of real estate business or, as the case may be, experience in respect of development schemes as the Inspector may reasonably require or as may be prescribed.

Power of
Inspectors
to demand
information.

(2) Where an Inspector requests information in accordance with subsection (1) he may specify a date before which such information shall be supplied, but in determining that date he shall allow a reasonable period of time having regard to the scope and nature of the information to be supplied.

(3) Where, for the purpose of ensuring compliance with the provisions of this Act or any regulations thereunder, an Inspector is of opinion that there are reasonable grounds so to do, he may at any time by notice in writing to any

person to whom this subsection applies, give directions requiring that person to produce such documents at such time and place as may be specified in the notice.

(4) Subsection (3) applies to—

- (a) any applicant for registration under section 13;
- (b) any person registered under section 14;
- (c) any holder of a licence issued under section 20;
- (d) any person who is carrying out, or has carried out within such period as may be prescribed, a development scheme; and
- (e) any other person who appears to an Inspector to be in possession of or to have control over any document the production of which is, in the opinion of the Inspector, relevant to any purpose referred to in subsection (3).

(5) Any power conferred by or by virtue of this section to require any person to produce any document includes the power—

- (a) if the document is produced—
 - (i) to take copies of it or extracts from it; and
 - (ii) to require that person to provide an explanation of it; and
- (b) if the document is not produced, to require any person who was required to produce it to state, to the best of his knowledge and belief, where it is.

(6) A person required pursuant to this section to furnish information or produce any document shall be entitled in relation thereto, to the same right or privilege as before a court of law.

(7) If a requirement to produce a document or provide an explanation, or make a statement, which is imposed by virtue of this section is not complied with, the person

on whom the requirement was so imposed shall be guilty of an offence, so, however, that where a person is charged with an offence under this subsection, it shall be a defence to prove that it was not reasonably practicable for him to comply with the requirement.

39.—(1) An Inspector shall, for the purposes of this Act and any regulations made thereunder, have power—

Entry and
search of
premises.

- (a) to make such examination and enquiry as may be necessary for ascertaining whether the provisions of this Act or the regulations made thereunder are being or have been complied with;
- (b) to exercise such powers as may be necessary for carrying out the provisions of this Act and any regulations made thereunder; and
- (c) if authorized thereto by a warrant issued by a Justice of the Peace, to enter at all reasonable times any premises or place where he has reasonable grounds for believing that such documents as are required pursuant to section 38 (3) may be found, and to examine or take possession of any such documents.

(2) The owner or person in charge of any premises entered by an Inspector pursuant to subsection (1) and every person found therein shall give the Inspector all reasonable assistance in his power and furnish the Inspector with such information as he may reasonably require.

(3) A person who obstructs an Inspector—

- (a) in the exercise of a right of entry or search conferred under or by virtue of this Act; or
 - (b) in the exercise of a right so conferred to examine or take possession of any document,
- shall be guilty of an offence against this Act.

(4) Every Inspector shall be furnished with an identification card, and on applying for admission to any premises or place for the purposes of this Act or any regulations thereunder shall, if so required, produce the said card.

Issue of
warrant to
Inspectors.

40. Where a Justice of the Peace is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act or any regulations made thereunder has been or is being committed, and that evidence of the commission of the offence is to be found on any premises specified in the information, he may grant a search warrant authorizing an Inspector named in the warrant, with or without a constable, to enter, at any time within one month from the date of the warrant, the premises specified in the information and to search the premises and examine and take possession of any documents required as aforesaid found therein.

PART VI—Miscellaneous

Duty of
Board to
afford
opportunity
to be heard.

41. Notwithstanding anything contained in this Act the Board shall not refuse any application under this Act unless the Board has afforded to the applicant a reasonable opportunity to be heard in support of his application and any person so entitled to be heard may be represented before the Board by an attorney-at-law or other representative of his choice.

Notices.

42.—(1) Any notice required to be given by the Board to any person registered under this Act shall, unless the contrary is proved, be deemed to be served if sent by registered post to the address shown in the register in which his name is entered.

(2) A copy of any notice served on a real estate salesman shall be sent concurrently with the notice, by registered post, to the real estate dealer by whom he is employed.

43.—(1) The Minister may after consultation with the Board make regulations for the better carrying out of the objects and purposes of this Act and in particular (but without prejudice to the generality of the foregoing) may make regulations prescribing—

Regulations.

- (a) the form and manner in which applications under this Act shall be made and the particulars to be given in such applications;
- (b) the fees to be paid under the provisions of this Act;
- (c) the information to be given in advertisements relating to any land intended to be disposed of in a development scheme;
- (d) the form of and conditions which may be included in any charge on land executed pursuant to subsection (4) of section 31;
- (e) the form or licences to be issued under this Act and the conditions which may be imposed therein;
- (f) the manner in which and the time at which the Board shall hear persons whose registration it proposes to cancel or suspend;
- (g) the manner in which and the time at which the Board shall hear persons whose licences it proposes to revoke;
- (h) a code of ethics containing rules of conduct and practice to be observed by real estate dealers, real estate salesmen and developers;
- (i) the qualifications to be satisfied by applicants for registration as real estate dealers and real estate salesmen under this Act.
- (j) any other matter or things which may be or is required to be prescribed under this Act.

(2) Regulations under this section shall be subject to negative resolution.

PART VII—Further Offences, Penalties and Sanctions

Further offences and penalties.

44.—(1) Every person who—

- (a) engages in the practice of real estate business on or from any premises not specified in a valid licence issued to him under this Act;
- (b) being a real estate salesman fails to account to the real estate dealer to whom he is employed for any money, funds, deposit, cheque, draft, title, mortgage, conveyance, lease or other document or thing of value or for any profit, or any share or portion thereof, which has come into his possession in the course of engaging in the practice of real estate business;
- (c) subject to subsection (2), being a real estate dealer or a real estate salesman or a developer, fails, without reasonable excuse, to produce any record or document when required by the Board to do so, or to answer any question put to him by the Board at any proceeding of the Board concerning the cancellation or suspension or proposed cancellation or suspension of any registration or the revocation or proposed revocation of a licence under this Act.
- (d) being a real estate dealer carries on business as such or any part of that business under more than one name or description with intent to deceive; or
- (e) knowingly makes any false or misleading statement or any material omission in or from any answer to any question put to him by the Board at any proceeding of the Board under this Act,

shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five thousand dollars or in default of payment thereof to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) A person required by the Board to produce any record or document or to answer any question shall be entitled, in relation thereto, to the same right or privilege as before a court of law.

(3) Any person who—

- (a) as the vendor enters into a prepayment contract in contravention of subsection (1) of section 26; or
- (b) fails to pay any money received by him as vendor under a prepayment contract into a trust account in contravention of subsection (1) of section 29; or
- (c) withdraws from a trust account in contravention of section 31, any moneys paid therein by him pursuant to section 29,

shall be guilty of an offence and shall be liable—

- (i) on conviction on indictment in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment;
- (ii) on summary conviction in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(4) Any person who fails to furnish to the Board a report of moneys paid into a trust account by him in contravention of subsection (2) of section 29 shall be guilty of an offence and shall be liable on summary conviction in a

Resident Magistrate's Court to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year.

(5) Any person who advertises for sale any land or building in a development scheme in contravention of section 27 shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Penalties
for holding
office whilst
disqualified
and for ren-
dering false
accounts.

45.—(1) Every person who becomes or acts as a director or principal officer of any company holding a licence as a real estate dealer who is himself disqualified from registration under paragraph (a) of subsection (1) of section 21 shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one thousand dollars and a further fine not exceeding one hundred dollars for every day during which the offence continues after conviction or in default of payment thereof to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) Every person who renders an account purporting to be an account of any money received by him in his capacity as a real estate dealer or a real estate salesman knowing the same to be false in any material particular shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding three thousand dollars or in default of payment thereof to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Penalties
for offences
not otherwise
provided for.

46. Any person guilty of an offence under this Act or regulations hereunder for which no special penalty is provided shall be liable on summary conviction in a Resident

Magistrate's Court to a fine not exceeding one thousand dollars or in default of payment thereof to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

47.—(1) A person who engages in the practice of real estate business as a real estate dealer or a real estate salesman without being the holder of a valid licence issued under section 20 authorizing him so to do, or in contravention of any condition of such licence, shall not be entitled to bring any suit or action for the recovery of any fee or reward for, or in respect of, anything done by him on behalf of any other person in the course of engaging in such practice, and shall not be entitled to any lien on money or other property of such other person for the purpose of recovering any such fee or reward.

Exclusion of
right to sue
for fees, etc.

(2) Nothing in subsection (1) shall prevent a real estate dealer or real estate salesman from taking any step or bringing any suit or action for the recovery of any fee or reward for, or in respect of, anything lawfully done by him while he was the holder of a valid licence if he subsequently ceases to be the holder of such licence.

SCHEDULE (Section 4 (2))

The Real Estate Board

Appointment of members. 1.—(1) The Board shall consist of not less than seven nor more than eleven members appointed by the Minister of whom one shall be appointed by the Minister to be chairman of the Board.

(2) The members of the Board shall be selected by the Minister from among persons appearing to him to have ability and experience in matters relating to the real estate industry (including land economy, valuation and surveying) architecture, accountancy or law.

Tenure of office. 2. A member of the Board shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years, but such member shall be eligible for reappointment.

Temporary appointments. 3. Subject to paragraph 1 (2), the Minister may appoint any person to act temporarily in the place of the chairman or a member of the Board in the case of the absence or inability to act of the chairman or of such member as the case may be.

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

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

Revocation of appointment. 5. The Minister may at any time revoke the appointment of the chairman (as such) and of any member of the Board (including the chairman).

Gazetting of membership. 6. The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Incorporation. 7.—(1) The Board shall be a body corporate to which the provisions of section 28 of the Interpretation Act shall, subject to the provisions of this Schedule, apply.

(2) The seal of the Board shall be kept in the custody of the chairman or secretary and shall be affixed to instruments pursuant

to a resolution of the Board in the presence of the chairman, or any other member of the Board, and the secretary.

(3) The seal of the Board shall be authenticated by the signatures of the chairman, or any other member of the Board and the secretary.

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

8. The chairman and other members of the Board shall be paid such remuneration whether by way of honorarium, salary or fees, and such allowances as the Minister may determine. **Remuneration.**

9.—(1) The Board may appoint and employ at such remuneration and on such terms and conditions as it thinks fit a secretary and such other officers, agents and servants, as it thinks necessary for the proper carrying out of its functions under this Act: **Appointment of officers, servants and agents.**

Provided that —

- (a) no appointment shall be made to a post carrying a salary in excess of the rate of fifteen thousand dollars per annum; and
- (b) no salary in excess of fifteen thousand dollars per annum shall be assigned to any post,

without the prior approval of the Minister.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of Jamaica to any office with the Board and any public officer so appointed shall, in relation to pension, gratuity or other allowance, and to other rights as a public officer, be treated as continuing in the service of the Government.

10. The funds of the Board shall consist of fees collected, such moneys as may from time to time be placed at its disposition for the purposes of this Act by Parliament and such other moneys as may lawfully be paid to the Board. **Funds of Board.**

11.—(1) The Board shall meet as often as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Board may determine. **Procedure and meetings.**

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

REAL ESTATE (DEALERS AND DEVELOPERS)

(3) The chairman shall preside at all meetings of the Board at which he is present, and in his absence from any meeting the members present and constituting a quorum shall elect a chairman from among their number to preside at that meeting.

(4) A quorum of the Board shall be five.

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

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

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

(8) Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

Disclosure of interest.

12.—(1) Any member of the Board who, otherwise than as such member, is directly or indirectly interested in a contract made or entered into, or proposed to be made or entered into, by the Board, or in the subject matter of any proceeding before the Board shall as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

(2) A disclosure under this paragraph shall be recorded in the minutes of the meetings of the Board and the member—

(a) shall not take part after the disclosure in any deliberation or decision of the Board relating to the contract or matter in question; and

(b) shall be disregarded for the purpose of forming a quorum of the Board for any such deliberation or decision.

Immunity from action.

13.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act

(2) Where any member of the Board is exempt from liability by reason only of the provisions of this paragraph, the Board shall be liable to the extent that it would be if the said member were a servant or agent of the Board

Office of chairman, etc. not public office.

14. The office of chairman or member of the Board shall not be a public office for the purpose of Chapter V of the Constitution of Jamaica.