

Uganda

## Building Control Act, 2013

### Chapter 136

Legislation as at 11 October 2013

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# Uganda

## Building Control Act, 2013

### Chapter 136

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Commenced on 2 April 2018 by [Building Control Act, 2013 \(Commencement\) Instrument, 2018](#)

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**An Act to consolidate, harmonise and amend the law relating to the erection of buildings; to provide for building standards; to establish a National Building Review Board and Building Committees; to promote and ensure planned, decent and safe building structures that are developed in harmony with the environment; and for other related matters.**

BE IT ENACTED by Parliament as follows —

#### Part I – Preliminary

##### 1. Commencement

This Act shall come into force on a date appointed by the Minister, by statutory instrument.

##### 2. Interpretation

In this Act, unless the context otherwise requires—

"**access**" means the possibility for any person to reach a place, maneuver within it, use a service, participate in activities provided in a public place; with dignity, independence and safety on an equal basis with others;

"**accessibility standards**" refers to a practical guide to create a barrier-free physical environment in Uganda for all persons including persons with disabilities;

"**application**" means an application for a building permit made under [section 35](#);

"**architect**" means a professional architect registered under the Architects Registration Act, and who is a member of the Uganda Society of Architects;

"**authorised agent**" means a person authorised by a Building Committee to act on its behalf;

"**Board**" means the National Building Review Board established by [section 3](#);

"**building**" means—

- (a) any structure, whether of a temporary or permanent nature, and, irrespective of the materials used in its erection, erected or used for or in connection with—
  - (i) the accommodation or convenience of human beings or animals;
  - (ii) the manufacture, processing, storage or sale of any goods;
  - (iii) the rendering of any service;
  - (iv) the destruction or treatment of refuse or other waste material; or

- (v) the cultivation or growing of any plant or crop;
- (b) a swimming pool, dam, bridge, tower or other structure connected with it;
- (c) a fuel pump or tank used in connection with a pump;
- (d) an electrical installation or other installation connected with it;
- (e) a gas supply installation or other installation connected with it;
- (f) any other part of a building or of an installation connected to the building;

**"Building Committee"** means a committee established under [section 28](#);

**"Building Control Officer"** means a person appointed by the District Service Commission under [section 32](#), and includes an assistant building control officer and an authorised agent;

**"building operation"** means any act done in relation to—

- (a) the erection of a building;
- (b) the demolition of a building;
- (c) any temporary work on a permanent building;
- (d) plumbing;
- (e) drainage;
- (f) repairs, renovations, alterations and extensions of a building;
- (g) erosion control works; or
- (h) the installation of utilities, including electricity and gas;

**"building plan"** means architectural or engineering drawings required by a Building Committee in respect of a building operation;

**"Chairperson"** means the Chairperson of the Board appointed by the Minister under [section 4\(3\)](#);

**"Code"** means the National Building Code made under [section 46](#);

**"currency point"** means the value assigned to it in Schedule 1;

**"demolish"** means any act relating to the removal of a building or any part of a building;

**"earthwork"** means—

- (a) an excavation below natural ground level;
- (b) a fill above natural ground level; or
- (c) a support that is required to maintain the sides of an excavation or a fill;

**"engineer"** means an engineer registered under the Engineers Registration Act;

**"erection"** in relation to a building, means its—

- (a) construction;
- (b) alteration;
- (c) restoration;
- (d) conservation;
- (e) extension;
- (f) re-building;

- (g) repair; or
- (h) subdivision.

"**Executive Secretary**" means the Executive Secretary appointed by the Board under [section 15](#);

"**Minister**" means the Minister responsible for building works;

"**minor building works**"—

- (a) means a building operation of—
  - (i) a single storey dwelling constructed of temporary, semi-permanent or permanent materials such as mud and wattle, mud bricks, burnt bricks, concrete blocks or timber boards, and not more than thirty square metres in floor area;
  - (ii) a unit for poultry or livestock constructed of temporary semi-permanent or permanent material, not exceeding thirty square metres in floor area;
  - (iii) a tool shed, external kitchen or store, not exceeding thirty square metres in floor area;
  - (iv) a commercial structure such as a food kiosk, carpentry shed or blacksmith's shed, constructed in temporary, semi-permanent or permanent materials, and not more than thirty square metres in floor area, whether as a free standing structure or as an addition to an existing building;
- (b) does not include additions or alterations to existing buildings relating to changes in plan or structure of the building such as painting, redecoration, replacing window or door shutters, floor finishes, wall fittings or damaged roof covering;

"**physical planner**" means a physical planner possessing the relevant qualifications from a recognised institute;

"**regulations**" means regulations made under [section 52](#);

"**standard**" means any standard relating to—

- (a) quality of goods and materials;
- (b) methods of design;
- (c) specifications;
- (d) workmanship; or
- (e) any other matter relevant to buildings as specified by the Uganda National Bureau of Standards established under the Uganda National Bureau of Standards Act;

"**surveyor**" means a surveyor registered under the Surveyor's Registration Act.

## Part II – National Building Review Board

### 3. Establishment of the Board

- (1) There is established a National Building Review Board
- (2) The Board shall be a body corporate with an official seal and may, for the discharge of its functions under this Act—
  - (a) acquire, hold and dispose of moveable and immoveable property;
  - (b) sue and be sued; and
  - (c) do all acts and things as a body corporate may lawfully do.

#### 4. Composition of the Board

- (1) The Board shall consist of—
  - (a) one representative of the department responsible for building works;
  - (b) one representative of the department responsible for physical planning;
  - (c) one representative of the ministry responsible for water and environment;
  - (d) one representative of the department responsible for housing;
  - (e) a representative of the Ministry responsible for persons with disabilities;
  - (f) one representative of each of the following professions, nominated for appointment by the relevant professional body or association—
    - (i) engineers;
    - (ii) architects;
    - (iii) physical planners;
    - (iv) surveyors;
    - (v) lawyers;
  - (g) a public health officer from the Ministry responsible for health;
  - (h) a representative of persons with disabilities nominated for appointment by the National Council for Disability;
  - (i) a representative of workers nominated for appointment by the national trade union centres;
  - (j) a representative of Uganda Local Authorities Association of Uganda nominated for appointment by the Uganda Local Governments Association;
  - (k) a representative of Urban Authorities Association of Uganda nominated for appointment by the Association of Urban Authorities;
  - (l) one person from the private sector nominated for appointment by the Private Sector Foundation.
- (2) At least one-third of the board members shall be women.
- (3) The Minister shall appoint the members of the Board and shall designate as Chairperson of the Board, one of the members.
- (4) The members of the board shall be eminent persons of good repute and standing in society, who are qualified and experienced or who possess specialized knowledge in matters relating to their respective fields.
- (5) A member of the Board shall hold office on terms and conditions specified in his or her instrument of appointment.

#### 5. Disqualification from appointment as member

A person shall not be appointed to the Board who is an undischarged bankrupt or who has made any assignment or arrangement with his or her creditors.

#### 6. Tenure of office of Board members

- (1) A member of the Board shall hold office for three years and is eligible for reappointment for one more term.

- (2) The Minister shall appoint the first members of the Board within six months after the coming into force of this Act.
- (3) A member of the Board may, at any time, resign his or her office by letter addressed to the Minister.
- (4) A member of the Board may be removed from office by the Minister at any time if the member—
  - (a) is inefficient or incompetent;
  - (b) is incapacitated by mental or physical illness that renders him or her incapable of performing the functions of member of the Board;
  - (c) has been absent for more than four consecutive meetings of the Board, or is absent from Uganda for more than twelve months without reasonable cause;
  - (d) is declared bankrupt; or
  - (e) where a member ceases to be a member of the body which nominated him or her.
- (5) The Minister may terminate or suspend the Board—
  - (a) for misappropriation of the funds of the Board; and
  - (b) for failure to implement the functions of the Board under this Act.

## 7. Remuneration of Board members

The Chairperson and other members of the Board shall be paid such remuneration as the Minister may determine in consultation with the Minister responsible for finance and Minister responsible for public service.

## 8. Filling of vacancies of the Board

- (1) Where a vacancy occurs in the membership of the Board, the Minister may appoint another person qualified in terms of [section 4](#) to fill that vacancy.
- (2) Where a person is appointed to fill a vacancy under subsection (1), that person shall hold office for the remainder of the term of the previous member and, subject to this Act, is eligible for re-appointment.

## 9. Functions of the Board

The functions of the Board are—

- (a) to monitor building developments;
- (b) to ensure that the design and construction of buildings and utilities to which the public is to have access cater for persons with disabilities;
- (c) to oversee, inspect and monitor the operations of Building Committees;
- (d) to prepare and submit to the Minister, reports relating to any matter under this Act, as the Minister may require;
- (e) to hear and determine appeals from persons dissatisfied with the decisions of a Building Committee;
- (f) to determine the fees to be charged by urban and district building committees for approval of plans, issue of building permits and occupation permits; and
- (g) to perform any other function conferred on it by this Act.

## 10. Official seal of the Board

- (1) The official seal of the Board shall be in a form determined by the Board and shall be kept in the custody of the Secretary.
- (2) The official seal shall, when affixed to any document, be authenticated by the signatures of the Chairperson and the Secretary.
- (3) In the absence of the Chairperson, one other member of the Board appointed by the Minister for the purpose shall sign in the place of the Chairperson.
- (4) A person performing the functions of the Secretary shall sign in the absence of the Secretary.
- (5) A contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be under seal, may be entered into or executed without seal on behalf of the Board by the Secretary or any other person authorised for that purpose by the Board.
- (6) Every document purporting to be—
  - (a) an instrument issued by the Board and sealed with the official seal of the Board and authenticated in the manner prescribed by this section; or
  - (b) a contract or instrument entered into or executed under subsection (5);

shall be received in evidence as such an instrument without further proof, unless the contrary is proved.

## 11. Board's power to co-opt persons

- (1) The Board may co-opt any person who, in the opinion of the Board, has expert knowledge concerning the functions of the Board and who is likely to be of assistance to the Board, to attend and take part in the proceedings of the Board.
- (2) A person attending a meeting of the Board under subsection (1) may take part in any discussion at the meeting on which his or her advice is required, but shall not have a right to vote at that meeting.

## 12. Meetings of the Board

Schedule 2 has effect with respect to the meetings and procedure of the Board and other matters provided for in that Schedule.

## 13. Committees of the Board

- (1) The Board may appoint committees to advise it on any matter concerning the functions of the Board as the Board may determine.
- (2) A committee appointed under subsection (1) shall consist of a Chairperson who shall be a member of the Board and such other persons, whether members of the Board or not, as the Board may determine.
- (3) The Board may delegate any of its functions under this Act to a committee appointed under this section, subject to any limitations imposed by the Board.
- (4) The Board may require any committee appointed under this section to act jointly or in co-operation with any other committee.
- (5) Subject to any direction given by the Board, a committee appointed under this section may regulate its own procedure.
- (6) Members of a committee appointed under this section may be paid such allowances as the Board may, with the approval of the Minister, determine.

### Part III – Secretariat and staff of the Board

#### 14. Secretariat

The Board shall have a Secretariat consisting of an Executive Secretary and other staff.

#### 15. Executive Secretary

- (1) The Executive Secretary of the Board shall be appointed by the Board on terms and conditions specified in the instrument of appointment.
- (2) The Executive Secretary shall be a person with professional qualifications and experience in law, management or public administration.
- (3) The Executive Secretary shall hold office for four years and is eligible for reappointment for two consecutive terms only.

#### 16. Functions of Executive Secretary

- (1) The Executive Secretary shall be the chief executive officer of the Board and is responsible for the day-to-day operations and administration of the Board.
- (2) Subject to this Act and to the general supervision and control of the Board, the Executive Secretary is responsible for—
  - (a) the implementation of the policies and programmes of the Board;
  - (b) the funds and property of the Board;
  - (c) the organisation and control of the staff of the Board; and
  - (d) performing any other duty that may be assigned to him or her by the Board.
- (3) The Executive Secretary shall, in addition to his or her functions, be the secretary to the Board and shall—
  - (a) take the minutes of meetings of the Board and keep a record of all the transactions of the Board;
  - (b) have custody of the seal of the Board; and
  - (c) carry out such other functions as the Board may assign to him or her.
- (4) The Executive Secretary is, in the performance of his or her functions, answerable to the Board.
- (5) The Executive Secretary shall cease to hold office if—
  - (a) he or she resigns;
  - (b) he or she is removed from office by the Board for—
    - (i) inability to discharge the functions of his or her office arising out of physical or mental illness;
    - (ii) misbehaviour or misconduct;
    - (iii) incompetence; or
    - (iv) bankruptcy.

**17. Other officers and staff of the Board**

- (1) The Board may appoint other officers and staff of the Board as may be necessary for the effective performance of the functions of the Board.
- (2) The employees appointed under subsection (1) shall hold office on such terms and conditions as may be specified in their instruments of appointment.

**18. Experts and consultants**

- (1) The Board may, on the advice of the Executive Secretary, engage the services of experts and consultants in respect of any functions of the Board with which they are considered to have special competence.
- (2) Experts and consultants engaged under subsection (1) may be paid such fees and allowances, and may be afforded such facilities as the Board may determine.

**19. Protection of members and employees**

A member or an employee of the Board, or a person acting on the directions of the Board is not personally liable for any act or omission done or omitted to be done in good faith in the exercise of the functions of the Board.

**Part IV – Finances****20. Funds of the Board**

- (1) The funds of the Board shall consist of—
  - (a) money appropriated by Parliament for the purposes of the Board;
  - (b) fees charged for services rendered by the Board under this Act; and
  - (c) grants, gifts or donations from the Government or other sources made with the approval of the Minister responsible for finance.
- (2) Any fees received by the Board from the services rendered by the Board and other activities under this Act shall be retained by the Board in a fund established for the purpose, in accordance with the Public Finance and Accountability Act, for purposes of defraying the expenses of the Board and for the effective implementation of this Act.

**21. Power to open and operate bank accounts**

- (1) The Board shall open and operate such bank accounts as are necessary for the performance of its functions.
- (2) The Board shall ensure that all money received by or on behalf of the Board is deposited in the bank as soon as practicable after being received.
- (3) The Board shall ensure that no money is withdrawn from or paid out of any of the Board's bank accounts without the authority of the Board.

**22. Estimates**

- (1) The Executive Secretary shall, within three months before the end of each financial year, cause to be prepared and submitted to the Board for its approval, estimates of the expenditure of the Board for the next financial year.

- (2) The Board shall, within two months after receipt of the estimates referred to in subsection (1) cause to be submitted to the Minister for his or her approval, the estimates of income and expenditure as approved by the Board.

### **23. Financial year of the Board**

The financial year of the Board is the period of twelve months beginning on the 1st July in each year and ending on the 30th June in the next calendar year.

### **24. Accounts**

- (1) The Executive Secretary shall cause to be kept, proper books of accounts and records of the transactions of the Board.
- (2) Subject to any direction given by the Minister, the Board shall cause to be prepared and submitted to the Minister responsible for finance in respect of each financial year, and not later than three months after the end of the financial year, a statement of accounts, which shall include –
  - (a) a balance sheet, a statement of income and expenditure and a statement of surplus or deficit; and
  - (b) any other information in respect of the financial affairs of the Board as the Minister responsible for finance may, in writing require.

### **25. Audit**

- (1) The Auditor General or an auditor appointed by the Auditor General shall, in each financial year, audit the accounts of the Board.
- (2) The Board shall ensure that within four months after the end of each financial year, a statement of accounts described in [section 24](#) is submitted for auditing to the Auditor-General or an auditor appointed by the Auditor General.
- (3) The Auditor General and any auditor appointed by the Auditor General shall have access to all books of accounts, vouchers and other financial records of the Board, and is entitled to any information and explanation required in relation to those records.
- (4) The Auditor General and any auditor appointed by the Auditor General shall, within four months after receipt of the statement of accounts under subsection (2), deliver to the Board a copy of the audited accounts together with a report on the accounts.

### **26. Investment of surplus funds**

Any funds of the Board not immediately required for any purpose under this Act may be invested in a manner, which the Board may, after consultation with the Minister and the Minister responsible for finance, determine.

### **27. Annual report**

The Board shall, within three months after the end of each financial year, submit to the Minister an annual report on the activities of the Board.

## **Part V – Building Committees**

### **28. Establishment of Building Committees**

- (1) There is established for each District and for each Urban Authority, a Building Committee which shall be a committee of the District or the Urban Council respectively.

- (2) A Building Committee established under subsection (1) shall, in the case of a District Council, consist of—
- (a) the Chief Administrative Officer;
  - (b) the Town Clerk;
  - (c) the Chairperson of the Planning and Development Committee of the District Council;
  - (d) the officer responsible for physical planning;
  - (e) the officer responsible for health;
  - (f) the officer responsible for engineering;
  - (g) the officer responsible for land management;
  - (h) the officer responsible for environment management;
  - (i) an officer responsible for architecture;
  - (j) a representative of the persons with disabilities nominated by the National Council for Disability at the district level;
  - (k) an officer from the police department responsible for fire prevention; and
  - (l) a member of the district executive committee.
- (3) The Chairperson of the Planning and Development Committee of the District Council shall be the Chairperson of the District Building Committee.
- (4) A Building Committee established under subsection (1) shall, in the case of an Urban Authority consist of—
- (a) the Chairperson of the Urban Planning and Development Committee;
  - (b) a category of officers in the Urban Service similar to the category of officers in the District Council referred to in paragraphs (b) to (i) of subsection (2);
  - (c) a representative of the persons with disabilities nominated by the National Council for Disability;
- (5) The Chairperson of the Urban Planning and Development Committee of the Urban Council shall be the Chairperson of the Urban Building Committee.

## 29. Functions of Building Committees

- (1) The functions of Building Committees are—
- (a) to scrutinise and approve building plans;
  - (b) to issue building permits and occupation permits;
  - (c) to ensure that the design and construction of buildings and utilities to which the public is to have access cater for persons with disabilities;
  - (d) to review decisions on applications for permits for minor building works submitted to a building control officer under [section 39](#);
  - (e) to ensure that this Act is complied with; and
  - (f) perform any other function assigned to it by the Board.
- (2) A Building Committee may, in writing, delegate to a competent person, any function conferred upon it by or under this Act, other than the functions referred to in sections [29](#) (1)(b) and [41](#).

### 30. Building Committee's power to co-opt persons

- (1) A Building Committee may co-opt any person who, in the opinion of the Committee, has expert knowledge concerning the functions of the Committee, which is likely to be of assistance to the Committee, to attend and take part in the proceedings of the Committee.
- (2) A person attending a meeting of the Building Committee under subsection (1) may take part in any discussion at the meeting on which his or her advice is required, but shall not have a right to vote at that meeting.

### 31. Meetings of Building Committees

Schedule 3 has effect with respect to the meetings and procedure of Building Committees and other matters provided for in that Schedule.

### 32. Building Control Officer

The District Service Commission shall, for each District Council and for each Urban Authority, appoint—

- (a) a District Building Control Officer and an Urban Building Control Officer, respectively; and
- (b) such number of Assistant Building Control Officers as are necessary to enable the Building Committee to carry out its functions under this Act.

### 33. Functions of Building Control Officer

The functions of a Building Control Officer are —

- (a) to make recommendations to a Building Committee in relation to
  - (i) building plans;
  - (ii) specifications of materials and workmanship;
  - (iii) any document submitted to a Building Committee under [section 35](#);
- (b) to forward to the Building Committee for review, copies of all applications for minor building works submitted to the Building Control Officer under [section 39](#), and his or her decision on the application;
- (c) to ensure that any instructions given by a Building Committee in accordance with this Act are complied with;
- (d) to inspect—
  - (i) the erection of any building;
  - (ii) the demolition of any building;
  - (iii) any activity, in respect of which a permit has been issued in accordance with [sections 35](#) and [39](#), and to ensure that any condition upon which the permit is issued is complied with;
- (e) to carry out regular inspection of completed buildings; and
- (f) to carry out any other duty assigned to it by the Building Committee.

## Part VI – Control of building operations

### 34. Building operations without permit prohibited

- (1) A person shall not carry out a building operation unless he or she has a valid building permit issued by a Building Committee.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction to a fine not exceeding fifty currency points or imprisonment not exceeding two years, or both.

### 35. Application for building permit

- (1) A person who intends to carry out a building operation shall apply to the Building Committee in the area in which he or she intends to carry out the building operation, for a building permit.
- (2) An application for a building permit shall be in a form prescribed by the Board, and shall—
  - (a) contain the name and physical and postal address of the applicant;
  - (b) be accompanied by the land title or other proof of ownership of the land;
  - (c) where the applicant is not the owner of the land on which the building operation is to be carried out, contain the name of the landowner, the land title or other proof of ownership of the land and a statement of the legal relationship between the applicant and the landowner;
  - (d) contain the name, registration number and a copy of the practising certificate of the architect and his or her signature, and official stamp of the Uganda Society of Architects and in the case of an engineer, a certificate of good structural practice;
  - (e) be accompanied by such number of copies of building plans and other documents as may be required by regulations; and
  - (f) contain a letter from the Chairperson of the Village Council of the area in which the building operation is to be carried out.
- (3) Where the building is a multi-storied structure or building, the application shall include—
  - (a) a structural design and plans, stamped by a registered structural engineer including the name, registration number and his or her signature, a copy of the registration certificate and a copy of the structural design calculations;
  - (b) a geotechnical report made by a geotechnical laboratory accredited by the ministry responsible for works and endorsed by a registered geotechnical engineer;
  - (c) where there are any excavations, a design of the soil support system and protection of the adjacent structures, endorsed by a registered geotechnical or structural engineer.
- (4) A Building Control Officer may, if he or she is of the opinion that an application made to a Building Committee under subsection (1) does not comply with the requirements of this Act, reject the application, giving reasons in writing for the rejection.

### 36. Procedure for issuing building permit

- (1) A Building Committee may, upon receipt of an application for a permit under [section 35](#), issue a building permit to the applicant within thirty days after the date of receipt of the application.
- (2) A Building Committee may refuse to issue a permit where the building operation in respect of which the permit is applied for—
  - (a) may constitute a change in land use different from that for which the land is designated;

- (b) may result in degradation of the environment in the area in which the building operation is to be carried out;
  - (c) may cause the depreciation in value of adjoining or neighbouring properties;
  - (d) may result in a building which is unsightly or objectionable to the public;
  - (e) may result in a building which is a nuisance to occupiers of adjoining or neighbouring properties;
  - (f) may be dangerous to life or property;
  - (g) may be located on a site which is filled up or covered with refuse or matter liable to decomposition; or
  - (h) does not comply with the requirements of this Act.
- (3) Where the Building Committee rejects an application for a permit under subsection (2) the Committee shall, within thirty days after receipt of the application, notify the applicant, giving reasons, in writing, for the refusal.
- (4) A person whose application is rejected under subsection (3) may, after amending it as may be required by the Building Committee, submit it to the Building Committee for reconsideration.
- (5) Where the Building Committee is unable to reach a decision within thirty days as required by subsection (1), it shall, notify the applicant in writing of that fact, within fourteen days after the date of the meeting of the Committee, and shall indicate in the notice, a reasonable period within which it will be able to reach a decision, but in any case not later than sixty days from the date of the receipt of the application.
- (6) The Building Committee shall, where it issues a permit under subsection (1), endorse its approval on the building plan and other documents, and shall return one endorsed copy each of the building plan and other documents to the applicant.
- (7) A building permit issued under this section may be issued upon such terms and conditions as the Building Committee may determine.

### **37. Appeals from decisions of Building Committee**

- (1) A person aggrieved by a decision of a Building Committee may appeal to the Board within thirty days after the date on which he or she receives notice of the decision of the Building Committee.
- (2) An appeal under subsection (1) shall be in writing by the applicant or by the agent of the applicant.
- (3) Where a Building Committee fails to issue a building permit within the period specified in [section 36](#), the applicant may appeal to the Board.
- (4) The right of appeal to the Board under this section does not take away the right of an applicant to appeal to a court of law and the court may confirm, reverse or modify the decision of the Board.

### **38. Building operation subject to time limit**

- (1) A building operation in respect of which a building permit is issued under [section 36](#) shall commence within twelve months of the date on which the building permit is issued and shall be completed within a period of sixty months of the date on which the building operation was commenced.
- (2) Notwithstanding subsection (1), where a person, due to unforeseen circumstances, is unable to comply with the period of time specified in subsection (1), he or she shall apply to the Building Committee for extension of the time within which to complete the building operation and the Building Committee shall not unreasonably withhold the grant of extension.

- (3) A person who carries on a building operation in contravention of this section commits an offence and is liable, on conviction, to a fine not exceeding twenty five currency points or imprisonment not exceeding thirteen months or both, and after the notice is given, to a further fine not exceeding five currency points for each day on which the offence continues.

### **39. Permits for minor building works**

- (1) A person intending to carry out minor building works shall apply, in writing, to a Building Control Officer for a building permit.
- (2) An application under subsection (1) shall be accompanied by a sketch plan with dimensions.
- (3) A Building Control Officer shall forward to the Building Committee for review, a copy of each application for a permit made under this section, and his or her decision on that application within five working days after his or her decision.
- (4) A permit for minor building works under this section—
  - (a) may be issued upon such terms and conditions as may be prescribed by regulations; and
  - (b) is valid for six months, within which time the building operation shall commence; except that the Building Control Officer may, on the application of the permit holder, for good cause, extend the period for six further months.
- (5) Where a Building Control Officer refuses to issue a permit or an extension permit under this section, the applicant may appeal to the Building Committee against the refusal.

### **40. Order to stop building operation**

- (1) A Building Committee may, by notice in writing, order any person to stop a building operation—
  - (a) where the building operation is carried out in a manner which—
    - (i) is contrary to the provisions of this Act and the Code; and
    - (ii) does not comply with health and sanitation requirements prescribed by regulations.
  - (b) where the building is one to which the public is to have access but does not provide access for persons with disabilities as provided for in the Accessibility Standards.
  - (c) if it is discovered, during the building operation, that the site is—
    - (i) predisposed to flooding; or
    - (ii) has a poor drainage system.
- (2) Where a Building Committee issues a notice to a person under subsection (1), the Committee may order that person to take remedial measures to the satisfaction of the Building Committee before continuing with the building operation.
- (3) A person who fails, without good cause, to comply with a notice issued under subsection (1) or an order given under subsection (2) commits an offence and is liable, on conviction, to a fine not exceeding seventy five currency points or imprisonment not exceeding three years or both.

### **41. Remedial action on defective building**

- (1) A Building Committee may, where a building —
  - (a) is in a state of disrepair;
  - (b) is dilapidated; or

- (c) is showing signs of disrepair or dilapidation,
- by notice in writing, order the owner of the building to demolish the building or take remedial action on the building, as the case may be, to a standard determined by the Building Committee.
- (2) A Building Committee may, where—
- (a) a building; or
  - (b) earthwork on which a building operation is carried out or is to be carried out, is dangerous or shows signs of becoming dangerous to life or property, by written notice, order the holder of the permit to ensure that the building or earthwork, as the case may be, ceases to be in a state that is dangerous to life or property.
- (3) A notice issued under subsection (1) or (2) shall contain such conditions as the Building Committee may determine and the person upon whom the notice is served shall comply with the conditions stated in the notice.
- (4) A person who fails to comply with a notice issued under subsection (1) or (2) commits an offence and is liable, on conviction, to a fine not exceeding twenty four currency points or imprisonment not exceeding one year, or both.

#### **42. Prohibition of building methods and materials**

- (1) The Minister may, after consultation with the Board, and upon being satisfied that any method or material used in a building operation is not safe, by notice published in the *Gazette*, prohibit the use of that method or material in the building operation.
- (2) A person aggrieved by the decision of the Minister made under this section may appeal to the High Court.
- (3) A person who uses a prohibited method or material contrary to a notice issued under subsection (1), commits an offence and is liable, on conviction, to a fine of not exceeding forty eight currency points or imprisonment not exceeding two years, or both.

#### **43. Right of entry by Building Control Officer**

- (1) For the purposes of this Act, a Building Control Officer shall, at all reasonable times, have the right of entry onto any land or site where a building operation is being carried out, for the purpose of determining whether this Act is being complied with.
- (2) A Building Control Officer may conduct tests on or carry out an inspection on any land or site on which a building operation is being carried out.
- (3) A Building Control Officer shall, upon request by the owner of the building or person in charge of a building operation whose site is entered by the Building Control Officer or authorised agent, produce his or her official identification card.
- (4) A person who hinders or obstructs a Building Control Officer in the exercise of his or her functions under this section, commits an offence and is liable, on conviction, to a fine not exceeding twenty five currency points or imprisonment not exceeding thirteen months or both.

#### **44. Occupation permit**

- (1) Upon the completion of a building, the owner of the building shall—
- (a) notify the Building Committee of the practical completion of the building in accordance with the approved plans and the regulations; and
  - (b) apply to the Building Committee for an occupation permit.

- (2) The Building Committee shall, within fourteen days after receipt of notification of completion of a building and receipt of an application for an occupation permit, examine the building, and may—
  - (a) if satisfied that the building has been erected in conformity with the approved plans and regulations, issue an occupation permit; or
  - (b) if the building has not been erected in accordance with this Act, refuse to issue an occupation permit, and give reasons in writing for its refusal.
- (3) Any person who occupies or uses a building—
  - (a) before an occupation permit is issued, except where the occupation or use is essential for the erection of the building;
  - (b) in any period not being the period in respect of which the occupation permit was issued;
  - (c) in contravention of any condition on which an occupation permit was issued; or
  - (d) otherwise than in such circumstances and conditions as may be prescribed by the Code, commits an offence and is liable, on conviction, to a fine not exceeding twenty four currency points.
- (4) Notwithstanding subsection (3) the Building Committee may issue an occupation permit in respect of a partially completed building, where it determines that the building is safe and adequate for human habitation.
- (5) An occupation permit issued under subsection (4) shall be valid for a period not exceeding twenty-four months and may be renewed upon application to the Building Committee.

#### **45. Liability for causing accidents on building construction site**

- (1) Any person whose negligence, commission or omission causes or leads to the occurrence of an accident on a building construction site, which results in the injury or death of another person, or the destruction of property, commits an offence and is liable on conviction to a fine not exceeding two hundred eighty eight currency points or to imprisonment not exceeding twelve years or both.
- (2) For the avoidance of doubt, the activities referred to in subsection (1) include—
  - (a) breach of contract;
  - (b) failure to comply with stipulated building procedures and standards;
  - (c) professional negligence;
  - (d) failure to take out insurance for the workers; and
  - (e) failure to comply with this Act and regulations made under this Act.

### **Part VII – Miscellaneous**

#### **46. National Building Code**

- (1) The Minister may, after consultation with the Board, establish a Code to be known as the National Building Code.
- (2) The National Building Code shall include matters relating to—
  - (a) building standards;
  - (b) structural design;
  - (c) plumbing;

- (d) electrical installations;
  - (e) mechanical installations;
  - (f) fire and safety;
  - (g) geotechnical report;
  - (h) accessibility standards; and
  - (i) postal code numbering.
- (3) For the avoidance of doubt, the Minister shall establish the building code under this section not later than six months after the commencement of this Act.

#### **47. Reports**

- (1) The Minister may request a Building Committee to furnish him or her with a report on—
- (a) the adequacy of measures in connection with any building within its area of jurisdiction against fire, floods, earthquakes or other disasters; and
  - (b) a particular building operation in its area of jurisdiction.
- (2) Where the Minister is not satisfied with the report of a Building Committee submitted under subsection (1), the Minister may request the Board to furnish a report on that subject.

#### **48. Power of Minister to give directions**

The Minister may give directions of a policy nature in writing to the Board and the Board shall comply with the Minister's directions.

#### **49. Delegation of Minister's powers**

The Minister may, in writing, delegate to the Chairperson of the Board any power conferred upon the Minister by or under this Act, other than the powers referred to in sections [42](#), [46](#), [52](#) and [53](#) and upon such conditions as the Minister may specify.

#### **50. Employees of former building authorities**

A person who, immediately before the coming into force of this Act, is employed by a building control authority or other related body, to exercise any or all of the functions of a Building Control Officer under this Act, shall continue to exercise those functions until Building Control Officers are appointed under this Act.

#### **51. Service of notices**

Where, in this Act, there is reference to the service of any notice, that notice shall be served by post or delivered by hand to the addressee or his or her agent, as the case may be, or to the person in charge of a building operation, at the site.

#### **52. Regulations**

- (1) The Minister may, on the advice of the Board, by statutory instrument, make regulations generally for the better carrying into effect of the provisions of this Act.
- (2) Without prejudice to the general effect of subsection (1), regulations made under this section may —
- (a) prescribe the remuneration and allowances that may be paid to members of the Board or to persons co-opted to meetings of the Board;

- (b) prescribe the remuneration and allowances that may be paid to members of a Building Committee or to persons coopted to meetings of a Building Committee;
- (c) prescribe the procedure and the costs to be paid in respect of any appeal lodged with the Board;
- (d) impose penalties in respect of any contravention of the regulations, not exceeding a fine of forty eight currency points or imprisonment not exceeding two years or both, and in the case of a continuing contravention, an additional fine not exceeding five currency points for each day during which the contravention continues;
- (e) prescribe the content of building plans and other documents required to be submitted under this Act;
- (f) prescribe the fees for permits and for services rendered by the Board or by a Building Committee under this Act;
- (g) prescribe the forms and procedure for application for building permits, occupation permits and other permits issued under this Act; and
- (h) prescribe anything that is required or authorised to be prescribed under this Act.

### **53. Amendment of Schedules**

- (1) The Minister may, by statutory instrument, with the approval of Cabinet, amend Schedule 1.
- (2) The Minister may, by statutory instrument, amend Schedules 2 and 3.

### **54. Transition**

- (1) A building which is completed, or in respect of which any building operation is commenced before the coming into force of this Act and which does not conform to the standards prescribed by this Act shall, within a period prescribed by the Minister on the advice of the Board be adjusted so as to bring it in conformity with this Act.
- (2) An occupation permit in respect of adjustments to be made under subsection (1) shall be obtained within a period prescribed by the Building Committee.
- (3) An application for a permit made to a building authority before the commencement of this Act shall, on the commencement of this Act, be considered as an application made to a Building Committee established by this Act.
- (4) Subject to this Act, a building permit issued by a building authority before the coming into force of this Act shall be deemed to have been issued under this Act.

### **55. Effect on existing law**

- (1) This Act shall take precedence over any other Act or instrument in existence, relating to building operations, before the coming into force of this Act and any such Act or instrument shall, to the extent to which it is inconsistent with this Act or an instrument made under this Act be deemed to be modified to accord with this Act.
- (2) For the avoidance of doubt, where a provision of any enactment referred to in subsection (1) conflicts with a provision of this Act, this Act shall prevail.

## **Schedule 1 (Section 2)**

### **Currency point**

One currency point is equivalent to twenty thousand shillings.

## **Schedule 2 (Section 12)**

### **Meetings and procedure of Board**

#### **1. Meetings of Board**

- (1) The Chairperson shall convene every meeting of the Board at a time and place as the Board may determine and the Board shall meet for the discharge of business at least once in every two months.
- (2) The Chairperson may, at any time, convene a special meeting of the Board and shall call a meeting within fourteen days, if requested to do so in writing by at least five members of the Board.
- (3) The Chairperson shall preside at every meeting of the Board and in the absence of the Chairperson, the members present shall elect one of their number to preside at that meeting.

#### **2. Quorum and decisions**

- (1) The quorum for a meeting of the Board is two-thirds of the members.
- (2) All questions proposed at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in case of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

#### **3. Minutes of meetings**

- (1) The Secretary shall keep the minutes of all the meetings of the Board in a form approved by the Board.
- (2) The minutes recorded under this paragraph shall be submitted to the Board at its next meeting following that to which the minutes relate and when confirmed, shall be signed by the Chairperson and the Secretary in the presence of the members present at the latter meeting.

#### **4. Validity of proceedings not affected by vacancy**

The validity of any proceedings of the Board shall not be affected by a vacancy in its membership or by any defect in the appointment or qualification of a member or by reason that a person not entitled, took part in its proceedings.

#### **5. Disclosure of interest of members**

- (1) A member of the Board who is in any way directly or indirectly interested in a contract made or proposed to be made by the Board, or in any other matter which falls to be considered by the Board, shall disclose the nature of his or her interest at a meeting of the Board.
- (2) A disclosure made under subparagraph (1) shall be recorded in the minutes of that meeting.
- (3) A member who makes a disclosure under subparagraph (1) shall not, unless the Board decides otherwise—
  - (a) be present during any deliberation of the Board with respect to that matter; or
  - (b) take part in any decision of the Board with respect to that matter.
- (4) For purposes of determining whether there is a quorum, a member withdrawing from a meeting or who is not taking part in a meeting under paragraph (3)(b) shall be treated as being present.

#### **6. Board may regulate its procedure**

Subject to this Act, the Board may regulate its own procedure or any other matter relating to its meetings.

## Schedule 3 (Section 31)

### Meetings and procedure of Building Committee

#### 1. Meetings of Building Committee

- (1) The Chairperson of a Building Committee shall convene every meeting of a Building Committee at times and places as the Building Committee may determine and the Building Committee shall meet for the discharge of business at least once in every two months.
- (2) The Chairperson may, at any time, convene a special meeting of the Building Committee and shall also call a meeting within fourteen days, if requested to do so in writing by at least six members of the Building Committee.
- (3) The Chairperson shall preside at every meeting of the Building Committee and in the absence of the Chairperson, the members present shall elect one of their number to preside at that meeting

#### 2. Quorum and decisions

- (1) The quorum for a meeting of a Building Committee is two-thirds of the members including at least one member of the District Executive Committee in the case of a District Building Committee or one executive member of the Urban Planning and Development Committee in the case of an Urban Building Committee.
- (2) All questions proposed at a meeting of the Building Committee shall be decided by a majority of the votes of the members present and voting and in case of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

#### 3. Minutes of meetings

- (1) The Building Committee shall cause to be kept minutes of all the meetings of the Building Committee in a form approved by the Building Committee.
- (2) The minutes recorded under this paragraph shall be submitted to the Building Committee at its next meeting following that to which the minutes relate and when confirmed, shall be signed by the Chairperson and the Secretary at that meeting in the presence of the members present at the latter meeting.

#### 4. Validity of proceedings not affected by vacancy

The validity of any proceedings of a Building Committee shall not be affected by a vacancy in its membership or by any defect in the appointment or qualification of a member or by reason that a person not entitled, took part in its proceedings.

#### 5. Disclosure of interest of members

- (1) A member of a Building Committee who is in any way directly or indirectly interested in a contract made or proposed to be made by a Building Committee, or in any other matter which falls to be considered by the Building Committee, shall disclose the nature of his or her interest at the meeting of the Building Committee.
- (2) A disclosure made under subparagraph (1) shall be recorded in the minutes of that meeting.
- (3) A member who makes a disclosure under subparagraph (1) shall not, unless the Building Committee decides otherwise—
  - (a) be present during any deliberation of the Building Committee with respect to that matter; or
  - (b) take part in any decision of the Building Committee with respect to that matter.
- (4) For purposes of determining whether there is a quorum, a member withdrawing from a meeting or who is not taking part in a meeting under paragraph (3)(b) shall be treated as being present.

**6. Building Committee may regulate its procedure**

Subject to this Act, the Building Committee may regulate its own procedure or any other matter relating to its meetings.