



JAMAICA MORTGAGE BANK

Corporate Governance Policy

Board Charter

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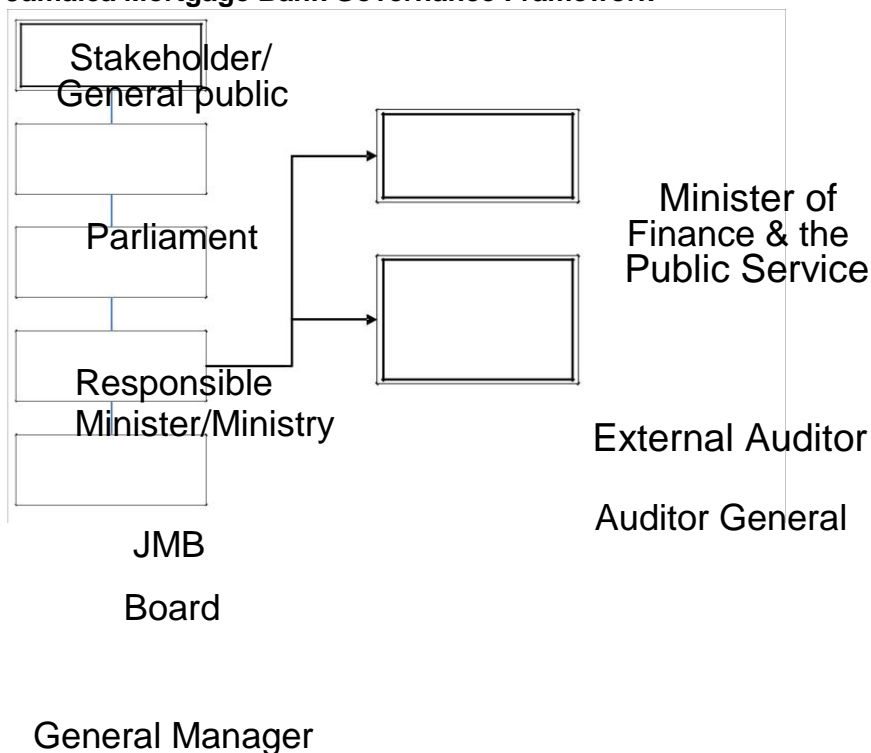
Purpose

This Board Charter and Corporate Governance Policy sets out the role, responsibilities and processes of the Board of the JAMAICA MORTGAGE BANK, based on sound Corporate Governance Principles and Guidelines.

Governance Principles and Guidelines

The Board of Directors (Board) derives its authority from and is subject to the provisions of the JAMAICA MORTGAGE BANK ACT of (1973 and 2003) the Public Bodies Management & Accountability Act of 2011 and the Government of Jamaica's Corporate Governance Framework for Public Bodies (September 2011) and International Best practices. The Board is responsible for the policy and the general administration of the affairs of the Jamaica Mortgage Bank (Bank). This Corporate Governance Policy describes the principles and practices that the Board will adhere to in carrying out its responsibilities and is adopted in accordance with the Bank's rules and regulations. The Board will periodically review and reassess the adequacy of these policies.

Jamaica Mortgage Bank Governance Framework



Board Selection, & Composition

1. Section 3(2) of the Jamaica Mortgage Bank Act (JMBA) outlines the directives for appointing the Board of Directors, the Chairman and his/her Deputy (a copy of the JMBA is attached) .The JMBA specifies that:
 - 1.1. The Board shall consist of not less than five nor more than seven directors appointed by instrument in writing by the Minister with portfolio responsibility of the Bank.
 - 1.2. Board of Directors are appointed in writing based on the Minister's evaluation of the prospective Director's ability in matters relating to housing, industry, commerce, finance, economics, engineering, accountancy, or law.
 - 1.3. The Chairman and the Deputy Chairman of the Board shall be appointed by the Minister.
 - 1.4. A Director can be appointed to temporarily replace any Director of the Bank in the case of the absence or inability of the Director to act as such.
 - 1.5. The terms of the Directors shall be subject to the provision of the schedule outlined in the ACT being a period of 3 years but no more than 5 years and should be specified in the instrument appointing him. A Director is eligible for reappointment upon the expiration of his period of Office.
 - 1.6. No person who is a member of the House of Representatives or the Senate shall be appointed a director of the Bank.

Board Role and Responsibilities

The role of the Board is to provide leadership and strategic guidance for the JMB in addition to overseeing management's implementation of JMB's strategic initiatives. The Board is accountable to the stakeholders and shareholders for the performance of the JMB's business. In performing its role, the Board aspires to excellence in governance standards and to comply with the various laws and guidelines governing its operations.

Under the Public Bodies Management and Accountability Act (PBMA) section 6:

1. The Board shall take steps as are necessary for the efficient and effective management of the public body to ensure the accountability of all persons who manage the resources of the public body;
2. Develop adequate information control, evaluation and reporting systems within the body;
3. Develop specific and measurable objectives and performance targets for that body; and
4. Advise the responsible Minister on matter of general policy relating to the management of the body.

In addition, the PBMA section (7) requires public bodies to deliver a Corporate Plan and Budget to the responsible Minister and the Ministry of Finance and Public Service, not later than three months before the end of the financial year of the public body, and section (8) mandates the creation of an Audit Committee with clearly defined roles.

This Policy outlines that:

The Board's primary responsibility is to guide and monitor the business affairs of the Bank to ensure effective and efficient management by working as a team and meeting on a regular basis.

Specific responsibilities-

The Board's responsibilities include but are not limited to:

- i. Realizing the mission, maintaining the values, and conveying the vision through its guidance.
- ii. Strategy, Business Plan & Budget-planning the strategic approach and direction of the Bank, including creating, monitoring and reviewing strategic, financial and operational plans.
- iii. Reviewing and approving the annual budget, major program plans and organization policies.
- iv. Appointing the General Manager and delegating power to act within authorised discretionary levels.

- v. Management Performance-The Board shall establish targets for and evaluate the General Manager's performance at least twice per annum.
- vi. The Board and Committee Performance – The Board and each committee shall establish and manage the process of evaluating the effectiveness of the Board and its Committees annually and its Directors annually.
- vii. Evaluating the organizational effectiveness.
- viii. Representing the organization.
- ix. Delegating responsibility to standing or ad-hoc Committee, where necessary.
- x. The Board may seek legal or other expert advice from an independent source and may engage professionals for this purpose. As far as possible, this should be done with the knowledge and agreement of the General Manager.

Conduct of Meetings

Under Section 3(2) of the JMBA:

1. The Board shall meet at such times, as may be necessary, or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Board shall determine.
2. Subject to the provisions of the schedule of the Act the Board may regulate their own proceedings.
3. In the case of the absence or inability of the Chairman to assume his role, the deputy Chairman shall exercise the functions of the Chairman.
4. If both the Chairman and deputy are unable to attend meetings, the remaining directors shall elect one of their members to act.
5. The Chairman may at any time call a special meeting of the Board and shall call a special meeting to be held within five to seven days of a written request for that purpose addressed to him by any two directors of the Bank.
6. The quorum of the Board shall be three including the Chairman or the deputy or the person elected act as the Chairman.

7. The validity of any proceedings of the Board shall not be affected by any vacancy amongst the Directors of the Bank or by any defect in the appointment of a Director.

Under Section 18 of the PBMA:

8. A director who was absent from a board meeting at which a resolution was passed or any other action was taken shall be deemed to have consented thereto unless, within seven days after becoming aware of that resolution or action, as the case may be, the Director-

- 1.1 causes written notice of his dissent to be appended to the minutes of the meeting; or

- 1.2 delivers such notice to the registered office of the body or sends such notice by registered mail addressed to that office.

This Policy outlines that:

1. The Board shall normally meet on a monthly basis.
2. Executive sessions with only Board members shall be held in conjunction with regular Board meetings and shall be chaired by the Chairman or appointed Chair.
3. Every Director is entitled to receive notice of meetings.
4. The Chairman shall guide the meetings and set the agenda. Any director may suggest agenda items.
5. Materials addressing significant matters to be reviewed by the Board or committee shall be sent in advance of meetings whenever practicable.
6. Directors shall attend Board and committee meetings and review relevant preparatory material prior to meetings.
7. Non-Directors including management may be invited by the Chairman to meetings.
8. Information and deliberation in Board and Committee meetings shall not be disclosed to third parties unless otherwise approved by the Board.
9. The Board shall document in writing matters discussed in every meeting and a record of these minutes be maintained.

10. The decisions of the Board shall be a majority vote and in addition to the original vote, the Chairman or the person presiding at the meeting shall have a casting vote in any case in which the voting is equal.

Director's Conduct

Under Part III (17) of the PBMA

1. Every director and officer of a public body shall in the exercise of his powers and the performance of his duties:
 - a. Act honestly and in good faith in the best interest of the public body; and
 - b. Exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances including, but not limited to the general knowledge, skill and experience of the director or officer.

Under the JMBA section 4(4)

2. A director who is directly or indirectly interested in a contract made or proposed to be made by the Bank
 - a. Shall disclose the nature of his interest; and
 - b. Shall not take part in any deliberation or decision of the Bank with respect to that contract.

Under the JMBA section 3(2)

3. Any director of the Bank 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 director shall cease to be a director of the Bank.

4. 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.
5. The Minister may at any time revoke the appointment of any director if he considers it expedient so to do and shall revoke the appointment of any director if a unanimous vote to that effect is passed by resolution of other directors.

This Policy outlines that:

1. Directors are expected to actively participate in meetings and decision making.
2. Directors are expected to avoid any action, position or interest that conflicts with an interest of the JMB or gives the appearance of a conflict.
3. Be well informed about what the Bank does and the environment in which it operates.
4. Promote the organization's purpose and programs.
5. Give adequate time to the organization and disclose other Board commitments.
6. New Directors must participate in an orientation process that includes reviewing background documents and materials pertaining to the business and operations, visits to the Bank and meeting key personnel.
7. The Chairman of the Board of Directors is expected to:

Harness the collective skills of the Board and the Executive Team to achieve objectives and maintain the confidence of stakeholders.

Guide the Board and set the Agenda.

Ensure that the Board receives accurate, timely, relevant and clear information.

Ensure effective communication with stakeholders.

Manage the Board to ensure adequate time is allowed for discussions of complex and contentious issues.

Take the lead in ensuring properly constructed induction programme for all directors.

Take the lead in identifying and meeting development needs of Directors.

Ensure that the performance, review and evaluation of the Board, Board Committees, Directors and General Manager are conducted annually.

- ix. Be available.
 - x. Be the ultimate decision maker.
 - xi. Be an effective Chairman, listen to alternative views and allow the Board as a whole to make decisions.
8. The Company Secretary of the Board is responsible for:
- i. The Co-ordination of all Board Business including agendas, board papers, minutes, communication between the Board Members and all stakeholders including the JMB's Management team.

Ethical Standards

1. Board Members are expected to observe the highest standard of ethical behaviour.
2. The Board supports and encourages policies within the JMB which require Directors and employees to observe high standards of personal integrity and display honesty in their dealings.

Board Relationship with Senior Management & General Manager

This Policy outlines that:

1. Management is accountable to the Board and should supply the Board with complete information to do its work.
2. Directors shall have full access to any member of management for the purpose of understanding issues facing the company.

3. Directors who contact subordinate levels of management should inform the General Manager of such contact.
4. The Board shall develop a succession plan for the senior management of the Bank. On a regular basis Board members should be updated on the development of senior management. The members of the Board on an annual basis should discuss the plans for succession of the General Manager upon retirement or in the event that he/she is unable to serve.
5. The General Manager is expected to:
 - Provide leadership and be the day-to- day face of the organization
 - Recommends strategic direction and changes, as required
 - Develop operational plans and budgets for approval by the Board
 - Remain accountable to the Board for all activities and performance of the organization
 - Monitor the activities of the company by:
 - Ensuring targets are met
 - Safeguarding the assets of the organization

Board Relationship with Minister

This Policy outlines that:

The relationship between the Board and the relevant Minister should be underpinned by the following principles:

1. The Chairman should guide the Minister in appointing knowledgeable, reliable and competent individuals who can add value to the Board.
2. The Board should:

- i. Maintain on going communication with the Minister
- ii. Ensure that an annual corporate plan is submitted to and approved by the responsible Minister
- iii. Advise the Minister on matters of general policy relating to the management of the entity
- iv. Submit to the responsible Minister annual financial statements and report detailing items as noted in the PBMA Act

Board Committees

The Board has established Committees to assist the Board in exercising its authority and carrying out its responsibilities.

Under the PBMA 8 and 9 the Act speaks specifically to the establishment of an audit committee of the Board:

1. Every public body that has four or more directors shall establish an audit committee consisting of not less than three directors
2. The majority of members of an audit committee shall not be officers or employees of the public body
3. The audit committee of a public body shall
 - i) advise the board on:
 - (1) practices and procedures which will promote productivity and the quality and volume of service;
 - (2) the extent to which the objects of the public body are being achieved; and
 - (3) the adequacy, efficiency and effectiveness of the accounting and internal control structure and systems of the public body
 - ii) review and advise the board on the annual auditor 's report;

- iii) in the case of a public body undergoing a special audit or examination, review and advise the board with respect to the report of that audit or examination; and
 - iv) perform such other functions as are assigned to it by the board
4. The audit committee shall keep detailed records of its meetings and such records shall be made available to the external auditor and any examiner of a public body during any external audit or examination.

This Policy outlines that:

1. The current standing Committees of the JMB Board are:
 - i. Audit, Finance and Risk Management
 - ii. Projects and Loans
 - iii. Human Resources
 - iv. Corporate Governance
2. Each committee shall operate according to a written Terms of Reference, which will be reviewed annually by the various committees to conform to these principles. Any changes to the Terms of Reference must be approved by the Board.
3. Each committee will determine the schedule for its meetings with consultation with management.
4. The Chairman of each committee in consultation with appropriate management staff will develop an agenda for each meeting.
5. Each committee Chairman or appointed Chair shall report on the committees' deliberations to the Board of Directors by providing a meeting Report to the Board. Each Committee shall have an opportunity to present relevant matters arising from its findings or in carrying out its functions.
6. The Board may create additional committees as it sees fit and the Board or Committees may create subcommittees as they deem appropriate.
7. Each committee shall evaluate its effectiveness and size annually.

Appendix A. Jamaica Mortgage Bank Act

JAMAICA MORTGAGE BANK

1

THE JAMAICA MORTGAGE BANK ACT

ARRANGEMENT OF SECTIONS

1. Short title.
2. Interpretation.
3. Establishment of the Jamaica Mortgage Bank.
4. Duty of the Bank.
5. Powers of the Bank.
6. Divisions of the Bank.
7. Capital of the Bank.
8. Ministerial directions.
9. Borrowing powers.
10. Guarantee by Minister of borrowings.
11. Repayment of and interest on advances and sums issued to meet guarantee.
12. Securities.
13. Reserve fund.
14. Accounts and audit.
15. Annual report.
16. General manager, secretary and other staff.
17. Power to delegate.
18. Enforcement of securities.
19. Power to appoint a receiver, etc.
20. Power of Bank to act as agent for the Government.
21. Power to make regulations.
22. Transitional.
23. Transfer of employees of Jamaica Mortgage Bank Limited.
24. *[Deleted by Act 28 of 2003, S. 2.]*
25. Functions under Mortgage Insurance Act to be carried out by the Bank.

SCHEDULE

[The inclusion of this page is authorized by L.N. 87/2004]

THE JAMAICA MORTGAGE BANK ACT

Acts
16 of 1973,
28 of 2003
S. 2.

[15th June, 1973.]

1. This Act may be cited as the Jamaica Mortgage Bank Act. Short title.

2. In this Act—

Interpre-
tation.

“the Bank” means the Jamaica Mortgage Bank established in accordance with this Act;

“the Board” means the Board of Directors of the Bank constituted in accordance with this Act;

“the chairman” means the chairman of the Board;

“debenture” includes debenture stock;

“director” means a director of the Bank;

“financial year” means the period of twelve months beginning on the first day of January in any year:

Provided that the period beginning on the fifteenth day of June, 1973, and ending on the thirty-first day of December next following shall be deemed to be a financial year;

“functions” includes powers and duties;

“secretary” means the secretary of the Bank;

“share” includes stock;

“shareholder” means a shareholder of the Bank.

3.—(1) There shall be established a body to be called the Jamaica Mortgage Bank, which shall be a body corporate to which the provisions of section 28 of the Interpretation Act, shall apply. Establish-
ment of the
Jamaica
Mortgage
Bank.

- Schedule.** (2) The provisions of the Schedule shall have effect with respect to the constitution and operation of the Bank and otherwise in relation thereto.
- Duty of the Bank.** 4.—(1) Subject to the provisions of this Act, it shall be the duty of the Bank—
- (a) to foster the development of housing;
 - (b) directly or indirectly to assist societies registered under the Co-operative Societies Act to develop co-operative housing; and
 - (c) to develop an active mortgage market.
- (2) The Bank shall in the performance of its duty—
- (a) have regard to the financial standing of every applicant and to the financial and economic merits of every scheme proposed;
 - (b) take all such measures as may be necessary to ensure that any investment made, or financial assistance rendered, by the Bank is utilized for the purpose for which it is made or rendered.
- (3) The Bank shall not make an investment in or otherwise transact business with an enterprise in which a director of the Bank is a partner, director or shareholder or is in any other way directly or indirectly interested, unless the transaction is unanimously approved by the other directors of the Bank.
- (4) A director who is directly or indirectly interested in a contract made or proposed to be made by the Bank—
- (a) shall disclose the nature of his interest; and
 - (b) shall not take part in any deliberation or decision of the Bank with respect to that contract.
- Powers of the Bank.** 5.—(1) Subject to the provisions of this Act, the Bank may, for the purpose of performing any of its functions under this Act, do anything and enter into any transaction

which, in the opinion of the Bank, is necessary to ensure the proper performance of its functions.

(2) In particular and without prejudice to the generality of the provisions of subsection (1) the Bank may—

- (a) guarantee loans made from private investment sources for building development;
- (b) sell investments of whatever kind belonging to the Bank as and when appropriate;
- (c) lend money on security to be used for the construction of premises for private residential purposes or of a commercial or industrial nature;
- (d) lend money on mortgage and carry out any other transactions involving mortgages;
- (e) furnish financial advice and provide or assist in obtaining managerial, technical and administrative services for persons engaged in building development in Jamaica.

6. Transactions relating to the following divisions of the Bank, namely—

Divisions of the Bank.

- (a) the granting of mortgages by the Bank;
- (b) the buying and selling of mortgages;
- (c) mortgage insurance; and
- (d) such other divisions as the Minister may require, shall be distinguished so far as possible and shall be recorded and dealt with separately in the annual accounts and reports of the Bank.

7.—(1) Subject to the provisions of this section, the authorized capital of the Bank shall be twenty million dollars divided into twenty million shares of the par value of one dollar each.

Capital of the Bank.

(2) The Government of Jamaica may subscribe for the said twenty million dollar shares or such other amount as the Minister may from time to time determine at par:

Provided that any person may, subject to regulations made pursuant to section 21, subscribe for and hold shares in the Bank.

(3) The Bank may, from time to time, with the approval of the Minister, vary the amount of the authorized capital of the Bank.

Ministerial
directions.

8.—(1) Subject to the provisions of this section, the Minister may, after consultation with the chairman, give the Board such directions of a general character as to the policy to be followed by the Bank in the exercise and performance of its functions as appear to the Minister to be necessary in the public interest, and the Board shall give effect to any such directions.

(2) The Bank shall furnish the Minister with such returns, accounts and other information, as he may require with respect to the property and activities of the Bank, and shall afford to him facilities for verifying such information in such manner and at such times as he may reasonably require.

(3) The power of the Minister to give directions to the Board shall include power to give directions, whether of a general character or otherwise, as to the exercise by the Bank of its borrowing powers.

Borrowing
powers.

9.—(1) Subject to the provisions of this Act, the Bank may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(2) The aggregate of the liabilities of the Bank outstanding at any one time, including direct liabilities such as bonds and debentures issued by the Bank and the contingent liabilities of the Bank in the form of guarantees given, shall not at any time without the prior approval of the Minister exceed seven times the aggregate amount of the paid-up capital and the reserve fund for which provision is made in section 13.

10.—(1) With the approval of the House of Representatives the Minister may guarantee, in such manner and on such conditions as he thinks fit, the repayment of the principal and the payment of interest on any authorized borrowings of the Bank.

Guarantee
by Minister
of borrow-
ings.

(2) Where the Minister is satisfied that there has been default in the repayment of any principal moneys or the payment of interest guaranteed under the provisions of this section he shall direct the payment out of the Consolidated Fund of the amount in respect of which there has been such default and such payment shall be a charge on the Consolidated Fund.

(3) Where any loan is guaranteed under the provisions of this section the Minister may, by order published in the *Gazette*, provide that any tax, duty or fee payable under the Income Tax Act, or the Stamp Duty Act or the Registration of Titles Act or any other enactment shall be remitted where such remission is, in the opinion of the Minister, necessary to give effect to any term upon which, or any condition subject to which, such loan was so guaranteed.

11. The Bank shall make to the Accountant-General at such times and in such manner as the Minister or other person designated by the Minister may direct payments of such amounts as may be so directed in or towards repayment of advances made to the Bank by Government and of any sums issued in fulfilment of any guarantee given under section 10, and payments of interest on what is outstanding for the time being in respect of such advances and of any sums so issued at such rate as the Minister may direct and different rates of interest may be directed as respects different advances and sums and as respects interest for different periods.

Repayment
of and
interest on
advances
and sums
issued to
meet
guarantee.

Securities.

12. The Bank—

- (a) may issue debentures or bonds for the purpose of exercising its borrowing powers under section 9;
- (b) shall establish a sinking fund for the redemption of debentures so created;
- (c) may postpone sinking fund contributions for such period or periods of time and subject to such conditions as may be approved by the Minister;
- (d) may make provision (whether or not by way of the setting up of a fund for the purpose) for meeting foreign exchange losses.

Reserve fund.

13. The Bank shall set aside in each calendar year out of the net profits (if any) of the Bank a minimum of twenty-five *per centum* of such profits towards a reserve fund to meet contingencies and for such other purposes as the Bank may think fit until the total amount standing to the credit of such reserve fund shall amount to a sum equal to its paid-up capital.

Accounts and audit.

14.—(1) The Bank shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which shall conform with established accounting principles.

(2) The accounts and records shall be kept in such a manner as to secure the provision of separate information as respects each of the main divisions of the Bank, and to show as far as may be, the financial and operating results of each such division.

(3) The accounts of the Bank shall be audited by an auditor or auditors appointed annually by the Bank and approved by the Minister.

(4) So soon as the accounts of the Bank have been audited, the Bank shall send the 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 Bank.

(5) The auditors' fees and any expenses of the audit shall be paid by the Bank.

(6) 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 Bank.

15.—(1) The Bank shall, not later than two months after the end of each financial year or such later time as the Minister may permit, cause to be made and transmitted to the Minister a report dealing generally with the activities of the Bank during the preceding financial year, and containing such information relating to the proceedings and policy of the Bank as can be made public without detriment to the interests of the Bank.

Annual
report.

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

(3) Copies of the Bank's report together with the annual statement of accounts and the auditors' report on that statement or on the accounts of the Bank shall be published in such manner as the Minister may direct and shall be made available to the public by the Bank at a reasonable price.

16.—(1) The Bank may appoint and employ at such remuneration and on such terms and conditions as it thinks fit a general manager, a secretary and such officers, agents

General
manager,
secretary
and other
staff.

and servants as it deems necessary for the proper carrying out of its functions under this Act:

Provided that—

- (a) no salary exceeding eight thousand dollars per annum shall be assigned to any post without the prior approval of the Minister;
- (b) subject to any regulation made pursuant to section 21, no provision shall be made for the payment of any pension, gratuity or other retiring benefit to any employee of the Bank 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 the Government to any office with the Bank and any public officer so appointed shall, in relation to pension, gratuity or other allowance, and in relation to other rights as a public officer, be treated as continuing in the service of the Government.

Power to delegate.

17.—(1) Subject to the provisions of this Act, the Bank may delegate to any director, employee or agent of the Bank the power to carry out on behalf of the Bank such function as the Bank may determine.

(2) Every delegation under this section shall be revocable by the Bank and no delegation shall prevent the exercise by the Bank of any function delegated.

Enforcement of securities.

18. Where any property mortgaged as security for a loan under the provisions of this Act is acquired by the Bank, the Bank may either manage and hold such property or carry on any business with or in relation to such property or sell or otherwise dispose of it as it may deem fit.

19.—(1) Notwithstanding that a loan granted or guaranteed by the Bank may not have been secured by a mortgage within the meaning of the Conveyancing Act, the Bank may, if a borrower defaults in respect of a loan granted or guaranteed by the Bank, appoint a receiver in respect of the business in connection with which the loan was granted or guaranteed, and a receiver so appointed shall have the same powers *mutatis mutandis* as a receiver appointed pursuant to the power conferred on a mortgagee by paragraph (d) of subsection (1) of section 22 of the Conveyancing Act.

Power to
appoint a
receiver,
etc.

(2) A person appointed by the Bank to be a receiver pursuant either to the power conferred on a mortgagee by paragraph (d) of subsection (1) of section 22 of the Conveyancing Act or to the power conferred on the Bank by subsection (1) of this section shall, if the Bank so appoints, be also the manager of the business in respect of which the loan was granted or guaranteed and the effect of such an appointment shall be the same as if the person so appointed had been appointed by the Court to be the receiver and manager of such business.

(3) No person appointed by the Bank to be a receiver or a receiver and manager shall be deemed to be an officer of the Court.

20. The Bank may act generally as agent for the Government where it can do so appropriately and consistently with its functions under this Act.

Power of
Bank to act
as agent for
the Govern-
ment.

21. The Minister may make regulations—

(a) in relation to the grant of pensions, gratuities and other benefits to employees of the Bank and their dependants, and to the dependants or estate of deceased employees of the Bank;

Power to
make
regulations.

- (b) regulating the acquisition and holding of shares in the Bank by persons and the rights of such persons including, but without prejudice to the generality of the foregoing, such matters as the keeping of registers of shareholders, the procedure for calls, forfeiture and surrender of shares in the event of default of payment, the transfer of shares, the capitalization of surpluses, the declaration and payment of dividends, the holding of meetings, proceedings at such meetings and voting rights, and
- (c) generally for the better carrying out of the objects and purposes of this Act.

Transitional. 22. Upon a day to be appointed by the Minister by order made with the consent of the Jamaica Mortgage Bank Limited (a company incorporated under the Companies Act) all such assets and liabilities of that company as may be specified in the order shall, by virtue of this section and without further assurance, be transferred to and vested in the Bank.

Transfer of employees of Jamaica Mortgage Bank Limited. 23. Every person employed by the said Jamaica Mortgage Bank Limited immediately prior to the 15th day of June, 1973, shall, with effect from that date, be deemed to be transferred to the Bank on the same terms and conditions as those on which he was employed immediately prior to that date.

24. *[Deleted by Act 28 of 2003, S. 2.]*

Functions
under
Mortgage
Insurance Act
to be carried
out by the
Bank.

25. From and after the 15th day of June, 1973, the functions of the Jamaica Development Bank in relation to the Mortgage Insurance Act, shall be carried out by the Bank; and references in that Act to the Development Finance Corporation shall (notwithstanding section 24 of the Jamaica Development Bank Act) be deemed to be references to the Bank.



SCHEDULE (Section 3(2))

Board of Directors.	<p>1.—(1) There shall be a Board of Directors of the Bank which, subject to the provisions of this Act, shall be responsible for the policy and the general administration of the affairs of the Bank.</p> <p>(2) The Board shall consist of not less than five nor more than seven directors appointed by instrument in writing by the Minister from persons appearing to the Minister to have ability and experience in matters relating to housing, industry, commerce, finance, economics, engineering, accountancy or law.</p>
Temporary appointments.	<p>2. The Minister may appoint any person to act temporarily in the place of any director of the Bank in the case of the absence or inability to act of such director.</p>
Chairman.	<p>3.—(1) The Minister shall appoint one of the directors to be the chairman thereof.</p> <p>(2) The Minister shall appoint one of the directors to be the deputy chairman thereof.</p> <p>(3) In the case of the absence or inability to act of the chairman, the deputy chairman shall exercise the functions of the chairman.</p> <p>(4) In the case of the absence or inability to act at any meeting of both the chairman and the deputy chairman the remaining directors shall elect one of their number to act as chairman of that meeting.</p>
Tenure of office.	<p>4. Subject to the provisions of this Schedule, a director of the Bank shall hold office for such period not being less than three years nor more than five years as shall be specified in the instrument appointing him and shall be eligible for reappointment upon the expiration of his period of office.</p>
Resignation.	<p>5.—(1) Any director of the Bank 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 director shall cease to be a director of the Bank.</p> <p>(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.</p>
Removal of director.	<p>6. The Minister may at any time revoke the appointment of any director if he considers it expedient so to do and shall revoke the appointment of any director if a unanimous vote to that effect is passed by resolution of the other directors.</p>
Members of House of Representatives and Senate excluded.	<p>7. No person who is a member of the House of Representatives or the Senate shall be appointed a director of the Bank.</p>

[The inclusion of this page is authorized by L.N. 87/2004]

8. The names of all directors of the Bank as first constituted and every change in the composition thereof shall be published in the *Gazette*. Publication of composition of Bank.
- 9.—(1) The seal of the Bank shall be authenticated by the signatures of the chairman or one director of the Bank authorized to act in that behalf and the secretary. Authentication of seal and documents.
- (2) 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 director authorized to act in that behalf or the secretary.
- 10.—(1) The Board shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Board shall 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 directors of the Bank.
- (3) The chairman or, in the case of the absence or inability to act of the chairman, the deputy chairman or the person elected to act as chairman, in accordance with the provisions of sub-paragraph (4) of paragraph 3 shall preside at the meetings of the Board, and when so presiding the chairman, deputy chairman or the person elected as aforesaid to act as chairman, as the case may be, shall have an original and a casting vote.
- (4) The quorum of the Board shall be three including the chairman or the deputy chairman or the person elected to act as chairman as aforesaid.
- (5) Subject to the provisions of this Schedule the Board may regulate their own proceedings.
- (6) The validity of any proceedings of the Board shall not be affected by any vacancy amongst the directors of the Bank or by any defect in the appointment of a director thereof.
11. There shall be paid to the chairman and other directors of the Bank such remuneration, if any (whether by way of salaries or travelling or other allowances) as the Minister may determine. Remuneration of directors.
12. The funds and resources of the Bank shall consist of such moneys and other property as may lawfully be paid to, or become vested in, the Bank in respect of any matter incidental to its functions. Funds and resources of the Bank.
13. Notwithstanding anything to the contrary no act done or proceeding taken under this Act by the Bank shall be questioned on the ground of any omission, defect or irregularity not affecting the merits of the case. Protection of Bank.

JAMAICA MORTGAGE BANK

Protection
of directors
of Bank.

14.—(1) No director of the Bank shall be personally liable for any act or default of the Bank done or omitted to be done in good faith in the course of the operation of the Bank.

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

Office of
chairman,
deputy
chairman or
director not
public
office.

15. The office of chairman, deputy chairman or director shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

Appendix B. Public Bodies Management and Accountability Act

report and statements to be laid on the Table of the House of Representatives and of the Senate.

Acquisition of shares by public bodies.

4.—(1) No shares shall be acquired by a public body without prior consultation with the Minister.

(2) Subsection (1) shall not apply to a public body the primary business of which involves the acquisition of shares.

(3) Except in such circumstances as may be prescribed, any shares acquired by a public body shall be vested in the Accountant-General in accordance with section 7(2) of the Crown Property (Vesting) Act.

(4) Notwithstanding the provisions of section 24 of the Companies Act (which relate to filing of accounts by private companies) a public body which is a government company shall be obliged to file accounts in accordance with that section.

(5) The Minister may from time to time direct the Accountant-General in writing as to the manner in which the Accountant-General should exercise his powers as a shareholder in any government company.

(6) All dividends payable in respect of shares held by a government company shall be paid in accordance with regulations made under section 24.

Exercise of borrowing powers.

5.—(1) Notwithstanding the provisions of any relevant enactment or any constituent document, a public body shall not exercise any borrowing powers without the prior approval of the Minister.

(2) An application for approval under subsection (1) shall state the reasons for the exercise of borrowing powers and the terms and conditions under which such borrowing will be effected.

6. Every board shall—

Corporate
governance.

- (a) take such steps as are necessary—
- (i) for the efficient and effective management of the public body;
 - (ii) to ensure the accountability of all persons who manage the resources of the public body;
- (b) develop adequate information, control, evaluation and reporting systems within the body;
- (c) develop specific and measurable objectives and performance targets for that body;
- (d) advise the responsible Minister on matters of general policy relating to the management of the body.

7.—(1) Every board shall, not later than the 1st day of January in each year, deliver to the responsible Minister (and a copy thereof to the Minister) a draft corporate plan in accordance with regulations made hereunder.

Corporate
plan.

(2) Every corporate plan shall contain the information specified in the First Schedule.

First
Schedule.

(3) The board shall—

- (a) consider any comments on the draft corporate plan that are made by the responsible Minister (and, where applicable, the Minister); and
- (b) deliver—
- (i) the final corporate plan to the responsible Minister for his approval; and
 - (ii) a copy of the approved plan to the Minister on or before the 31st day of January in any year.

(4) Subject to subsection (5), the board may modify a corporate plan and shall give written notice of such modification to the Minister.

(5) Where a board intends to modify a corporate plan it shall—

- (a) give written notice of that intention to the responsible Minister, stating the nature of the proposed modification;
- (b) take into account any comments made by the responsible Minister in relation thereto.

(6) The responsible Minister shall cause a copy of the corporate plan to be laid on the Table of the House of Representatives and the Senate.

Audit committees.

8.—(1) Subject to subsections (2) and (3), every public body that has four or more directors shall establish an audit committee consisting of not less than three directors.

(2) The board of a public body with three or less than three directors shall constitute the audit committee of that body.

(3) The majority of members of an audit committee shall not be officers or employees of the public body.

(4) The auditor of a public body shall—

- (a) be entitled to be given notice of and attend every meeting of the directors or audit committee, in relation to matters concerning the auditor's functions or on which the auditor has made a report; and
- (b) attend every such meeting when requested to do so by the directors or audit committee.

9.—(1) The audit committee of a public body shall—

Duties of
audit
committees.

- (a) advise the board on—
- (i) practices and procedures which will promote productivity and the quality and volume of service;
 - (ii) the extent to which the objects of the public body are being achieved; and
 - (iii) the adequacy, efficiency and effectiveness of the accounting and internal control structure and systems of the public body;
- (b) review and advise the board on the financial statements that are to be included in the annual report of the public body;
- (c) oversee any internal audit of the public body;
- (d) review and advise the board on the annual auditor's report;
- (e) in the case of a public body undergoing a special audit or examination, review and advise the board with respect to the report of that audit or examination; and
- (f) perform such other functions as are assigned to it by the board.

(2) The audit committee shall keep detailed records of its meetings and such records shall be made available to the external auditor and any examiner of a public body during any external audit or examination.

10.—(1) The Financial Secretary shall, after consultation with public bodies, the Auditor-General, the Institute of Chartered Accountants of Jamaica and such other suitably qualified persons as may be expedient, prepare and keep under review, a code of audit practices prescribing the way in which auditors are to carry out their functions under this Act.

Code of
audit
practices.

(2) The code shall conform with generally accepted auditing standards.

Consultation with Auditor-General.

11. The auditor or examiner of a public body may at any time consult the Auditor-General on any matter relating to his audit or special examination.

Special audit or examination of public body.

12.—(1) Where, in any particular case, the responsible Minister has reasonable cause to believe that a special audit of a public body should be conducted by an auditor other than the public body's auditor, the responsible Minister may appoint an auditor or a firm of auditors for that purpose.

(2) Where an auditor or a firm of auditors is appointed pursuant to subsection (1), the responsible Minister shall require that auditor or firm to carry out and report in writing to the responsible Minister on—

- (a) such examination of the public body's procedures as the responsible Minister may specify in order to determine whether or not those procedures are adequate for securing economy, efficiency and effectiveness in its use of the body's financial, human, physical and other resources;
- (b) such other examination of the public body as, in the responsible Minister's opinion, is necessary in the public interest.

(3) The expenses, as approved by the responsible Minister, of any audit or examination carried out pursuant to subsection (1) shall be paid by the public body concerned.

Appointment of auditors.

13.—(1) The Minister may, by order, prescribe the criteria for appointment of an auditor for a public body.

(2) Where a board does not recommend the renewal of

appointment of an auditor, the board shall give written notice to the Auditor-General and the responsible Minister, stating the reasons therefor.

(3) Where an auditor withdraws his services in relation to a public body, he shall give notice in writing, stating his reasons, to the Auditor-General and the responsible Minister.

(4) A person shall not be eligible for appointment as an auditor of a public body if he—

- (a) is a director, officer or employee of the public body or any of its affiliates or is a business partner of any director, officer or employee of the public body or any of its affiliates;
- (b) beneficially owns or controls, directly or indirectly, a material interest in the shares or debts of the public body or any of its affiliates; or
- (c) has been a receiver, receiver-manager or liquidator of the public body or any of its affiliates within two years of his proposed appointment as auditor of that public body.

(5) An auditor of a public body who becomes disqualified by virtue of subsection (4) shall resign forthwith upon becoming aware of the disqualification.

14.—(1) In auditing the accounts of a public body, an auditor shall ascertain whether in his opinion—

General
duties of
auditors.

- (a) the provisions of this Act, the relevant enactment or any other enactment relating to the administration of money and property of the public body have been complied with;
- (b) the rules and procedures framed and applied are sufficient to secure an effective check on the assessment, collection and proper allocation of the

PUBLIC BODIES MANAGEMENT AND ACCOUNTABILITY

revenue and other receipts of the public body; and

- (c) essential records have been made and proper practices have been observed in the compilation of the accounts.

(2) The auditor shall comply with any code of audit practices for the time being in force in respect of the public body.

(3) The auditor shall report in writing to the board whenever he—

- (a) has reasonable grounds for believing that the public body's circumstances have changed, are changing or are likely to change in such a manner as to—
 - (i) materially and adversely affect the viability of that body; or
 - (ii) otherwise impair its ability to carry out its functions;
- (b) becomes aware of an occurrence or transaction that affects or might reasonably be expected to affect the public body as described in paragraph (a);
- (c) becomes aware that the board or any member thereof or any officer of the public body has contravened a provision of a relevant enactment or this Act or any regulations made hereunder.

(4) The auditor may prepare separate auditor's reports on the public body's financial statements if, in the auditor's opinion, separate reports would be more appropriate.

(5) The auditor shall submit such other reports respecting the public body or any subsidiary thereof as the Auditor-General may require.

Auditor's Right to Information

15. The directors or former directors, officers, employees or agents of a public body shall furnish to the auditor such information and explanation and records, documents, books of accounts and vouchers of the public body or any of its subsidiaries as the auditor may require in order to enable him to prepare any report required by this Act or any relevant enactment.

Auditor's
right to
information.

16.—(1) A director or officer of a public body shall, on becoming aware of any material error or omission in a financial statement to which a report prepared by the auditor relates, forthwith notify the auditor of that error or omission.

Errors and
omissions.

(2) An auditor or former auditor of a public body who is notified pursuant to subsection (1) or becomes aware of any material error or omission in a financial statement to which a report prepared by the auditor or former auditor relates, shall forthwith notify each director of the public body of that error or omission.

(3) Where an auditor or former auditor of a public body notifies the directors of an error or omission in accordance with subsection (2), the auditor or former auditor shall issue a correction to the report and a copy thereof shall be given to the Auditor-General, the responsible Minister and the Minister.

PART III. Duty of Care, Disclosures, etc., of Directors and Officers

17.—(1) Every director and officer of a public body shall, in the exercise of his powers and the performance of his duties—

Duty of
care.

- (a) act honestly and in good faith in the best interests of the public body; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable

PUBLIC BODIES MANAGEMENT AND ACCOUNTABILITY

circumstances including, but not limited to the general knowledge, skill and experience of the director or officer.

(2) A director who is directly or indirectly interested in any matter which is being dealt with by the board—

- (a) shall disclose the nature of his interest at a board meeting;
- (b) shall not take part in any deliberation of the board with respect to that matter.



Dissent of absent director.

18. A director who was absent from a board meeting at which a resolution was passed or any other action was taken, shall be deemed to have consented thereto unless, within seven days after becoming aware of that resolution or action, as the case may be, the director—

- (a) causes written notice of his dissent to be appended to the minutes of the meeting; or
- (b) delivers such notice to the registered office of the body or sends such notice by registered mail addressed to that office.

Reliance on statement.

19. A director or officer shall not be liable for a breach of duty under section 17(1) if he relies in good faith on a report of an attorney-at-law, accountant, engineer, valuer or any other person whose profession gives authority to a statement made by him.

Levels of emoluments.

20. In the exercise of any powers conferred on a board by a relevant enactment or any constituent documents in relation to emoluments payable to the staff of a public body, the board shall act in accordance with such guidelines as are issued from time to time by the Minister responsible for the public service.



PART IV. *General*

21.—(1) A public body shall not form a new company without the prior written approval of the responsible Minister given after consultation with the Minister.

Restriction on formation of new companies.

(2) An application for approval under subsection (1) shall—

- (a) state the reasons for the proposed formation of the new company;
- (b) contain particulars relating to the financing of the operations of the proposed company, the corporate plan and employment of staff.

22.—(1) Without prejudice to the provisions of any relevant enactment or constituent documents in relation to the preparation of annual reports by a public body, such reports shall be prepared in accordance with Part I of the Second Schedule.

Contents of annual reports.

Second Schedule.

(2) A report under subsection (1) shall not contain any information of a commercial value which would be or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

23. Every public body shall prepare and submit to the responsible Minister, half yearly and quarterly reports in accordance with Parts II and III of the Second Schedule.

Other reports by public bodies.

24.—(1) The Minister may make regulations generally for giving effect to the provisions and purposes of this Act.

Regulations.

(2) Regulations made under subsection (1) shall be subject to affirmative resolution.

Enforcement. 25.—(1) If the Court is satisfied on an application by the Attorney-General that any person has contravened any of the provisions of—

- (a) section 4 (acquisition of shares and payment of dividends);
- (b) section 5 (exercise of borrowing powers);
- (c) section 6 (corporate governance);
- (d) section 14 (general duties of auditors);
- (e) section 15 (failure to furnish information to auditor);
- (f) section 20 (levels of emoluments);
- (g) section 21 (restriction on formation of new companies),

the Court may exercise any of the powers referred to in subsection (2).

(2) The Court may—

- (a) order the person concerned to pay to the Crown such pecuniary penalty not exceeding one million dollars; or
- (b) grant an injunction restraining that person from engaging in conduct described in subsection (1).

(3) In exercising its powers under this section the Court shall have regard to—

- (a) the nature and extent of the default;
- (b) the nature and extent of any loss suffered by any person as a result of the default;
- (c) the circumstances of the default;
- (d) any previous determination against the person concerned.

(4) If in the opinion of the Attorney General there is a contravention of section 7, 8 or 9, he may make an application to the Court and the provisions of subsections (1), (2) and (3) shall apply in relation thereto.

26. The Minister may amend the Schedules by order subject to negative resolution. Amendment of Schedules.

27. If any provisions of a relevant enactment are inconsistent with any provisions of this Act in relation to matters provided for in sections 3 to 5, 11, 13 to 15, 20 and 21 to 23, the provisions of this Act shall prevail. Effect of Act on relevant enactments.

FIRST SCHEDULE (Section 7)

Information to be included in Corporate Plan

Each corporate plan shall contain the following information—

1. A statement of the objectives of the public body.
2. The nature and scope of the activities to be undertaken, differentiating between commercial, social and regulatory activities.
3. An operating budget.
4. Capital budgets and their justification.
5. The public body's accounting policies.
6. The performance targets and other measures by which the performance of the body may be judged in relation to its objectives.
7. A statement of the principles adopted in determining the annual dividend or surplus, together with an estimate of the amount or proportion of annual after tax earnings (from both capital and revenue sources) that is intended to be distributed to the government.
8. The kind of information to be submitted to the responsible Minister by the public body during the course of the financial year, including the information to be included in each half-yearly report.

PUBLIC BODIES MANAGEMENT AND ACCOUNTABILITY

9. The procedures to be followed before the public body or any of its affiliates subscribes for, purchases, or otherwise acquires shares in any company or other organization.
10. Any activity for which the board of directors seeks compensation, such as agency fees, from the Government (whether or not the Government has agreed to provide such compensation).
11. Such other information as is agreed by the responsible Minister and the board of directors.
12. An estimate of the current commercial value of the Government's investment in the public body and its affiliates and a statement of the manner in which that value was assessed.

SECOND SCHEDULE (Sections 22 and 23)
PART I. *Contents of Annual Reports*

The following matters shall be included in the annual reports of public bodies—

1. Audited financial statements, including—
 - (a) explanatory notes; and
 - (b) notes to the financial statements, including accounting policies.
2. A statement of the emoluments of every chairman, director, chief executive officer and senior official, for that year.
3. A report of the board of directors which shall include—
 - (a) a review of all operations;
 - (b) a statement on any proposed change in the nature and scope of the activities of the body;
 - (c) any modification or proposed modifications to the corporate plan;
 - (d) a summary of the achievement of the body measured against appropriate performance targets;
 - (e) forecasts and projections of key financial and operating measures for the next twelve months;
 - (f) where applicable, notification of payment of dividends.

PART II. *Half-yearly Reports*

Half-yearly reports shall be submitted within two months of the end of each half of a financial year, and such reports shall contain—

