

Note: *General Amendment to the Housing (Control and Licensing of Developers) Enactment 1978 – the words “Project Account” wherever they appear are substituted with the words “Housing Development Account” [En. 4/05].*

Where, on or after the appointed date, a reference is made in any written law to the “Housing (Control and Licensing of Developers) Enactment 1978”, such reference shall be construed as a reference to the “Housing Development (Control and Licensing) Enactment 1978” [En. 4/05]

HOUSING DEVELOPERS (PROJECT ACCOUNT) RULES 1995

In exercise of the powers conferred by section 26 of the Housing (Control and Licensing of Developers) Enactment 1978 (hereinafter called “the Enactment”), the Minister of Local Government and Housing makes the following rules:

Citation and commencement.

1. These Rules may be cited as the Housing Developers (Project Account) Rules 1995 and shall come into operation on 1st July, 1995.

Interpretation.

2. In these Rules “Project Account” means the Project Account opened and maintained under section 8A of the Enactment.

Submission of certificate certifying opening of Project Account.

3. A licensed housing developer shall, within fourteen (14) days after the issuance of a housing developer’s licence, submit to the Controller a certificate from the bank or finance company with whom the Project Account is opened certifying that such an account has in fact been opened.

Deposit of all monies paid by purchaser.

4. A licensed housing developer shall deposit forthwith into the Project Account all monies whatsoever, whether in respect of instalments of purchase price or otherwise, paid by a purchaser in relation to his purchase of a housing accommodation in a housing development.

Deposit of loans.

5. A licensed housing developer shall deposit into the Project Account any loan obtained for the construction of housing accommodation in a housing development.

Interest obtained.

6. Any interest obtained in respect of matters referred to in rules 4 and 5 shall be deposited into the Project Account.

Purposes for which monies in Project Account may be withdrawn.

7. No monies in a Project Account of a housing development shall be withdrawn by a licensed housing developer except for all or any of the following purposes:

- (a) the payment of all outgoings including quit rent, rates, taxes, assessments and other charges levied in respect of the land on which the housing development is carried out;
- (b) the payment of stamp duty payable on a charge, caveat, debenture, guarantee or memorandum of deposit of title to secure any loan for the construction of housing accommodation in the housing development;
- (c) the payment of legal fees in respect of –
 - (i) the sale and purchase agreement of the housing accommodation;
 - (ii) a charge, caveat, debenture, guarantee or memorandum of deposit of title to secure any loan for the construction of the housing accommodation;and

- (iii) any other matters relating to the housing development;
- (d) the payment of –
- (i) insurance premiums; and
 - (ii) architect's fees, engineer's fees, quantity surveyor's fees and consultant's fees,
- for the housing development;
- (e) the costs of carrying out –
- (i) soil investigations;
 - (ii) earthworks;
 - (iii) foundation works;
 - (iv) building works;
 - (v) external works;
 - (vi) site and boundary survey for each lot;
 - (vii) infrastructure works;
 - (viii) relocation of squatters; and
 - (ix) other works,
- relating to the housing development;
- (f) the payment of monies for the contribution towards the supply of water and electricity to the housing development and any other fees payable thereof to the relevant authority responsible for the supply of water and electricity in respect of the housing development;

- (g) the payment of any lawful charges to any Government department or other bodies in respect of the housing development;
- (h) any refund of the progress payment pursuant to the sale and purchase agreement of a housing accommodation in the housing development;
- (i) the payment of interest and such charges to the banks or finance companies on any loan taken for the housing development;
- (j) the payment of any capital sum to redeem, in full or in part, the loan for the purchase of land for the housing development in proportion to the housing accommodations that have been sold;
- (k) the payment of cost of land where no loan is taken for the purchase of land for the housing development, to be made as follows:
 - (i) an amount equal to ten per centum (10%) of the purchase price pursuant to the sale and purchase agreement in respect of a housing accommodation in the housing development where up to fifty-five per centum (55%) of the purchase price has been paid; and
 - (ii) a further amount equal to the amount referred to in subparagraph (i) where up to sixty-five per centum (65%) of the purchase price has been paid:

Provided that payment of such amounts shall be in proportion to the housing accommodations that have been sold;
- (l) the payment of any capital sum to redeem, in full or in part, the loan for the construction of housing accommodation in the housing development;
- (m) any administrative expenses (including marketing and advertising expenses) incurred on the housing development, subject to a maximum of twenty per centum (20%) of the total cost of construction of the housing development as evaluated by the quantity surveyor and certified by the architect or engineer in charge of the housing development;

- (n) the payment for tax imposed on the licensed housing developer in respect of that housing development by the Inland Revenue Department; and
- (o) any other expenses reasonably incurred in relation to the housing development but such amount shall only be released by the bank or finance company with whom the Project Account is maintained upon receipt of the prior approval in writing of the Controller.

Conditions for withdrawal of monies from Project Account.

8. (1) No monies from the Project Account of a housing development shall be withdrawn by a licensed housing developer except where the withdrawal of such money is supported by an evaluation by the quantity surveyor and a certificate from the architect or engineer in charge of the housing development stating that payment is due to be made for that purpose or where such request is supported by documents duly certified by the director, proprietor, partner or office-bearer, as the case may be, of the licensed housing developer's company requesting the payment.

(2) The withdrawal of money from the Project Account of a housing development by a licensed housing developer shall be made in the following manner:

- (a) in respect of purposes rule 7 (a), (b) and (m), by cheque drawn in favour of the licensed housing developer; and
- (b) in respect of all other purposes in rule 7, by a cheque drawn in favour of the respective recipient.

Withdrawal of surplus monies from Project Account.

9. After the submission of the application for a Certificate of Fitness for Occupation by the licensed housing developer and upon the handing over of vacant possession with the connection of water and electricity supply to all the housing accommodations that have been sold in the housing development, the licensed housing developer may withdraw any surplus monies in the Project Account after deducting –

- (a) the amount required to complete the housing development and the sale and purchase under all the sale and purchase agreements in respect of the housing

development as evaluated by the quantity surveyor and certified by the architect or engineer in charge of the housing development; and

- (b) ten per centum (10%) of the amount referred to in paragraph (a) for contingencies and inflation.

Withdrawal on furnishing of banker's guarantee.

10. Notwithstanding rules 7, 8 and 9, monies in the Project Account may be withdrawn after the licensed housing developer has furnished to the Controller a banker's guarantee for such account.

Withdrawal of all monies in Project Account.

11. A licensed housing developer may withdraw all monies remaining in the Project Account when –

- (a) the housing development has been completed; and
- (b) the solicitor for the licensed housing developer has certified that the obligations of the licensed housing developer in respect of transfer of title under all the sale and purchase agreements in that housing development have been fulfilled.

Audit.

12. Every auditor of a licensed housing developer shall, in his report to the Controller under section 9 (2) of the Enactment as to the annual balance sheet and profit and loss accounts of the licensed housing developer for whom the auditor is appointed, state whether or not, in his opinion, the monies in the project Account have been withdrawn in accordance with these Rules.

Dated this 29th day of June, 1995.

DATUK YONG TECK LEE,
Minister of Local Government & Housing.