

HOUSING ACT.

Act No. 65, 1941.

George VI.
No. 65, 1941.

An Act to provide for the constitution of a Commission to be styled "The Housing Commission of New South Wales" and to define its powers, authorities, duties and functions; to provide for the exercise and discharge by such Commission of the powers, authorities, duties, functions and obligations of the corporation sole constituted under the Housing Act, 1912, as amended by subsequent Acts; to provide for the alteration of the membership of and the reconstitution of the body corporate constituted under the Housing of the Unemployed Act, 1934-1937; to provide for the alteration of the membership of and the reconstitution of the body corporate constituted under the Housing Improvement Act, 1936-1937; to change the
the

the names of those bodies corporate to The Housing Commission of New South Wales; to amend the Housing Act, 1912, the Housing of the Unemployed Act, 1934-1937, the Housing Improvement Act, 1936-1937, the Local Government Act, 1919, the Sydney Corporation Act, 1932-1941, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 25th November, 1941.]

No. 65, 1941.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Housing Act, 1941." Short title.
2. (1) This Act, with the exception of Part III, shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commence-
ment.
(2) Part III of this Act shall commence on the day appointed pursuant to section seven of this Act.
3. This Act is divided into Parts, as follows:— Division
into Parts.
 - PART I.—PRELIMINARY.
 - PART II.—CONSTITUTION OF THE HOUSING COMMISSION OF NEW SOUTH WALES.
 - PART III.—REPLACEMENT OF CERTAIN AUTHORITIES.
 - DIVISION 1.—*Preliminary.*
 - DIVISION 2.—*Reconstitution of the corporation constituted under section three of the Housing Act, 1912.*
 - DIVISION 3.—*Reconstitution of the body corporate constituted under the Housing of the Unemployed Act, 1934-1937.*
 - DIVISION 4.—*Reconstitution of the body corporate constituted under the Housing Improvement Act, 1936-1937.*

DIVISION

Housing Act.

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DIVISION 5.—*Amendment of the Government Savings Bank Act, 1906, as amended by subsequent Acts.*

DIVISION 6.—*Building Relief and Soldiers' Families Homes.*

PART IV.—GENERAL POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE COMMISSION.

DIVISION 1.—*Investigations.*

DIVISION 2.—*Particular powers.*

DIVISION 3.—*Borrowing powers.*

PART V.—FINANCE.

PART VI.—GENERAL.

Interpretation.

4. In this Act, unless the context or subject-matter otherwise indicates or requires—

“Chairman” means Chairman of the Commission.

“Commission” means The Housing Commission of New South Wales.

“Commissioner” means a Commissioner appointed under this Act.

“Regulations” means regulations made under this Act.

PART II.

CONSTITUTION OF THE HOUSING COMMISSION OF NEW SOUTH WALES.

Constitution of Commission.

5. (1) (a) There shall be constituted a Housing Commission of New South Wales which shall consist of five commissioners appointed by the Governor by commission under the seal of the State.

Chairman.

(b) One of such commissioners shall in and by his commission be the chairman of the Commission and another of such commissioners shall in and by his commission be the deputy chairman of the Commission.

Term of office.

(2) (a) Subject to this Act—

(i) the term of office of a commissioner shall be five years;

(ii) a commissioner shall be eligible from time to time for reappointment upon the expiration of his term of office.

(b)

(b) A person who is of or above the age of **No. 65, 1941.** sixty-five years shall not be appointed a commissioner.

(3) (a) The chairman shall devote the whole of his time to the duties of his office and shall receive such annual salary as the Governor may determine. Duties of chairman.

(b) Each commissioner, other than the chairman, shall be entitled to receive as remuneration for his services such fee as may from time to time be fixed by the Governor for each meeting of the Commission at which the commissioner attends.

The Governor may determine the maximum amount which may be paid to each commissioner by way of fees under this subsection in any one year.

A commissioner who is an officer of the Public Service shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled to receive remuneration under this section in addition to any remuneration to which he is entitled as an officer of the Public Service.

(c) Each commissioner shall be entitled to receive travelling expenses at such rate as the Governor may from time to time determine. Travel-ling expenses.

(d) The office of a commissioner, other than the chairman, shall not for the purposes of the Constitution Act, 1902, be deemed to be an office or place of profit under the Crown.

(4) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of any commissioner, and a commissioner shall not, in his capacity as a commissioner, be subject to the provisions of any such Act during his term of office.

(5) (a) Each commissioner before entering upon the duties of his office, shall make and subscribe before the Executive Council an oath of allegiance to His Majesty, and shall make and subscribe the following declaration of office:— Oath of allegiance, and declaration of office.

I, _____, having been appointed a commissioner of The Housing Commission of New South Wales, do hereby declare that I will truly and faithfully fulfil the duties of that office according to the best of my judgment and ability.

(b).

No. 65, 1941.

(b) If a person, after having been afforded an opportunity of making and subscribing the oath and declaration, neglects to do so for a period of one month after the date of his appointment, he shall be deemed to have declined to accept office.

(c) Where the Governor is satisfied that the delay in making and subscribing the oath and declaration is unavoidable he may extend the time for making and subscribing the oath and declaration for any period not exceeding six months.

Vacation
of office.

(6) (a) A commissioner shall be deemed to have vacated his office—

- (i) if, being the chairman, he engages in New South Wales during his term of office in any paid employment outside the duties of his office, except with the approval of the Governor;
- (ii) if he becomes bankrupt, compounds with his creditors, or makes an assignment of his salary, fees, or estate for their benefit;
- (iii) if, being the chairman, he absents himself from duty for a period of fourteen consecutive days, except on leave granted by the Governor;
- (iv) if he is absent from four consecutive ordinary meetings of the Commission without leave obtained from the Commission in that behalf;
- (v) if he becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898;
- (vi) if he resigns his office by writing under his hand addressed to the Governor;
- (vii) if he is removed from office by the Governor.

(b) A commissioner shall be deemed to have vacated his office on the day upon which he attains the age of sixty-five years.

(7) The Governor may, for any cause which appears to him sufficient, remove a commissioner from office.

(8) Any commissioner who—

- (a) is in any wise concerned or interested in any bargain or contract made by or on behalf of the Commission; or

(b)

(b) in any wise participates or claims to be entitled to participate in the profit thereof or in any benefit or emolument arising from the same, shall thereby vacate his office as a commissioner and shall be liable also upon summary conviction to a penalty not exceeding fifty pounds:

Provided that no commissioner shall be liable to vacate his office or be liable to any penalty as aforesaid by reason only of—

- (i) receiving or being entitled to receive any payment or expenses pursuant to this Act;
- (ii) being beneficially interested in any newspaper in which the Commission inserts advertisements;
- (iii) being a shareholder or member (but not a director or manager) of any incorporated company of more than twenty persons which has entered into any contract with or done any work under the authority of the Commission.

(9) On the occurrence of a vacancy in the office of commissioner a person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

Vacancy in office of commissioner.

(10) A person who at the date of his appointment as chairman is an officer of the Public Service, and who ceases to be chairman from any cause whatsoever, otherwise than in pursuance of subsections six, seven and eight of this section (subparagraph (vi) of paragraph (a) of subsection six excepted), shall be eligible for and shall be appointed to some office in the Public Service not lower in classification and salary than that which he held at the date of his appointment as chairman.

Officer of Public Service appointed chairman.

(11) (a) Notwithstanding anything contained in any Act, nothing contained in this Act shall affect the rights accrued and accruing under the Public Service Act, 1902, or under the Superannuation Acts, 1916-1940, or any Act amending such Acts, to any person appointed chairman of the Commission, who is at the time of his appointment or has been at any time previously thereto an officer of the Public Service or an employee within the meaning of the Superannuation Acts, 1916-1940, or any amendment thereof.

(b)

No. 65, 1941.

(b) Any officer of the Public Service or person who is an employee within the meaning of the Superannuation Acts, 1916-1940, or any amendment thereof, appointed chairman of the Commission shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Acts, 1916-1940, as the case may be, and for such purpose his service as chairman shall be deemed to be service for the purpose of such Acts.

Body
corporate.

(12) (a) The Commission shall be a body corporate, with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, granting, demising and disposing of or otherwise dealing with real and personal property, and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

Corporate
name.

(b) The corporate name of the Commission shall be "The Housing Commission of New South Wales".

Common
seal.

(c) The common seal shall be kept in the custody of the chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Commission.

Any instrument executed in pursuance of any such resolution shall be attested by the signature of any two commissioners.

(13) (a) In the case of the absence from duty of the chairman the deputy chairman shall act in his place, and whilst so acting shall have the immunities and may exercise all the powers and authorities of the chairman.

(b) The deputy chairman whilst so acting may, if the Governor thinks fit, be paid such remuneration for his services as the Governor may determine.

(c) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the deputy chairman to act in the place of the chairman; and all acts or things done or omitted by the deputy chairman while so acting shall be as valid and effectual and shall have the same consequences as if the same had been done or omitted by the chairman.

(14)

(14) (a) The procedure for the calling of meetings of the Commission and for the conduct of business at such meetings shall, subject to this Act and any regulations in relation thereto, be as determined by the Commission.

No. 65, 1941
Procedure.

(b) The chairman or in his absence the deputy chairman shall preside at all meetings of the Commission at which he is present, and in addition to a deliberative vote shall, if the voting be equal, have a second or casting vote.

Chairman to
preside at
meetings.

(c) Three commissioners, one of whom shall be the chairman, or, in his absence, the deputy chairman, shall form a quorum, and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Commission, and shall have and may exercise and discharge all the powers, authorities, duties, functions and obligations of the Commission.

Quorum.

(d) The Commission shall cause minutes of its decisions to be kept upon the official papers and cause minutes to be kept of its proceedings at formal meetings.

(15) (a) No matter or thing done, and no contract entered into by the Commission, and no matter or thing done by any commissioner or by any other person whomsoever acting under the direction of the Commission shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(b) Nothing in this subsection shall exempt any commissioner from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Commission, and which such commissioner authorised or joined in authorising.

(16) No act or proceeding of the Commission shall be invalidated or prejudiced by reason only of the fact that at the time when such acts or proceeding was done, taken or commenced, there was a vacancy in the office of any one commissioner.

Validity of
acts and
proceedings.

6. (1) The Governor may, under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint and employ such officers and employees as may be necessary to enable the Commission

Officers and
employees.
cf. Act No.
59, 1936,
s. 8.

to

No. 65, 1941. to exercise and discharge the powers, authorities, duties and functions conferred and imposed on the Commission by or under this or any other Act.

(2) The officers and employees so appointed shall be subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, during their tenure of office.

(3) The Commission may appoint, employ and dismiss such casual employees as it deems necessary and may fix wages and conditions of employment of such casual employees where such wages and conditions are not fixed in accordance with the provisions of any other Act.

The appointment of casual employees under this subsection shall not be subject to the provisions of the Public Service Act, 1902, or any Act amending that Act, and a casual employee so appointed shall not be subject to the provisions of any such Acts during the period of his employment.

(4) (a) For the purposes of exercising and discharging the powers, authorities, duties and functions conferred and imposed on the Commission by or under this or any other Act, the Commission may, with the approval of the Minister of the Department concerned, on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(b) The Commission may for the like purpose with the approval of any statutory body or council, on such terms as may be arranged, make use of the services of any of the officers, servants, or employees of such statutory body or council.

(c) In this subsection—

“Statutory body” means any public body which the Governor may by proclamation published in the Gazette declare to be a statutory body;

“Council” means the council of a municipality or shire, and includes the Sydney County Council, any other county council, and the Municipal Council of Sydney.

(5)

(5) Nothing in this section shall be construed to No. 65, 1941. preclude the Commission from engaging for any particular purpose specified in a resolution of the Commission the services of any architect, surveyor, builder, contractor or other person whomsoever.

PART III.

REPLACEMENT OF CERTAIN AUTHORITIES.

DIVISION 1.—*Preliminary.*

7. This Part shall commence upon a day (in this Part referred to as the "appointed day") to be appointed by the Governor and notified by proclamation published in the Gazette. Appointed day.
cf. Act No. 47,
1935.

DIVISION 2.—*Reconstitution of the corporation constituted under section three of the Housing Act, 1912.*

8. (1) Upon the appointed day the Minister referred to in section three of the Housing Act, 1912, as amended by subsequent Acts, shall cease to constitute the corporation referred to in that section, and the commissioners for the time being holding office under Part II of this Act shall constitute that corporation. Alteration of constitution of corporation.

(2) Upon the appointed day the name of the corporation constituted under section three of the Housing Act, 1912, as amended by subsequent Acts, shall be "The Housing Commission of New South Wales."

(3) Nothing contained in this Act shall prejudice or affect in any way the continuity of that corporation but the same shall continue notwithstanding the provisions of this Act.

(4) The alteration of name effected by subsection two of this section and the provisions of subsection one of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of the corporation constituted under section three of the Housing Act, 1912, as amended by subsequent Acts, or render defective any legal or other proceedings instituted

No. 65, 1941. instituted or to be instituted by or against the corporation; and any legal or other proceedings may be continued or commenced by or against the corporation by the name of The Housing Commission of New South Wales that might have been continued or commenced by or against the corporation by the name of the Minister.

(5) A reference either expressly or impliedly in any Act or other instrument to the corporation constituted under section three of the Housing Act, 1912, as amended by subsequent Acts, shall be read and construed as a reference to The Housing Commission of New South Wales.

Amendment
of Act
No. 7, 1912.

Sec. 2.

9. (1) The Housing Act, 1912, as amended by subsequent Acts, is amended—

(a) by omitting from section two the definition of “Fund” or “Housing Fund” and by inserting in lieu thereof the following definition:—

“Housing Account” means the Housing Account constituted under the Housing Act, 1941.

Secs. 6,
15, 18, 18A,
18B, 19, 22
and 37.

(b) by omitting from sections six, fifteen, eighteen, 18A, 18B, nineteen, twenty-two and thirty-seven the words “Housing Fund” wherever occurring and by inserting in lieu thereof the words “Housing Account”;

Sec. 8(4).

(c) by omitting subsection four of section eight and by inserting in lieu thereof the following subsection:—

(4) Every such lease may be made at such rental (whether the same is the best rental that can reasonably be obtained or not) as The Housing Commission of New South Wales may determine.

Sec. 10.

(d) (i) by omitting paragraph (c) of subsection one of section ten and by inserting in lieu thereof the following paragraph:—

(c) the maximum periods for the payment of purchase money shall be as prescribed, and the regulations may prescribe different periods of time in respect of different buildings having regard to the materials of which they are constructed;

(ii)

- (ii) by omitting from subsection three of the same section the words "Housing Fund and that Fund" and by inserting in lieu thereof the words "Housing Account and that Account"; No. 65, 1941.
- (e) by omitting from paragraph (b) of subsection one of section thirteen all words following the word "advance" where firstly occurring and by inserting in lieu thereof the following proviso:— Sec. 13.
"Provided that the term of any period as so extended shall not exceed the maximum period prescribed for the payment of purchase money by instalments";
- (f) by omitting sections 13A, fourteen, sixteen, twenty-one and forty; Secs. 13A,
14, 16,
21, 40.
- (g) by omitting section twenty-three and by inserting in lieu thereof the following new section:— Sec. 23.
23. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.
(2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.
(3) The regulations shall—
(a) be published in the Gazette;
(b) take effect from the date of publication or from a later date to be specified in the regulations; and
(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and if not then within fourteen sitting days after the commencement of the next session.
(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing

- No. 65, 1941.** disallowing any regulation or part thereof such regulation or part thereof shall thereupon cease to have effect.
- Sec. 26.** (h) by omitting from subsection four of section twenty-six the words "The Minister may, subject to this Act, make regulations prescribing fees, and such" and by inserting in lieu thereof the words "The prescribed";
- Sec. 30.** (i) by omitting section thirty and by inserting in lieu thereof the following new section:—
- Periods for repayment.** 30. The maximum periods for repayment by instalments of advances and moneys expended by the Commission under this Part shall be as prescribed. The regulations may prescribe different periods of time in respect of different buildings having regard to the materials of which they are constructed.
- Sec. 32 (1).** (j) by omitting from subsection one of section thirty-two the words "The Minister by regulations" and by inserting in lieu thereof the words "Regulations made under this Act";
- Sec. 37 (2).** (k) by omitting subsection two of section thirty-seven;
- Sec. 38.** (l) by omitting paragraph (c) of section thirty-eight;
- Sec. 39.** (m) by omitting paragraph (2) of section thirty-nine.

(2) Upon the appointed day the Housing Fund constituted under section fourteen of the Housing Act, 1912, as amended by subsequent Acts, shall be closed, and all debits and credits of that fund shall be transferred to the Housing Account constituted under this Act.

DIVISION 3.—Reconstitution of the body corporate constituted under the Housing of the Unemployed Act, 1934-1937.

Alteration of membership of body corporate.

10. (1) Upon the appointed day the chairman of the Homes for Unemployed Trust and the members of that Trust appointed in pursuance of section four of the Housing of the Unemployed Act, 1934-1937, shall cease to hold office and the offices of the chairman and of the eight members directed to be appointed by the said section

section four shall be abolished and the commissioners for the time being holding office under Part II of this Act shall constitute the body corporate established by the said section four. No. 65, 1941.

(2) Upon the appointed day the name of the said body corporate constituted by section four of the Housing of the Unemployed Act, 1934-1937, shall be "The Housing Commission of New South Wales". Change of name of body corporate.

(3) Nothing contained in this Act shall prejudice or affect in any way the continuity of such body corporate but the same shall continue notwithstanding the provisions of this Act.

(4) The alteration of name effected by subsection two of this section and the provisions of subsection one of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of the said body corporate or render defective any legal or other proceedings instituted or to be instituted by or against the corporation; and any legal or other proceedings may be continued or commenced by or against the corporation by the name of The Housing Commission of New South Wales that might have been continued or commenced by or against the corporation by the name of the Homes for Unemployed Trust.

(5) A reference in any Act or other instrument to the Homes for Unemployed Trust shall be read and construed as a reference to The Housing Commission of New South Wales.

(6) Without prejudice to the full operation of subsection three of this section the powers, rights, authorities, duties, functions, liabilities and obligations conferred or imposed by or under any Act upon the chairman and members for the time being holding office under section four of the Housing of the Unemployed Act, 1934-1937, shall, subject to the provisions of this Act, be executed and performed by the commissioners appointed under Part II of this Act.

11. (1) The Housing of the Unemployed Act, 1934-1937, is amended as follows:— Amendment of Act No. 4, 1934.

(a) by omitting from section three the definition of the word "Trust"; Sec. 3.

(b)

Housing Act.

No. 65, 1941.

Sec. 4.

Sees. 5, 6A.

Sec. 12.

New ss. 14A
and 14B.Homes for
Unemployed
Advisory
Committee.

- (b) by omitting subsections two and four of section four;
- (c) by omitting sections five and 6A;
- (d) by omitting from section twelve the words "Homes for Unemployed Account" and by inserting in lieu thereof the words "Housing Account constituted under the Housing Act, 1941";
- (e) by inserting after section fourteen the following new sections:—

14A. (1) There shall be a committee which shall be called the Homes for Unemployed Advisory Committee.

(2) The committee shall consist of the Minister for Labour and Industry, who shall be the chairman of such committee, and eight members appointed by the Governor.

(3) The provisions of the Public Service Act, 1902, or any Act amending the same, shall not apply to the appointment of any member of the committee and a member of the committee shall not in his capacity as such member be subject to the provisions of any such Act.

(4) The members of the committee appointed by the Governor shall subject to this section hold office for the term of three years from the date of their appointment and be eligible for reappointment from time to time for a like term.

(5) A member of the committee appointed by the Governor shall be deemed to have vacated his office if he has resigned from the committee by writing under his hand addressed to the Governor, or is removed by the Governor from his office, or is absent from three consecutive ordinary meetings of the committee except with leave granted by the committee.

(6) The chairman shall preside at all meetings of the committee.

In the absence of the chairman the members present at any meeting shall elect an acting chairman to preside at that meeting.

If

If the voting on any question at the meeting is equal, the chairman, or in his absence the acting chairman, shall in addition to his deliberative vote as member have a casting vote as chairman. No. 65, 1941.

(7) The procedure for the calling of meetings of the committee for the conduct of such meetings shall, subject to any regulations which may be made in that behalf, be as determined by the committee.

(8) Five members of the committee shall form a quorum and any duly convened meeting at which a quorum is present shall be competent to transact any business of the committee.

(9) The committee shall keep minutes of its proceedings, custody of which shall be in the chairman.

14B. It shall be the duty of the committee— Duties of
the
committee.

(a) to consider such matters in relation to proposals for the housing of the unemployed as may be referred to it by The Housing Commission of New South Wales and furnish reports to and advise the said Commission thereon;

(b) to carry out such functions of an advisory character as the Governor may determine or as may be prescribed.

(f) by omitting sections fifteen, sixteen, seventeen, eighteen and nineteen; Secs. 15-19.

(g) by omitting the Schedule. Schedule.

(2) Any delegation made under section 6A of the Housing of the Unemployed Act, 1934-1937, and in force immediately before the appointed day, shall continue in force in all respects as if such delegation had been made under section thirty-four of this Act, and the said section thirty-four of this Act shall apply to and in respect of such delegation.

(3) Upon the appointed day the Homes for Unemployed Account constituted under section fifteen of the Housing of the Unemployed Act, 1934-1937, shall be

No. 65, 1941. be closed, and all debits and credits of that account shall be transferred to the Housing Account constituted under this Act.

(4) The Housing of the Unemployed Act, 1934-1937, as amended by this Act may be cited as the Housing of the Unemployed Act, 1934-1941.

DIVISION 4.—Reconstitution of the body corporate constituted under the Housing Improvement Act, 1936-1937.

Alteration
of
membership
of body
corporate.

12. (1) Upon the appointed day the members of The Housing Improvement Board of New South Wales appointed under section five of the Housing Improvement Act, 1936-1937, shall cease to hold office and the offices of the five members directed to be appointed by the said section shall be abolished and the commissioners for the time being holding office under Part II of this Act shall constitute the body corporate established by the said section five.

Change of
name of
body
corporate.

(2) Upon the appointed day the name of the said body corporate constituted by section five of the Housing Improvement Act, 1936-1937, shall be "The Housing Commission of New South Wales."

(3) Nothing contained in this Act shall prejudice or affect in any way the continuity of such body corporate, but the same shall continue notwithstanding the provisions of this Act.

(4) The alteration of name effected by subsection two of this section and the provisions of subsection one of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of the said body corporate, or render defective any legal or other proceedings instituted or to be instituted by or against the corporation; and any legal or other proceedings may be continued or commenced by or against the corporation by the name of The Housing Commission of New South Wales that might have been continued or commenced by or against the corporation by the name of The Housing Improvement Board of New South Wales.

(5)

(5) A reference in any Act or other instrument to The Housing Improvement Board of New South Wales shall be read and construed as a reference to The Housing Commission of New South Wales. No. 65, 1941.

(6) Without prejudice to the full operation of subsection three of this section the powers, rights, authorities, duties, functions, liabilities and obligations conferred or imposed by or under any Act upon the members for the time being holding office under section five of the Housing Improvement Act, 1936-1937, shall, subject to the provisions of this Act, be executed and performed by the commissioners appointed under Part II of this Act.

13. (1) The Housing Improvement Act, 1936-1937, is amended as follows:— Amendment
of Act
No. 59, 1936.

- (a) by omitting from subsection one of section three the definitions of the expressions "Board," "Chairman," "Deputy Chairman" and "Member"; Sec. 3.
(Interpretation.)
- (b) by omitting from section five paragraphs (b), (c), (d) and (e) of subsection one, paragraph (c) of subsection two and subsections three to nine both inclusive; Sec. 5.
- (c) by omitting sections six, seven and nine; Secs. 6, 7
and 9.
- (d) by omitting paragraph (b) of subsection four of section twelve. Sec. 12
(4) (b).

(2) Any delegation made under subsection six of section five of the Housing Improvement Act, 1936-1937, and in force immediately before the appointed day shall continue in force in all respects as if such delegation had been made under section thirty-four of this Act, and the said section of this Act shall apply to and in respect of such delegation.

(3) Upon the appointed day the Housing Improvement Account constituted under section 14H of the Housing Improvement Act, 1936-1937, shall be closed and all debits and credits of that account shall be transferred to the Housing Account constituted under this Act.

(4) The Housing Improvement Act, 1936-1937 as amended by this Act may be cited as The Housing Improvement Act, 1936-1941.

DIVISION

No. 65, 1941. DIVISION 5.—*Amendment of the Government Savings Bank Act, 1906, as amended by subsequent Acts.*

Amendment
of Act No.
48, 1906.

14. The Government Savings Bank Act, 1906, as amended by subsequent Acts, is amended—

Sec. 70k.

(a) by inserting after subsection one of section 70k the following new subsection:—

(1A) Capital moneys received by the bank after the expiration of six months after the commencement of Part III of the Housing Act, 1941, in respect of the Home Building Scheme Agency, the Building Relief Agency, the Government Housing Agency and the Soldiers' Families Housing Agency shall be paid to the Treasurer as and when available:

Provided that the Governor may in respect of all or any of such agencies determine and notify in the Gazette an earlier date as the date from and after which capital moneys so received shall be paid to the Treasurer as and when available.

Different dates may be so determined and notified in respect of different agencies.

Sec. 70x.

(b) by inserting after subsection two of section 70x the following new subsection:—

(3) An advance shall not be made under this section after a date being six months after the commencement of Part III of the Housing Act, 1941, or after such earlier date as may be determined by the Governor and notified in the Gazette.

Sec. 70BB.

(c) by inserting at the end of section 70BB the following subsection:—

(2) An advance shall not be made under this section after a date being six months after the commencement of Part III of the Housing Act, 1941, or after such earlier date as may be determined by the Governor and notified in the Gazette.

Sec. 70zz.

(d) by inserting after subsection two of section 70zz the following new subsection:—

(3) An advance shall not be made under this section after a date being six months after the commencement

commencement of Part III of the Housing Act, No. 65, 1941.
1941, or after such earlier date as may be deter-
mined by the Governor and notified in the
Gazette.

DIVISION 6.—*Building Relief and Soldiers' Families
Homes.*

15. The Commission may at its discretion make ad-
vances upon such securities and at such rates of interest
and subject to such covenants, conditions and provisions
as it may impose, for the purpose of enabling—

Building
relief.
cf. Act No.
48, 1906,
s. 70BB.

- (a) any proprietor of land to alter, extend, paint,
repair, renovate or improve buildings on such
land, or to lay down and construct tennis courts
or paths and other cement and concrete works
on such land;
- (b) any person who is the proprietor of land in a
rural area, from the working of which he
proposes to obtain a living, to erect on such
land a small building as a home for himself and
his family;
- (c) any public hall, soldiers' memorial hall, school
of arts or other building of a public or civic
character or any public recreation ground to be
constructed, erected, renovated, repaired or
extended;
- (d) any pastoral, agricultural and horticultural
association, club, literary institute, progress
association, tennis association or friendly
society to extend, paint, repair and renovate
buildings.

16. (1) The Commission may at its discretion make
advances upon such securities and at such rates of
interest and subject to such covenants, conditions and
provisions as it may impose to persons who are eligible
for advances under this section to enable and assist them
to erect, complete or enlarge dwellings.

Soldiers
Families
Housing.
cf. *Ibid.*
s. 70ZZ.

(2) The persons who are eligible for advances
under this section shall be the persons following, that
is to say—

- (a) a member of His Majesty's naval, military, or
air forces who is bound to continuous service
with

No. 65, 1941.

- with such forces for the duration of the present war between His Majesty and Germany and her Allies, whether or not he has agreed to serve or does serve beyond the limits of the Commonwealth of Australia and those of any territory under the authority of the Commonwealth; or
- (b) the wife of such a member; or
 - (c) the widow of a person who was such a member.

PART IV.

GENERAL POWERS, AUTHORITIES, DUTIES AND FUNCTIONS
OF THE COMMISSION.

DIVISION 1.—*Investigations.*

Investiga-
tions.

17. (1) The Commission may, and whenever required by the Minister shall, conduct investigations as to the methods which should be adopted in order to ensure the provision in the State of adequate housing accommodation upon reasonable terms or at reasonable rentals.

The Commission shall furnish the Minister with a report setting out the results of any investigation made under this subsection.

(2) As soon as practicable after its first constitution the Commission shall conduct an investigation in relation to the following matters:—

- (a) the methods which should be adopted and the steps which should be taken in order to correlate and co-ordinate the activities of the Co-operative Building Societies, the activities of the Rural Bank of New South Wales in relation to the erection of dwellings or the provision of financial assistance for that purpose and the activities of the Commission under this Act;
- (b) the methods which should be adopted and the steps which should be taken in order to secure the co-operation of the councils of municipalities and shires, county councils, and the Municipal Council of Sydney in the provision of adequate housing accommodation upon reasonable terms or at reasonable rentals.

The

The Commission shall, within six months after its first constitution or within such further period as the Minister may from time to time allow, furnish to the Minister a report setting out the results of the investigation made under this subsection. No. 65, 1941.

(3) Where in any report furnished to the Minister under this section the Commission recommends that further legislation should be enacted in this State, the report shall be accompanied by a draft Bill for such legislation.

(4) For the purposes of any investigation under this section the Commission shall have the powers and immunities of a commissioner, and the chairman of the Commission shall have the powers of a chairman within the meaning of Division 1 of Part II of the Royal Commissions Acts, 1923-1934, and the provisions of that Act with the exception of section thirteen and of Division 2 of Part II shall, *mutatis mutandis*, apply to any witness or person summoned by or appearing before the Commission.

DIVISION 2.—*Particular powers.*

- 18.** For the purposes of this Act the Commission may—
- (a) carry out all such surveys and investigations as may be necessary or expedient for the purposes of this Act, or for the purpose of ascertaining the housing conditions in any locality;
 - (b) publish for general information the results of such surveys and investigations;
 - (c) publish from time to time printed matter dealing with housing;
 - (d) take steps by the holding of architectural competitions or otherwise to obtain the better design and arrangement of dwelling houses and of subdivisions of land for housing and allied purposes;
 - (e) recommend the making of ordinances under the Local Government Act, 1919, or of by-laws under the Sydney Corporation Act, 1932-1941, concerning any matter relating to building.

Miscellaneous powers.

cf. Act No. 24, 1924, s. 48.

No. 65, 1941.

Manu-
facture,
purchase
and supply
of building
materials.

19. The Commission may manufacture, produce or purchase and supply building materials, fittings or appliances, to any person or body of persons, corporate or unincorporate, upon such terms and conditions as the Commission may from time to time determine.

DIVISION 3.—*Borrowing powers.*

Borrowing
powers.
cf. Act No.
48, 1906,
s. 36A.

20. (1) The Commission may, from time to time with the approval of the Governor, borrow money for the purposes of enabling it to exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Commission by or under this or any other Act.

The approval of the Governor under this subsection shall not be given except upon the recommendation of the Colonial Treasurer.

(2) For securing repayment of the principal and interest on any moneys borrowed under this section the Commission shall issue debentures or inscribed stock as prescribed by the regulations.

(3) The due repayment of such debentures or inscribed stock and the interest thereon shall be a charge upon all moneys and securities held by the Commission and is hereby guaranteed by the Government.

Any liability arising from such guarantee shall be payable out of moneys provided by Parliament:

Provided that such charge shall not prejudice or affect the powers of the Commission to reconvey, release or discharge any of such securities or the properties comprised therein, or to sell or convey such properties, or to foreclose such securities or properties, or to deal with the same under this or any other Act.

(4) The Commission shall not borrow moneys otherwise than in accordance with this Division.

Issue of
debentures,
etc.

21. (1) The provisions of this section shall apply to and in respect of debentures and inscribed stock issued by the Commission.

(2) Debentures and inscribed stock shall be issued in accordance with the regulations.

(3) Every debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

(4)

(4) Inscribed stock shall be transferable in the books of the Commission in accordance with the regulations. **No. 65, 1941.**

(5) Debentures or inscribed stock issued under this Act shall be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920-1940, contained in the Second Schedule to that Act.

(6) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not, shall be entitled to receive payment from the Commission of the interest mentioned in the coupon upon the presentation of the same on or after the date when and at the place where the interest is payable.

(7) Any trustee, unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Commission, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925-1940, or any Act replacing the said Act.

(8) Any debenture issued or stock inscribed by the Commission shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(9) No notice of any trust expressed, implied, or constructive shall be received by the Commission or by any officer or employee of the Commission in relation to any debenture or coupon issued or stock inscribed by the Commission.

(10) (a) If any debenture issued by the Commission is lost or destroyed or defaced before the same has been paid, the Commission may, subject to the provisions of this subsection, issue a new debenture in lieu thereof.

(b) The new debenture with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture.

No. 65, 1941.

(c) Where the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (i) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- (ii) such advertisement as the judge may direct has been published;
- (iii) six months have elapsed since the publication of the last of the advertisements;
- (iv) sufficient security has been given to the Commission to indemnify it against any double payment if the missing debenture be at any time thereafter presented for payment; and
- (v) the cost of advertising and all other costs incurred in replacing such missing or lost debenture shall have been repaid to the Commission.

(d) Where the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Commission for cancellation.

(e) The provisions of this subsection shall, mutatis mutandis, extend to the case of a lost, destroyed or defaced coupon.

(11) All debentures or inscribed stock shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

Protection
of investors.

22. (1) A person advancing money to the Commission shall not be bound to inquire into the application of the money advanced or to be in any way responsible for the non-application or misapplication thereof.

(2) A notification in the Gazette that the Governor has approved a borrowing by the Commission shall, in favour of a lender and of any holder of a security given by the Commission, be conclusive evidence that all conditions precedent to the borrowing have been complied with and that the approval of the Governor to the borrowing has been given upon the recommendation of the Colonial Treasurer.

PART V.

No. 65, 1941.

FINANCE.

23. (1) There shall be constituted an account in the Special Deposits Account to be called the "Housing Account." Housing Account.
cf. Act No.
4, 1934,
s. 15 *et seq.*

(2) The account shall be applied for the purpose of enabling the Commission to exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this or any other Act.

(3) The form and manner of keeping such account shall be as prescribed by regulations made under the Audit Act, 1902.

24. (1) The Housing Account shall consist of— Assets of
account.

- (a) all moneys advanced to the Commission by the Colonial Treasurer or appropriated by Parliament for the purposes of the Commission;
- (b) all moneys received by the Commission from any other source.

(2) The account may be applied to any of the following purposes:— Application
of account.

- (a) salaries, fees and other administrative expenses of the Commission;
- (b) the costs and expenses incurred in carrying out any of the powers, authorities, duties and functions conferred and imposed on the Commission by or under this or any other Act;
- (c) any purpose which the Commission is directed or authorised to undertake or carry out by or under this or any other Act;
- (d) payment of principal, interest and other charges in respect of moneys borrowed by the Commission in pursuance of this Act.

(3) The account shall be operated on in the manner prescribed.

25. The Commission shall cause to be kept proper books of account in relation to the Housing Account and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Commission. Accounts to
be rendered.

26.

No. 65, 1941.
Audit.

26. (1) The accounts of the Commission shall be audited by the Auditor-General, who shall have, in respect thereof, all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts; and the Audit Act, 1902, and Acts amending the same, shall apply to the chairman and members of the Commission and its officers in the same manner as it applies to accounting officers of public departments.

(2) The Auditor-General shall report to the Commission and the Minister—

(a) whether or not in his opinion—

- (i) due provision has been made for the repayment of loans; and
- (ii) the value of assets has (so far as he can judge) been in all cases fairly stated; and
- (iii) due diligence and care have been shown in the collection and banking of moneys payable to the Commission; and
- (iv) the expenditure incurred has been duly authorised, vouched, and supervised; and
- (v) any of the moneys or other property of the Commission have been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed by the regulations.

(3) Towards defraying the cost and expenses of such audit the Commission shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Colonial Treasurer may decide.

Moneys
advanced by
Common-
wealth.

27. (1) Any moneys received by the State of New South Wales from the Treasurer of the Commonwealth of Australia in pursuance of any enactment of the Parliament of the said Commonwealth passed either before or after the commencement of this Act under which moneys are granted to the States to be applied by the States for purposes contemplated by this Act, shall be paid by the Colonial Treasurer to a special account in the Treasury.

(2)

(2) From such special account the Colonial Treasurer, on the recommendation of the Minister, shall from time to time make available to the Commission moneys to meet expenditure incurred or to be incurred in carrying out the purposes for which the moneys were granted by the Commonwealth. No. 65, 1941.

(3) The Commission shall keep a separate account within the Housing Account in respect of all moneys made available to the Commission under this section.

PART VI.

GENERAL.

28. All courts and persons having by law or consent of parties authority to hear, receive and examine evidence—

Judicial notice of the seal of the Commission.

- (a) shall take judicial notice of the seal of the Commission affixed to any document; and
- (b) shall, until the contrary is proved, presume that such seal was properly affixed thereto.

29. Any notice, summons, writ, or other proceeding required to be served upon the Commission may be served by being left at the office of the Commission.

Service of notice and legal proceedings.

30. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Commission may be sufficiently authenticated without the seal of the Commission if signed by the chairman.

Documents how authenticated.

31. In any legal proceedings by or against the Commission, no proof shall be required (until evidence is given to the contrary) of—

Proof of certain matters not required.

- (a) the constitution of the Commission;
- (b) any resolution of the Commission;
- (c) the appointment of any commissioner, or of any officer or employee of the Commission;
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Commission.

No. 65, 1941.

Commission
subject to
control of
Minister.

32. The Commission shall, in the exercise and discharge of the powers, authorities, duties and functions conferred and imposed on it by or under this or any other Act, be subject to the control and direction of the Minister.

Reports
from
Commission
to
Minister.

33. (1) The Commission shall furnish the Minister with full information in relation to any business of the Commission which the Minister may require.

(2) The Commission shall at all times allow the Minister and every person authorised by the Minister to inspect all books, papers, documents, accounts, buildings, property and places under its control.

Delegation.

34. (1) The Commission may, from time to time by resolution, delegate such of the powers, authorities, duties or functions of the Commission as are specified in the resolution—

(a) to any commissioner;

(b) to any officer of the Commission;

(c) to any officer or employee of whose services the Commission makes use pursuant to this or any other Act.

(2) Any such delegation may be made either generally or for any particular case or class of cases.

(3) Any person, when acting within the scope of any such delegation to him, shall be deemed to be the Commission.

(4) Any instrument necessary to be executed and any notice, order, summons or other like document requiring authentication for the purpose of the exercise or discharge of any power, authority, duty or function delegated to any person under this section, shall be sufficiently executed or authenticated, as the case may be, if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.

(5) The Commission may by resolution revoke any delegation made under this section.

Annual
report.

35. (1) As soon as practicable after the thirtieth day of June in each year, the Commission shall prepare and furnish to the Minister a report upon the operations and activities of the Commission during the year ending on the date aforesaid.

(2) The Minister shall lay such report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by him of the report.

36.

36. (1) The Governor may make regulations not No. 65, 1941.
inconsistent with this Act, prescribing all matters which Regulations.
by this Act are required or permitted to be prescribed,
or which are necessary or convenient to be prescribed
for carrying out or giving effect to this Act.

(2) The regulations may prescribe penalties not exceeding in any case fifty pounds for any contravention or breach of a regulation.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sittings days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.
