

**HOUSING (AMENDMENT) ACT.**

**New South Wales**



ANNO VICESIMO QUARTO

**ELIZABETHÆ II REGINÆ**

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**Act No. 5, 1975.**

An Act to further enable The Housing Commission of New South Wales to sell land for home sites ; to determine the eligibility of purchasers of home sites and the conditions of sale ; to further enable that Commission to construct buildings and carry out works on land owned by other authorities ; to enable that Commission to raise loans in any country ; for these and other purposes to amend the Housing Act, 1912, and the Housing Act, 1941 ; and for purposes connected therewith. [Assented to, 2nd April, 1975.]

**BE**

*Housing (Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by No. 5, 1975  
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:—

1. This Act may be cited as the "Housing (Amendment) Short title.  
Act, 1975".

2. The Housing Act, 1912, is amended—

Amendment  
of Act No.  
7, 1912.

(a) by omitting from the heading to Part I the words Heading to  
Part I.  
"BUILDING AND DISPOSAL OF DWELLING-HOUSES."  
and by inserting instead the words "ACQUISITION  
AND DISPOSAL OF LAND AND ERECTION AND  
DISPOSAL OF BUILDINGS AND WORKS.";

(b) by omitting section 10 and by inserting instead the Secs.  
10-10AC.  
following sections:—

10. (1) The Commission, with the approval of Power to  
sell.  
the Governor, may by public auction or private  
contract sell any land vested in or acquired by it,  
whether vacant land or otherwise, for such price,  
whether that price is the best price that can reason-  
ably be obtained or not, and upon such terms and  
conditions as it thinks fit for cash or upon terms.

(2) Notwithstanding subsection (1), the  
approval of the Governor is not required for the  
sale of land—

(a) which has been allocated by the Commission  
as the site of a single dwelling-house; or

(b)

*Housing (Amendment).*No. 5, 1975

(b) on which is erected a dwelling-house, to a person who—

(c) satisfies the Commission that he has not previously purchased from the Commission—

(i) an allotment of land allocated by the Commission as the site of a single dwelling-house; or

(ii) land on which a dwelling-house was erected; and

(d) satisfies such other requirements as to eligibility as may from time to time be determined by the Commission and approved by the Minister.

(3) 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.

Conditions  
on sale of  
land for  
home sites.

10AA. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires—

“improvements”, in relation to land the subject of a contract containing conditions referred to in subsection (2), includes site improvements made after the date of that contract and before the date on which the Commission, in accordance with any such condition, decides to exercise or not to exercise any option or right to repurchase that land and any improvements thereon;

“original purchase price”, in relation to land sold by the Commission, means the price contracted to be paid for the land by the purchaser to the Commission;

“purchaser”

*Housing (Amendment).*

“purchaser” includes—

No. 5, 1975

- (a) a person taking under a will or on an intestacy; and
- (b) a mortgagee exercising a power of sale;

“sell” includes alienate, transfer and dispose of, whether for valuable consideration or not, but does not include an alienation or disposition by way of lease;

“site improvements” has the meaning ascribed thereto in section 4 of the Valuation of Land Act, 1916;

“unimproved value”, in relation to land the subject of a contract containing conditions referred to in subsection (2), means the unimproved value of that land ascertained in accordance with section 6 of the Valuation of Land Act, 1916, but, for the purpose of ascertaining the unimproved value of that land at the date on which the Commission, in accordance with any such condition, decides to exercise or not to exercise any option or right to repurchase that land and any improvements thereon, does not include the value of any site improvements which were made after the date of that contract;

“Valuer-General” means the valuer-general appointed under the Valuation of Land Act, 1916.

(2) Where, under section 10 (2), the Commission sells land allocated by it as the site of a single dwelling-house, the contract for sale shall,

**in**

*Housing (Amendment).*No. 5, 1975

in addition to any other conditions, contain conditions in or to the effect of the following conditions:—

- (a) that the purchaser shall complete the erection of a dwelling-house on that land within the time specified in the contract or such longer time as the Commission, either before or after the expiration of the time specified in the contract, may allow;
- (b) that if the purchaser fails to comply with a condition authorised under paragraph (a), the Commission shall have an option or right to repurchase the land and any improvements thereon;
- (c) that the Commission shall have two months from the date of expiration of the time specified in the contract or such longer time as the Commission may have allowed, as the case may be, for completion of the erection of a dwelling-house in which to exercise an option or right to repurchase arising under paragraph (b) and shall, in such manner and within such time as may be specified in the contract, send notice to the purchaser of its decision;
- (d) that the purchaser shall not sell the land and any improvements thereon within such time as is specified in the contract, but not exceeding fifteen years after the date of the contract, without first notifying the Commission of his intention to sell and giving the Commission an option or right to repurchase the land and any improvements thereon;
- (e) that the Commission shall have two months from the date of receipt of a notification from the purchaser under paragraph (d) in which to exercise the option or right to repurchase given under that paragraph and shall,

*Housing (Amendment).*

shall, in such manner and within such time No. 5, 1975  
as may be specified in the contract, send  
notice to the purchaser of its decision;

- (f) that where the Commission exercises an option or right to repurchase the land and any improvements thereon within five years after the date of the contract, the repurchase price payable by the Commission, subject to the adjustment of outgoings, shall be the sum of the amount paid, if any, of the original purchase price and the value, at the date of exercise of the option or right to repurchase, of any improvements on the land at the date of exercise of the option or right to repurchase which have been erected after the date of the contract between the purchaser and the Commission;
- (g) that where the Commission exercises an option or right to repurchase the land and any improvements thereon not earlier than five years after and within fifteen years after the date of the contract, the repurchase price payable by the Commission, subject to the adjustment of outgoings, shall be—
- (i) if there are no improvements on the land at the date of exercise of the option or right to repurchase which have been erected after the date of the contract between the purchaser and the Commission, the difference between an amount calculated in accordance with the formula—

$$A = \frac{P \times UV_2}{UV_1}$$

where—

“A” represents the repurchase price payable by the Commission;

“P”

*Housing (Amendment).*

No. 5, 1975

"P" represents the original purchase price;

"UV<sub>1</sub>" represents the unimproved value of the land at the date of the contract between the purchaser and the Commission; and

"UV<sub>2</sub>" represents the unimproved value of the land at the date on which the Commission decides to exercise the option or right to repurchase the land,

and the amount unpaid, if any, of the original purchase price; or

- (ii) if there are improvements on the land at the date of exercise of the option or right to repurchase which have been erected after the date of the contract between the purchaser and the Commission, the sum of an amount calculated in accordance with the formula in subparagraph (i) and the value of those improvements at the date of exercise of the option or right to repurchase less the amount unpaid, if any, of the original purchase price;
- (h) that where the Commission does not exercise an option or right to repurchase the land and any improvements thereon within the time specified in the contract, the purchaser may sell the land and any improvements thereon and, if he executes a contract or other instrument for the sale of the land and any improvements thereon within fifteen years after the date of the contract to purchase

*Housing (Amendment).*

purchase the land from the Commission, No. 5, 1975 shall pay to the Commission, on or prior to the date of completion of the sale, subject to the adjustment of outgoings, the sum of the amount unpaid, if any, of the original purchase price and an amount calculated in accordance with the formula—

$$B = UV_2 - \frac{P \times UV_2}{UV_1}$$

where—

“B” represents the amount to be paid by the purchaser to the Commission;

“UV<sub>2</sub>” represents the unimproved value of the land at the date on which the Commission decides not to exercise the option or right to repurchase the land and any improvements thereon; and

the expressions “P” and “UV<sub>1</sub>” have the meanings ascribed to them in paragraph (g) (i);

(i) that the purchaser shall not sell—

(i) any part of the land; or

(ii) any interest in the land not being an estate in fee simple in the whole of the land,

within fifteen years after the date of the contract without first notifying the Commission of his intention to sell and obtaining the consent in writing of the Commission to sell that part or interest, as the case may be;

(j) that where the Commission fails to make a decision whether or not to exercise an option or right to repurchase the land and

any



No. 5, 1975

any improvements thereon within the time specified in the contract or fails to send to the purchaser notice of its decision in accordance with the condition referred to in paragraph (c), the Commission shall be deemed to have decided not to exercise the option or right to repurchase on the last day of the time specified in the contract;

(k) that the unimproved value of the land at the date of the contract between the purchaser and the Commission shall be such amount as is specified in the contract as the agreed value for that purpose; and

(1) that—

(i) the unimproved value of the land at the date on which the Commission exercises or decides not to exercise an option or right to repurchase the land and any improvements thereon;  
or

(ii) the value of any improvements on the land,

shall be such amount as is agreed upon by the purchaser and the Commission or, in default of agreement, as the Valuer-General, at the cost of the purchaser, shall determine.

(3) A consent referred to in subsection (2) (i) may be given subject to such conditions as the Commission thinks fit.

(4) A condition in a contract of sale required under subsection (2) shall not merge in the transfer of the title to the land the subject of that contract of sale on completion of the sale.

**Enforcement  
of conditions  
on sale of  
land for  
home sites.**

10AB. (1) The Registrar-General shall, at the request of the Commission made in a manner approved by the Registrar-General, and on payment

**of**

*Housing (Amendment).*

of the fee prescribed under the Real Property Act, No. 5, 1975  
1900, make in the Register kept under that Act a recording appropriate to signify—

- (a) that land specified in the request is held subject to a condition authorised under section 10AA; or
- (b) that a recording made pursuant to paragraph (a) has ceased to have effect.

(2) The Commission shall not make a request pursuant to subsection (1) (a) except for the purpose of ensuring compliance with the conditions in the contract of sale under which the land was sold, but the Registrar-General shall not be concerned to enquire whether any such request has been made for that purpose.

(3) Where a recording pursuant to subsection (1) (a) has been made in respect of any land, the Registrar-General shall not register under the Real Property Act, 1900, a transfer of that land to or by a person other than the Commission unless it would be so registrable if this section had not been enacted and unless—

- (a) a recording pursuant to subsection (1) (b) has been made in respect of the land; or
- (b) the consent of the Commission to the transfer has been endorsed thereon.

10AC. Any purchase money received from the sale of land which has been appropriated under this Act shall be paid to the Housing Account, and that Account shall be charged with the value of the land as at the date of appropriation.

- (c) (i) by omitting from section 18 (2) the words "In this subsection "works" includes road, drainage, and site developmental works and any other works incidental thereto."; Sec. 18.  
(Construction of other buildings.)
- (ii)

*Housing (Amendment).*

No. 5, 1975

(ii) by inserting after section 18 (2) the following subsections:—

(3) The Commission may exercise the powers conferred on it under subsection (2) notwithstanding that the cost of the buildings constructed or the works carried out by it is not met directly out of funds of the Minister, Department or statutory body making the request, as the case may be, provided that an arrangement has been made with the Treasurer by the Minister, Department or statutory body, as the case may be, for the payment of that cost to the Housing Account.

(4) In this section—

“buildings” means buildings intended for use for any purpose whatsoever;

“works” includes road, drainage, and site developmental works and any other works incidental thereto.

Sec. 23.  
(Regulations.)

(d) by omitting section 23 (3) and (4) and by inserting instead the following subsection:—

(3) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this Act as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

Sec. 25.

(e) by omitting sections 25 and 26 and by inserting instead the following section:—

Determina-  
tion of  
applications.

25. (1) Subject to subsection (2), the Commission may grant the application unconditionally or subject to such conditions as it thinks fit, or it may refuse the application.

(2)

*Housing (Amendment).*

(2) An application shall not be granted No. 5, 1975 unless the applicant—

- (a) satisfies the Commission that the dwelling-house is for his use or for the use of a member of his family; and
- (b) satisfies such other requirements as to eligibility as may from time to time be determined by the Commission and approved by the Minister.

(3) Where the application is that the Minister erect a dwelling-house for the applicant on land owned by the applicant in fee or held by him under the Crown Lands Consolidation Act, 1913, and—

- (a) that land is subject to a mortgage or charge securing money owing by the applicant; or
- (b) there is money owing in respect of that land to the Crown,

the amount required to discharge that mortgage or charge or that debt to the Crown, not exceeding such maximum amount as may from time to time be determined by the Commission, may be added to the amount to be expended in the erection of the dwelling-house and the repayment thereof shall be provided for in the security given by the applicant under section 31.

- (f) by omitting from section 27 (1) the word “and” and by inserting instead the words “as may be required by the Commission and shall”; Sec. 27. (Agreement to be entered into.)

(g)

*Housing (Amendment).*

**No. 5, 1975** (g) (i) by inserting in section 31 (1) after the word  
 "advanced" the words "or expended";  
 (ii) by omitting from section 31 (2) the words  
 "an advance is" and by inserting instead the  
 words "any moneys advanced or expended  
 under this Part are";

Sec. 31.  
 (Security  
 for  
 advance.)

Sec. 32.  
 (Forms of  
 mortgage-  
 deeds.)

(h) by omitting section 32.

Further  
 amendment  
 of Act No.  
 7, 1912.

**3.** Each provision of the Housing Act, 1912, specified in Column 1 of the Schedule is amended in the manner specified opposite that provision in Column 2 of the Schedule.

Saving of  
 certain  
 regulations.

**4.** The regulations made for the purposes of paragraph (c) of the proviso to section 10 (1) of the Housing Act, 1912, in force immediately before the date of assent to this Act shall, notwithstanding the repeal of that paragraph by this Act, continue and shall be deemed to have been made under section 10 (3) of the Housing Act, 1912, as amended by this Act.

Amendment  
 of Act No.  
 65, 1941.  
 Sec. 22B.

**5.** The Housing Act, 1941, is amended by inserting after section 22A the following section:—

Raising  
 loans in any  
 country.

**22B.** (1) Notwithstanding anything contained in this Division, any money which the Commission is authorised to borrow may be borrowed by a loan raised wholly or in part in such place outside New South Wales as the Governor on the recommendation of the Treasurer may approve, and may be negotiated and raised in any currency.

(2)

*Housing (Amendment).*

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(2) A loan raised under subsection (1) may be raised wholly or in part by the issue of debentures or inscribed stock in any form and containing any term, condition or provision permitted under the law of the place where the loan is raised and the Commission may establish and conduct in that place registries relating to the securities issued in respect of that loan. No. 5, 1975

(3) The Commission may in respect of a loan raised under subsection (1) agree that a sinking fund shall be established and controlled at such place and in such manner as may be found necessary or expedient in the circumstances of the case.

(4) In connection with the raising of a loan under subsection (1), the Commission may enter into such agreements as it thinks fit with respect to the form of the debentures or inscribed stock referred to in subsection (2), or for the sale of those debentures or that inscribed stock, or for the granting of an option to purchase those debentures or that inscribed stock, or for services to be performed by any person in Australia or in any other part of the world in connection with that loan or with the issue, management and redemption of or otherwise with respect to those debentures or that inscribed stock, and any such agreement may be upon such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Commission thinks fit.

(5) Copies of any agreement referred to in subsection (4) shall be forwarded to the Minister who shall cause them to be laid before both Houses of Parliament as soon as possible after the loan is raised.

(6) The Governor may, upon the recommendation of the Commission, by notification published in the Gazette, appoint two or more persons to enter into and to sign, execute, or otherwise perfect all such agreements, debentures or inscribed stock as are by this section provided for and to do all such things as may be necessary or convenient to be done for the purpose of

raising

*Housing (Amendment).*

No. 5, 1975

raising any loan under this Act and may, upon the like recommendation and by a like notification, revoke or vary any such appointment and make any fresh appointment.

(7) The production of a copy of the Gazette containing a notification of any appointment referred to in subsection (6) or the revocation thereof shall, in favour of a lender or of any holder of a security, be conclusive evidence of the appointment or revocation.

(8) All debentures or inscribed stock bearing the signatures of the persons so appointed in that behalf shall be deemed to be securities lawfully issued under seal by the Commission and the principal money and interest secured thereby shall be a charge upon the income and revenue of the Commission from whatever source arising, and the due repayment of that principal money and that interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or issued under the authority of this section and bearing the signatures of those persons shall be deemed to have been lawfully made or issued by the Commission and, if they purport to have been sealed by those persons, to have been lawfully executed by the Commission under seal.

(9) A holder of any debentures or inscribed stock deemed to be securities lawfully issued under subsection (8) shall not be bound to inquire whether the issue of those debentures or that inscribed stock was in fact duly authorised.

(10) Subject to this section and the law in force in the place where any loan is raised under subsection (1) and applicable to that loan and the securities issued in connection therewith, the provisions of this Division, other than sections 20 (2) and 21 (10), shall apply to and in respect of that loan and those securities in the same way as they apply to and in respect of any other loan and any other securities.

SCHEDULE.

## Housing (Amendment).

SCHEDULE.		No. 5, 1975
AMENDMENT OF HOUSING ACT, 1912.		Sec. 3.
Column 1.	Column 2.	
Provision of Housing Act, 1912.	Amendment.	
The definition of "Purchaser" in section 2; sections 4 (1); 5; 6; 7; 8 (1), (2); 9 (1); 11; 12 (1), (2), (3), (4); 13 (1), (2); 13B; 17; 18 (1); 18B (1); 19; 20 (1), (2); 24; 28; 29; 31 (1), (2); 33; 35; 36; 37 (1); 38; 39; 41 (1), (2); 42; 43 (1), (2), (4), (5), (6); 44 (1).	Omit "Minister" wherever occurring, insert instead "Commission".	
Section 5 .. .. .	Omit "him", insert instead "it".	
Section 8 (4) .. .. .	Omit "The Housing Commission of New South Wales", insert instead "the Commission".	
Section 11 .. .. .	Omit "him", insert instead "it".	
Section 12 (3) .. .. .	Omit "he", insert instead "it".	
Section 12 (4) .. .. .	(a) Omit "his", insert instead "its"; (b) Omit "he", insert instead "it".	
Section 13B .. .. .	(a) Omit "he", insert instead "it"; (b) Omit "him", insert instead "it".	
The short heading after section 13B ..	Omit "Fund", insert instead "Account".	
The short heading before section 18 ..	Omit "Minister", insert instead "Commission".	
Section 18 (1) (b) .. .. .	Omit "agents", insert instead "agent".	
Section 18A (1) .. .. .	Omit "Minister" where firstly, thirdly, fifthly and sixthly occurring, insert instead "Commission".	
The short heading before section 20 ..	Omit "Minister", insert instead "Commission".	
Section 20 (1) .. .. .	Omit "him", insert instead "it".	
Section 34 .. .. .	(a) Omit "Minister" where firstly, secondly, fourthly and fifthly occurring, insert instead "Commission"; (b) Omit " , if such place be within three miles of the office of the Minister, "; (c) Omit "if such place be beyond that distance".	
Section 43 (4) .. .. .	(a) Omit "his", insert instead "its"; (b) Omit "he", insert instead "it".	
Section 43 (5) .. .. .	(a) Omit "he" wherever occurring, insert instead "it"; (b) Omit "his", insert instead "its".	
Section 47 (a) .. .. .	Omit the paragraph.	

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AMBULANCE