

**PUBLIC AUTHORITIES (FINANCIAL ACCOMMODATION)  
ACT, 1981, No. 82**

**New South Wales**



ANNO TRICESIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 82, 1981.**

An Act to confer on certain public authorities power to obtain financial accommodation of various classes. [Assented to, 9th June, 1981.]

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See also Miscellaneous Acts (Financial Accommodation) Amendment Act, 1981.

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**BE** it enacted by the Queen'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.**

**Short title.**

**1.** This Act may be cited as the "Public Authorities (Financial Accommodation) Act, 1981".

**Commencement.**

**2. (1)** This section and section 1 shall commence on the date of assent to this Act.

**(2)** Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**Arrangement.**

**3.** This Act is divided as follows:—

**PART I.—PRELIMINARY—ss. 1–4.**

**PART II.—GENERAL—ss. 5–7.**

**PART III.—BORROWING WITHIN THE COMMONWEALTH—ss. 8–11.**

**PART IV.—OVERSEAS BORROWING—ss. 12–14.**

**PART V.—OTHER FINANCIAL ACCOMMODATION—ss. 15, 16.**

**PART VI.—GUARANTEES—ss. 17–20.**

**PART VII.—APPROPRIATION—s. 21.**

**PART VIII.—MISCELLANEOUS—ss. 22–25.**

**SCHEDULES.**

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**Interpretation.**

**4. (1)** In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“appointed day” means the day appointed and notified under section 2 (2);

“authority” means a corporation specified in Schedule 4, 5, 6 or 7;

“Commonwealth” includes the territories of the Commonwealth;

“financial accommodation” includes a loan of money and any other transaction or class of transactions approved by the Governor for the purposes of this Act;

“function” includes power, authority and duty;

“fund” in relation to an authority means the reserve for loan repayment fund established by the authority pursuant to Schedule 3 or the Act by which the authority is constituted;

“Government” means the Crown in right of New South Wales;

“Minister” in relation to an authority means the Minister of the Crown for the time being administering the Act by which the authority is constituted;

“regulations” means regulations made under this Act.

**(2)** In this Act, a reference to the performance of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority or the performance of the duty.

**(3)** Where by this Act any matter or thing relating to an authority is required or permitted to be done with the approval of the Governor, the approval referred to is approval given upon the recommendation of the Minister for the authority, with the concurrence of the Treasurer.

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PART II.

GENERAL.

**Financial accommodation—authorised purposes.**

5. An authority may obtain financial accommodation in accordance with this Act for—

- (a) the purpose of performing its functions;
- (b) the renewal of financial accommodation;
- (c) the discharge or partial discharge of financial accommodation provided by the Treasurer or to a bank or to a person from whom the authority borrowed money pursuant to this or any other Act, whether before, on or after the appointed day; or
- (d) any other purpose of the Act by which it is constituted.

**Exemption from stamp duty.**

6. Debentures, bonds, inscribed stock or any other securities or instruments issued or executed, and agreements entered into, by an authority under this or any other Act (whether before, on or after the appointed day) to secure the repayment of financial accommodation and, if applicable, the payment of interest thereon shall, as regards both the issue and the transfer or assignment thereof for full consideration for money or money's worth, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule to that Act subject, in the case of an agreement, to the instrument of approval to obtain the financial accommodation so providing.

**Investment of trust funds, etc.**

7. (1) A trustee, unless expressly forbidden by the instrument, if any, creating the trust, may invest any trust funds in his hands, whether at that time in a state of investment or not, in stock inscribed by an authority or in any debentures, bonds or other securities or instruments issued in accordance with this Act and an investment made pursuant to this subsection shall be deemed to be an investment in a security authorised by the Trustee Act, 1925.

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(2) An authority or officer of an authority is not competent to receive notice of an express, implied or constructive trust affecting a debenture, bond, coupon or other security issued, or stock inscribed, by an authority.

(3) In addition to any other manner in which a company, a council within the meaning of the Local Government Act, 1919, or any other body corporate constituted by an Act is authorised to invest its funds, the company, council or other body corporate may invest its funds in providing financial accommodation for an authority in accordance with this Act.

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PART III.

BORROWING WITHIN THE COMMONWEALTH.

**Bank overdrafts and Treasury advances.**

8. (1) This section applies to an authority specified in Schedule 4.

(2) For the temporary financial accommodation of an authority to which this section applies it may, within such limits and to such extent as may from time to time be approved by the Governor, obtain advances by overdraft of current account in any bank or banks.

(3) Subject to subsection (4), the Treasurer may advance to an authority such money as may be determined by the Treasurer in consultation with the Minister for the authority.

(4) The terms and conditions as to repayment of money advanced under subsection (3) and the payment of interest thereon shall, except to the extent that the Act by which the authority is constituted otherwise provides, be determined by the Treasurer in consultation with the Minister for the authority.

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**Term loans.**

**9. (1)** This section applies—

- (a) to an authority specified in Schedule 4; and
- (b) to financial accommodation obtained under subsection (2) where the obligation to repay has been evidenced as provided by section 10.

**(2)** An authority to which this section applies may, with the approval of the Governor, obtain financial accommodation within the Commonwealth.

**(3)** Schedules 1 and 3 have effect in relation to a loan to which this section applies.

**Debentures, etc.**

**10. (1)** To evidence the obligation of an authority to repay financial accommodation obtained by the authority under section 9 and, where payable, to pay interest thereon, the authority may, as provided by the regulations, issue debentures, bonds, inscribed stock or other prescribed securities.

**(2)** A debenture or bond issued under subsection (1) and a coupon originally annexed to the debenture or bond (whether or not the coupon is separated from the debenture or bond) may be transferred by delivery.

**(3)** Inscribed stock of an authority is transferable in the books of the authority as provided by the regulations.

**Income, etc., of authority charged.**

**11. (1)** The due repayment of financial accommodation obtained under section 9 by an authority and, where payable, the due payment of interest and other charges relating thereto—

- (a) is a charge on the income and revenue of the authority from whatever source arising; and
- (b) is hereby guaranteed by the Government.

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(2) A charge imposed by subsection (1) on the income and revenue of the authority does not operate to prevent the authority from dealing, in the ordinary course of the performance of its functions, with its income and revenue free of the charge.

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PART IV.

OVERSEAS BORROWING.

**Certain authorities may borrow overseas.**

12. (1) This section applies to an authority specified in Schedule 5.

(2) Subject to subsection (3), an authority to which this section applies may obtain financial accommodation outside the Commonwealth.

(3) Financial accommodation referred to in subsection (2) may be obtained—

- (a) in such forms;
- (b) in such amounts and in such currencies;
- (c) in such manner and on such terms and conditions; and
- (d) subject to section 13, upon such security, or by the issue of such securities, or by the execution of such instruments, or any combination of them,

as the Governor may approve.

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**Government guarantees and other security.**

**13. (1)** The due repayment of financial accommodation obtained under section 12 by an authority and, where payable, the due payment of interest and other charges relating thereto—

- (a) is a charge on the income and revenue of the authority, from whatever source arising; and
- (b) shall be guaranteed by the Government as provided by Part VI.

**(2)** The charge imposed by subsection (1) on the income and revenue of the authority does not operate to prevent the authority from dealing, in the ordinary course of the performance of its functions, with its income and revenue free of the charge.

**Schedules 2 and 3.**

**14.** Except to the extent that the Governor otherwise approves in relation to a particular authority, Schedules 2 and 3 have effect in relation to—

- (a) an authority to which section 12 applies; and
- (b) financial accommodation obtained by such an authority under this Part.

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PART V.

OTHER FINANCIAL ACCOMMODATION.

**Deposits.**

**15. (1)** This section applies to an authority specified in Schedule 6.

**(2)** An authority to which this section applies may receive money on deposit upon such terms (if any) in relation thereto as may from time to time be approved by the Governor.



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**Other financial accommodation.**

**16. (1)** This section applies to an authority specified in Schedule 7.

**(2)** Without prejudice to any other powers conferred on it by this Act, but subject to subsection (3), an authority to which this section applies may obtain financial accommodation (whether in Australia or elsewhere) of a kind not provided for by Parts III and IV and section 15.

**(3)** Financial accommodation referred to in subsection (2) may be obtained—

- (a) in such forms;
- (b) in such amount and such currencies;
- (c) in such manner and on such terms and conditions; and
- (d) upon such security or by the issue of such instruments, or both,

as the Governor may approve.

**(4)** The due repayment of any financial accommodation obtained by an authority under this section, and, where payable, the due payment of any interest and other charges in relation thereto, may be guaranteed by the Government as provided by Part VI.

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**PART VI.****GUARANTEES.****Interpretation: Part VI.**

**17. (1)** In sections 18, 19 and 20, a reference to a guarantee is a reference to a guarantee given under section 13 or 16.

**(2)** In section 21, a reference to a guarantee is a reference to a guarantee given under section 11, 13 or 16.

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**Form of guarantee.**

**18. (1)** The Treasurer may determine the form (including terms and conditions) of a guarantee.

**(2)** The Treasurer may determine different forms for different guarantees.

**Certain payments by Government.**

**19.** The Government may, in relation to any financial accommodation obtained by an authority, agree to make a payment notwithstanding that the authority may be precluded by the law of New South Wales from making the payment.

**Recovery of money paid under guarantee or agreement.**

**20.** Where the Treasurer pays an amount under a guarantee or pursuant to an agreement referred to in section 19, the authority is liable to pay that amount to the Treasurer, for credit of the Consolidated Revenue Fund, by such instalments, at such times, and with such interest, as the Treasurer, after consultation with the Minister for the authority, determines in each case.

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PART VII.

APPROPRIATION.

**Appropriation.**

**21.** Any liability of the Treasurer and the Government under this Act shall be discharged out of the Consolidated Revenue Fund without any further appropriation than this Act.

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## PART VIII.

## MISCELLANEOUS.

**Priorities.**

**22. (1)** All obligations of the Government under a guarantee rank *pari passu* with all other outstanding obligations of the Government.

**(2)** All obligations of an authority to repay financial accommodation the repayment of which is secured upon the income and revenue of the authority (whether pursuant to this Act or otherwise and whether obtained before, on or after the appointed day) rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

**Amendment of Schedules 4-7.**

**23. (1)** The Governor may, by regulation, amend Schedule 4, 5, 6 or 7—

(a) by adding thereto the name of a public authority constituted by an Act other than the Local Government Act, 1919; or

(b) by omitting therefrom the name of an authority.

**(2)** Where a regulation amends a Schedule by adding the name of an authority, the Governor may, by regulation, make such amendments of the Act by which the authority is constituted, and such necessary and convenient savings and transitional provisions, as are consequential upon the amendment of the Schedule.

**(3)** Where a regulation referred to in subsection (2) is expressed to apply, in relation to an authority the name of which is by the regulation added to a Schedule, any or all of the provisions of Schedule 2 (Savings and Transitional Provisions) to the Miscellaneous Acts (Financial Accommodation) Amendment Act, 1981, to and in respect of the authority, the provision or provisions so expressed to be applied have effect in relation to that authority and so have effect as if—

(a) the amendment made by the regulation had been made by section 4 of that Act; and

(b) a reference in that Schedule to the appointed day were a reference to the day on which the regulation takes effect.

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(4) Where a regulation amends a Schedule by omitting the name of the authority and, but for this subsection, this Act would thereupon cease to apply in respect of any financial accommodation obtained by the authority before the regulation took effect, this Act continues, to the extent specified by the regulation, to apply in respect of that financial accommodation.

**Execution of guarantee.**

24. (1) A guarantee or other instrument relating to financial accommodation obtained by an authority under this Act may be executed on behalf of the Government by the Treasurer or by a person or persons appointed by the Governor for the purpose.

(2) The Governor may vary or revoke an appointment made for the purposes of subsection (1) or make a different appointment for those purposes.

**Regulations.**

25. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;  
or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by a specified person,

or may do any combination of those things.

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## SCHEDULE 1.

(Sec. 9.)

PROVISIONS RELATING TO FINANCIAL ACCOMMODATION TO WHICH SECTION 9 APPLIES.

**Interpretation: Sch. 1.****1. In this Schedule—**

“authority” means an authority specified in Schedule 4;

“financial accommodation” means financial accommodation to which section 9 applies;

“security” includes debenture, bond, inscribed stock, prescribed security or other instrument.

**Interest on debenture or bond.**

2. The holder of a coupon originally annexed to a security issued or executed by an authority (whether or not the coupon is separated from the security) is entitled to receive payment from the authority of the interest specified in the coupon upon its presentation on or after the date when, and at the place where, the interest is payable.

**Loss, etc., of debentures, etc.**

3. (1) If a security issued or executed by an authority is lost, stolen, destroyed, mutilated or defaced before it has been redeemed, the authority may issue or execute a security in its place upon proof to the satisfaction of the authority of the loss, theft or destruction, or upon surrender of the mutilated or defaced security, and upon receiving security or indemnity satisfactory to it against double payment if the missing security is thereafter presented for payment.

(2) A security issued or executed under subclause (1) of this clause with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the security it replaces.

(3) This clause applies to and in respect of a lost, stolen, destroyed, mutilated or defaced coupon in the same way as it applies to and in respect of a lost, stolen, destroyed, mutilated or defaced security.

**Protection of lenders.**

4. (1) A person providing financial accommodation for an authority is not bound to inquire into the application of the financial accommodation and is not responsible for any non-application or misapplication thereof.

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SCHEDULE 1—*continued.***PROVISIONS RELATING TO FINANCIAL ACCOMMODATION TO WHICH SECTION 9 APPLIES**  
—*continued.*

(2) A notification in the Gazette of the approval of the Governor having been given to the obtaining of financial accommodation by an authority is, in favour of a lender and any holder of a security issued or executed by the authority conclusive evidence that the approval of the Governor has been given to the obtaining of the financial accommodation specified in the notification.

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SCHEDULE 2.

(Sec. 14.)

## PROVISIONS RELATING TO OVERSEAS BORROWING.

**Interpretation: Sch. 2.**

## 1. In this Schedule—

“authority” means an authority specified in Schedule 5;

“financial accommodation” means financial accommodation obtained by an authority under Part IV;

“security” includes debenture, bond, inscribed stock, prescribed security or other instrument.

**Debentures, etc.**

2. (1) To evidence the obligation of an authority to repay financial accommodation and, where payable, to pay interest thereon, the authority may, as provided by the regulations, issue or execute securities.

(2) A debenture or bond issued under subclause (1) of this clause and a coupon originally annexed to the debenture or bond (whether or not the coupon is separated from the debenture or bond) may be transferred by delivery.

(3) Inscribed stock of an authority is transferable in the books of the authority as provided by the regulations.

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SCHEDULE 2—*continued.*PROVISIONS RELATING TO OVERSEAS BORROWING—*continued.***Interest on debenture or bond.**

3. The holder of a coupon originally annexed to a security issued or executed by an authority (whether or not the coupon is separated from the security) is entitled to receive payment from the authority of the interest specified in the coupon upon its presentation on or after the date when, and at the place where, the interest is payable.

**Execution of securities.**

4. (1) An authority may, with the approval of the Governor, appoint a person or persons for and on behalf of the authority to enter into any securities relating to financial accommodation and to sign, execute or otherwise perfect those securities and to do all such things as may be necessary or convenient to be done for the purpose of obtaining the financial accommodation and may, with the like approval, revoke or vary such an appointment or make a different appointment.

(2) A copy of the Gazette in which appears a notification purporting to be a notification of an appointment under subclause (1) of this clause is, in favour of a person claiming a benefit under a security or instrument referred to in that subclause, conclusive evidence of the appointment, revocation or variation to which it relates.

**Loss, etc., of debentures, etc.**

5. (1) If a security issued or executed by an authority is lost, stolen, destroyed, mutilated or defaced before it has been redeemed, the authority may issue or execute a security in its place upon proof to the satisfaction of the authority of the loss, theft or destruction, or upon surrender of the mutilated or defaced security, and upon receiving security or indemnity satisfactory to it against double payment if the missing security is thereafter presented for payment.

(2) A security issued or executed under subclause (1) of this clause with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the security it replaces.

(3) This clause applies to and in respect of a lost, stolen, destroyed, mutilated or defaced coupon in the same way as it applies to and in respect of a lost, stolen, destroyed, mutilated or defaced security.

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SCHEDULE 2—*continued.*PROVISIONS RELATING TO OVERSEAS BORROWING—*continued.***Protection of lenders.**

6. (1) A person providing financial accommodation for an authority is not bound to inquire into the application of the financial accommodation and is not responsible for any non-application or misapplication thereof.

(2) A notification in the Gazette of the approval of the Governor having been given to the obtaining of financial accommodation by an authority is, in favour of the person from whom it was obtained and any holder of a security issued by the authority, conclusive evidence that the approval of the Governor has been given to the obtaining of the financial accommodation in the place, and in the currency or currencies, specified in the notification.

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**SCHEDULE 3.**

(Secs. 9, 14.)

**LOAN REPAYMENT.****Reserve for loan repayment fund.**

1. (1) This clause does not apply—

- (a) in so far as the Act by which an authority is constituted otherwise provides;
- (b) in respect of financial accommodation obtained by an authority under section 9 that is to be repaid by instalments at intervals not exceeding 1 year; or
- (c) in respect of any financial accommodation obtained by an authority before, on or after the appointed day that, with the concurrence of the Treasurer, is for the time being specified by the Minister for the authority as financial accommodation in respect of which this section is not to apply.

(2) An authority shall establish a reserve for loan repayment fund in respect of all loans or renewal loans raised by the authority before, on or after the appointed day.

(3) Subject to subclause (4) of this clause, an authority shall, during each year, transfer from the revenue of the authority to its fund an amount not less than the amount that the authority, in the application to the Governor for approval to obtain the financial accommodation, specified that it proposed to transfer to the fund or a like fund.



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SCHEDULE 3—*continued.*LOAN REPAYMENT—*continued.*

(4) Where subclause (3) of this clause does not apply in respect of financial accommodation obtained by an authority the authority shall make transfers to its fund at such rate or in such amounts as may from time to time be determined by the Minister for the authority with the concurrence of the Treasurer or, where there is no such determination in force, as the authority thinks fit.

(5) Subject to subclause (6) of this clause, money paid into the fund of an authority may be applied only in or towards repayment of financial accommodation obtained by the authority.

(6) If, after financial accommodation obtained by an authority has been repaid, any balance remains in the fund of the authority, that balance shall be paid to the general funds of the authority unless the Treasurer, after consultation with the Minister for the authority, otherwise directs.

(7) An authority may cancel debentures, bonds, inscribed stock or other prescribed securities purchased with money from the fund of the authority established for repayment of the loan or renewal loan in relation to which they were issued.

(8) The fund of an authority is not liable to seizure in satisfaction of a debt other than financial accommodation in respect of which transfers were made to the fund of the authority.

**Investment of fund.**

2. (1) Money held by an authority in its fund may be invested in securities of the Government of the Commonwealth, or in debentures, bonds or inscribed stock issued by the authority in respect of financial accommodation obtained by the authority, or in securities guaranteed by the Government, or in such other manner as may be prescribed.

(2) Any interest on, or profits realised on, an investment made by an authority under subclause (1) of this clause shall be added to, and form part of, the fund of the authority.

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## SCHEDULE 4.

(Secs. 8, 9.)

## PUBLIC AUTHORITIES TO WHICH SECTIONS 8 AND 9 APPLY.

Albury-Wodonga (New South Wales) Corporation.  
Bathurst-Orange Development Corporation.  
Board of Fire Commissioners of New South Wales.  
Grain Handling Authority of New South Wales.  
Health Commission of New South Wales.  
Homebush Abattoir Corporation.  
Hospital within the meaning of, and specified in the Second Schedule to, the Public Hospitals Act, 1929.  
Land Commission of New South Wales.  
Metropolitan Waste Disposal Authority.  
Minister administering the Environmental Planning and Assessment Act, 1979.  
Minister administering the Heritage Act, 1977.  
Minister for Decentralisation.  
Minister for Tourism.  
New South Wales Film Corporation.  
New South Wales Meat Industry Authority.  
Public Servant Housing Authority of New South Wales.  
State Rail Authority of New South Wales.  
Sydney Cove Redevelopment Authority.  
Sydney Farm Produce Market Authority.  
Teacher Housing Authority of New South Wales.  
The Broken Hill Water Board.  
The Cobar Water Board.  
The Commissioner for Main Roads.  
The Electricity Commission of New South Wales.  
The Housing Commission of New South Wales.  
The Hunter District Water Board.  
The Maritime Services Board of New South Wales.  
The Metropolitan Water Sewerage and Drainage Board.  
The Wild Dog Destruction Board.  
Urban Transit Authority of New South Wales.  
Water Resources Commission.

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SCHEDULE 5.

(Sec. 12.)

## PUBLIC AUTHORITIES TO WHICH SECTION 12 APPLIES.

State Rail Authority of New South Wales.  
The Electricity Commission of New South Wales.  
The Maritime Services Board of New South Wales.

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SCHEDULE 6.

(Sec. 15.)

PUBLIC AUTHORITIES TO WHICH SECTION 15 APPLIES.

Albury-Wodonga (New South Wales) Corporation.  
 Bathurst-Orange Development Corporation.  
 Board of Fire Commissioners of New South Wales.  
 Grain Handling Authority of New South Wales.  
 Land Commission of New South Wales.  
 Metropolitan Waste Disposal Authority.  
 Minister administering the Environmental Planning and Assessment Act, 1979.  
 Minister for Decentralisation.  
 New South Wales Film Corporation.  
 State Rail Authority of New South Wales.  
 Sydney Cove Redevelopment Authority.  
 The Broken Hill Water Board.  
 The Cobar Water Board.  
 The Commissioner for Main Roads.  
 The Electricity Commission of New South Wales.  
 The Housing Commission of New South Wales.  
 The Hunter District Water Board.  
 The Maritime Services Board of New South Wales.  
 The Metropolitan Water Sewerage and Drainage Board.  
 Urban Transit Authority of New South Wales.

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SCHEDULE 7.

(Sec. 16.)

PUBLIC AUTHORITIES TO WHICH SECTION 16 APPLIES.

Albury-Wodonga (New South Wales) Corporation.  
 Bathurst-Orange Development Corporation.  
 Board of Fire Commissioners of New South Wales.  
 Grain Handling Authority of New South Wales.  
 Health Commission of New South Wales.  
 Homebush Abattoir Corporation.  
 Hospital within the meaning of, and specified in the Second Schedule to, the Public Hospitals Act, 1929.  
 Land Commission of New South Wales.  
 Minister administering the Environmental Planning and Assessment Act, 1979.  
 New South Wales Film Corporation.  
 New South Wales Meat Industry Authority.  
 State Rail Authority of New South Wales.  
 Sydney Cove Redevelopment Authority.  
 Sydney Farm Produce Market Authority.  
 The Commissioner for Main Roads.

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SCHEDULE 7—*continued.*

PUBLIC AUTHORITIES TO WHICH SECTION 16 APPLIES—*continued.*

The Electricity Commission of New South Wales.  
The Housing Commission of New South Wales.  
The Hunter District Water Board.  
The Maritime Services Board of New South Wales.  
The Metropolitan Water Sewerage and Drainage Board.  
Urban Transit Authority of New South Wales.  
Water Resources Commission.

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