

**HOUSING (AMENDMENT) ACT, 1982, No. 121**

**New South Wales**



ANNO TRICESIMO PRIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 121, 1982.**

An Act to reconstitute the Housing Commission of New South Wales; to consolidate certain enactments relating to that Commission; and for those and other purposes to amend the Housing Act, 1912, and to repeal the Housing of the Unemployed Act, 1934, the Housing Improvement Act, 1936, the Housing Act, 1941, and certain other enactments. [Assented to, 7th December, 1982.]

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See also Statutory and Other Offices Remuneration (Housing Commission) Amendment Act, 1982; Public Service (Housing Commission) Amendment Act, 1982.

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*Housing (Amendment).*

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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:—

**Short title.**

1. This Act may be cited as the "Housing (Amendment) Act, 1982".

**Commencement.**

2. (1) Sections 1 and 2 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.

**Principal Act.**

3. The Housing Act, 1912, is referred to in this Act as the Principal Act.

**Schedules.**

4. This Act contains the following Schedules:—  
SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION OF THE COMMISSION.  
SCHEDULE 2.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.  
SCHEDULE 3.—REPEALS.  
SCHEDULE 4.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

**Amendment of Act No. 7, 1912.**

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

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*Housing (Amendment).*

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**Repeals.**

6. Each Act specified in Column 1 of Schedule 3 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.

**Savings, transitional and other provisions.**

7. Schedule 4 has effect.

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**SCHEDULE 1.**

(Sec. 5.)

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION  
OF THE COMMISSION.**

(1) Sections 3, 3A—

Omit section 3, insert instead:—

**The Commission.**

3. (1) There is hereby constituted a corporation under the corporate name of the "Housing Commission of New South Wales".

(2) The Commission—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act;
- (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (c) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

(3) The Commission shall consist of 7 members who shall be appointed by the Governor.

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*Housing (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
CONSTITUTION OF THE COMMISSION—*continued.*

- (4) Of the members—
  - (a) 1 shall, in and by the instrument by which he is appointed, be appointed as Chief Executive of the Commission; and
  - (b) 6 shall, in and by the instruments by which they are appointed, be appointed as part-time members.
  
- (5) Schedule 1 has effect with respect to the members.
  
- (6) Schedule 2 has effect with respect to the procedure of the Commission.
  
- (7) Subject to subsection (8), sections 38 and 39 of the Interpretation Act, 1897, apply in respect of the Commission as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.
  
- (8) The regulations may make provision for or with respect to the custody and use of the common seal of the Commission.

**Functions of Chief Executive.**

- 3A. The Chief Executive—
  - (a) is responsible, as the chief executive officer of the Commission, for the management of the affairs of the Commission subject to and in accordance with any directions given to him by the Commission; and
  - (b) shall have and may exercise such other functions as are conferred or imposed on him by or under this or any other Act.

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*Housing (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
CONSTITUTION OF THE COMMISSION—*continued.*

## (2) Schedules 1, 2—

At the end of the Act, insert:—

## SCHEDULE 1.

(Sec. 3 (5).)

## PROVISIONS RELATING TO THE MEMBERS OF THE COMMISSION.

**Age of members.**

1. A person of or above the age of 65 years is not eligible to be appointed as a member or to act in the office of a member.

**Chairman of the Commission.**

2. (1) Of the part-time members, one shall, in and by the instrument by which he is appointed, or by another instrument executed by the Governor, be appointed as Chairman of the Commission.

(2) The Governor may, for any cause which appears to him sufficient, remove a part-time member from the office of Chairman.

(3) A part-time member shall be deemed to have vacated his office as Chairman if—

- (a) he is removed from that office by the Governor under subclause (2);
- (b) he resigns that office by writing under his hand addressed to the Minister; or
- (c) he ceases to be a part-time member.

**Acting members and acting Chairman.**

3. (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have all the functions of the member.

(2) The Governor may, from time to time, appoint a part-time member to act in the office of Chairman during the illness or absence of the Chairman, and the part-time member, while so acting, shall have all the functions of the Chairman.

(3) The Governor may, for any cause which appears to him sufficient, remove any person from any office to which he was appointed under subclause (1) or (2).

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*Housing (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
CONSTITUTION OF THE COMMISSION—*continued.*

(4) Any person while acting in the office of a member is entitled to receive such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

(5) For the purposes of this clause—

- (a) a vacancy in the office of a member or the Chairman shall be deemed to be an absence from office of the member or Chairman, as the case may be; and
- (b) a part-time member shall be deemed to be absent from his office as a part-time member during any period that he acts in the office of the Chief Executive pursuant to an appointment under subclause (1).

**Terms of office.**

4. (1) Subject to this Act, a member shall be appointed for—

- (a) where he is the Chief Executive—such term not exceeding 7 years; or
  - (b) where he is a part-time member—such term not exceeding 5 years,
- as may be specified in the instrument appointing him.

(2) Upon the expiration of the term of office of a member he shall, if otherwise qualified, be eligible for re-appointment from time to time.

**Chief Executive to be full-time member.**

5. The Chief Executive shall devote the whole of his time to the duties of his office, except as permitted by this Act or except with the consent of the Minister (which consent the Minister is hereby authorised to give).

**Remuneration.**

6. (1) The Chief Executive is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

(2) A part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

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*Housing (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
CONSTITUTION OF THE COMMISSION—*continued.***Filling of vacancy in office of member.**

7. In the event of the office of any member becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

**Casual vacancies.**

8. (1) A member shall be deemed to have vacated his office if—
- (a) he dies;
  - (b) being a part-time member, he absents himself from 4 consecutive meetings of the Commission of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;
  - (c) being the Chief Executive, he absents himself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless his absence is occasioned by illness or other unavoidable cause;
  - (d) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
  - (e) he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
  - (f) he is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
  - (g) being the Chief Executive, he engages during his term of office in any paid employment outside the duties of his office, except with the consent of the Minister (which consent the Minister is hereby authorised to give);
  - (h) he contravenes the provisions of clause 9;
  - (i) he resigns his office by writing under his hand addressed to the Minister;
  - (j) he attains the age of 65 years;

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*Housing (Amendment).*

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**SCHEDULE 1—*continued.***

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
CONSTITUTION OF THE COMMISSION—*continued.***

(k) being the Chief Executive, he is retired from office by the Governor under subclause (2); or

(l) he is removed from office by the Governor under subclause (3) or (4).

(2) The Chief Executive may be retired from office by the Governor after he attains the age of 60 years and before he attains the age of 65 years and, if he is so retired, he is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

(3) Where the Governor is satisfied that the Chief Executive is incapable or incompetent or has misconducted himself, the Governor may remove the Chief Executive from office.

(4) The Governor may, for any cause which appears to him sufficient, remove a part-time member from office.

**Disclosure of pecuniary interests.**

9. (1) A member who has a direct or indirect pecuniary interest—

(a) in a matter that is being considered, or is about to be considered, at a meeting of the Commission; or

(b) in a thing being done or about to be done by the Commission,

shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

(2) A disclosure by a member at a meeting of the Commission that—

(a) he is a member or is in the employment of a specified company or other body;

(b) he is a partner or is in the employment of a specified person; or

(c) he has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of his interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Commission shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Commission from time to time.



*Housing (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
CONSTITUTION OF THE COMMISSION—*continued.*

(4) After a member has, or is deemed to have, disclosed the nature of his interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines—

- (a) be present during any deliberation of the Commission, or take part in any decision of the Commission, with respect to that matter; or
- (b) exercise any of his functions under this Act with respect to that thing,

as the case may require.

(5) Notwithstanding that a member contravenes a provision of this clause, that contravention does not invalidate any decision of the Commission or the exercise of any function under this Act.

**Effect of certain other Acts.**

10. (1) The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act during his term of office as a member.

(2) Where by or under any other Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to him under this Act as a part-time member.

(3) The office of a part-time member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

**Preservation of rights of Chief Executive previously public servant, etc.**

11. (1) In this clause—

“statutory body” means any body declared under clause 13 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Subject to subclause (3) and to the terms of his appointment, where the Chief Executive was, immediately before his appointment as Chief Executive—

- (a) an officer of the Public Service or a Teaching Service;

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*Housing (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
CONSTITUTION OF THE COMMISSION—*continued.*

- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him is an officer or employee,  
he—
  - (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
  - (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as Chief Executive; and
  - (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,as if he had continued to be such an officer, contributor or person during his service as Chief Executive and—
  - (h) his service as Chief Executive shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
  - (i) he shall be deemed to be an officer or employee, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this clause.

(3) If the Chief Executive would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme, he shall not be so entitled upon his becoming (whether upon his appointment as Chief Executive or at any later time while he holds office as Chief Executive) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Subclause (3) does not prevent the payment to the Chief Executive upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of the scheme.

(5) The Chief Executive shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

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*Housing (Amendment).*


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 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
 CONSTITUTION OF THE COMMISSION—*continued.*
**Chief Executive entitled to re-appointment to former employment in certain cases.**

12. (1) In this clause, "statutory body" means any body declared under clause 13 to be a statutory body for the purposes of this Schedule.

(2) A person who—

- (a) ceases to be Chief Executive by reason of the expiration of his term of office or by reason of his resignation;
- (b) was, immediately before his appointment as Chief Executive—
  - (i) an officer of the Public Service or a Teaching Service; or
  - (ii) an officer or employee of a statutory body; and
- (c) has not attained the age at which he would have been entitled to retire had he continued to be such an officer or employee,

shall be entitled to be appointed to some position in the Public Service, the Teaching Service or the service of that statutory body, as the case may be, not lower in classification and salary than that which he held immediately before his appointment as Chief Executive.

(3) Where subclause (2) does not apply to a person who—

- (a) was, immediately before his appointment to a full-time office constituted by an Act, an officer or employee referred to in subclause (2) (b); and
- (b) is after that appointment appointed as Chief Executive,

he shall have such rights (if any) to appointment as such an officer or employee, in the event of his ceasing to be Chief Executive, as are agreed upon by him and by or on behalf of the Government.

**Declaration of statutory bodies.**

13. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

**Liability of members, etc.**

14. No matter or thing done by the Commission, and no matter or thing done by any member or by any person acting under the direction of the Commission shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

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*Housing (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
CONSTITUTION OF THE COMMISSION—*continued.*

SCHEDULE 2.

(Sec. 3 (6).)

PROVISIONS RELATING TO THE PROCEDURE OF THE COMMISSION.

**General procedure.**

1. The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings shall, subject to this Schedule, be as determined by the Commission.

**Quorum.**

2. Four members, of whom one shall be the Chief Executive, shall form a quorum and any duly convened meeting of the Commission at which a quorum is present shall be competent to transact any business of the Commission and shall have and may exercise all the functions of the Commission.

**Presiding member.**

3. (1) The Chairman or, in the absence of the Chairman, another part-time member elected as chairman for the meeting by the members present shall preside at a meeting of the Commission.

(2) The person acting as chairman at any meeting of the Commission shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

**Voting.**

4. A decision supported by a majority of the votes cast at a meeting of the Commission at which a quorum is present shall be the decision of the Commission.

**Minutes.**

5. The Commission shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Commission.

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*Housing (Amendment).*

## SCHEDULE 2.

(Sec. 5.)

## MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

## (1) Long title—

Omit “a board”, insert instead “the Housing Commission of New South Wales”.

## (2) Part I, heading—

Omit the heading before section 1, insert instead:—

## PART I.

## PRELIMINARY.

## (3) Section 1—

Omit “1912.’”, insert instead “1912’.”.

## (4) Section 1A—

After section 1, insert:—

**Arrangement.**

1A. This Act is arranged as follows:—

PART I.—PRELIMINARY—*ss.* 1–2.

PART IA.—THE HOUSING COMMISSION OF NEW SOUTH WALES  
—*ss.* 3, 3A.

PART IB.—ACQUISITION OF LAND—*ss.* 4–4E.

PART IC.—DEVELOPMENT OF LAND—*ss.* 5–7B.

PART ID.—DISPOSAL OF LAND—*ss.* 8–13B.

PART IE.—JOINT VENTURES, AGENCY, ETC.—*ss.* 16–18B.

PART IF.—REGULATIONS—*s.* 23.

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

PART II.—ADVANCES FOR DWELLING-HOUSES—*ss.* 24–39A.

PART IIA.—THE COMMISSION'S ACCOUNTS—*ss.* 40A–40E.

PART IIB.—MISCELLANEOUS PROVISIONS RELATING TO THE COMMISSION—*ss.* 40F–40P.

PART III.—MISCELLANEOUS PROVISIONS RELATING TO LAND—*ss.* 41–47.

PART IV.—OFFENCES—*ss.* 48, 49.

SCHEDULE 1.—PROVISIONS RELATING TO THE MEMBERS OF THE COMMISSION.

SCHEDULE 2.—PROVISIONS RELATING TO THE PROCEDURE OF THE COMMISSION.

(5) Section 2—

Omit the section, insert instead:—

**Interpretation.**

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

“building” includes fence, wall, provision for lighting, heating, refrigeration, water supply, drainage and sewerage and any other appurtenance of a building;

“Chairman” means the Chairman of the Commission;

“Chief Executive” means the Chief Executive of the Commission;

“Commission” means the Housing Commission of New South Wales constituted by this Act;

“dwelling-house” means any building, or any part of a building, which has been used, is used or is intended to be used, as a dwelling;

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*Housing (Amendment).*


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SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

“Housing Account” means the Housing Account established by this Act;

“member” means a member of the Commission;

“part-time member” means a member referred to in section 3 (4) (b);

“purchaser” means a person who, pursuant to this Act, has entered into any agreement with the Commission or the State Bank for the purchase of land, and his permitted assigns;

“regulation” means a regulation made under this Act.

(2) In this Act, a reference to—

(a) a function includes a reference to a power, authority and duty; and

(b) the exercise of a function includes, where that function is a duty, a reference to the performance of that duty.

(6) Part IA, heading—

Before section 3, omit:—

## PART I.

ACQUISITION AND DISPOSAL OF LAND AND ERECTION AND  
DISPOSAL OF BUILDINGS AND WORKS.

insert instead:—

## PART IA.

## THE HOUSING COMMISSION OF NEW SOUTH WALES.

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) Part 1B, heading—

Omit the heading before section 4, insert instead:—

**PART 1B.**

**ACQUISITION OF LAND.**

(8) Section 4 (1)—

Omit “, as amended by subsequent Acts”.

(9) Part 1C, heading—

Omit the heading before section 5, insert instead:—

**PART 1C.**

**DEVELOPMENT OF LAND.**

(10) Section 6 (a)—

Omit “such land”, insert instead “any land vested in or acquired by the Commission”.

(11) Section 6A—

Omit “, as amended by subsequent Acts”.

(12) (a) Section 7, heading—

Omit the heading.

(b) Section 7—

Omit “such land”, insert instead “land vested in or acquired by the Commission”.



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*Housing (Amendment).*

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SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (13) Sections 7A, 7B—

After section 7, insert:—

**Building materials (cf. Act No. 65, 1941, s. 19).**

7A. The Commission may manufacture, produce or purchase and supply building materials, fittings or appliances to any person upon such terms and conditions as the Commission may from time to time determine.

**Temporary buildings (cf. Act No. 65, 1941, s. 19A).**

7B. The Commission shall have and be deemed always to have had power to construct buildings for emergency housing accommodation and upon such terms and conditions as it considers reasonable to sell or hire any such building to any person legally possessed of land.

## (14) Part ID, heading—

Omit the heading before section 8, insert instead:—

## PART ID.

## DISPOSAL OF LAND.

## (15) Section 10A (1), definition of “land”—

Omit “Rural Bank of New South Wales”, insert instead “State Bank”.

## (16) Section 12 (3)—

Omit “the Housing Board or”.

## (17) Section 15—

Omit the section and the heading before the section.

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(18) Part IE, heading—

After section 15, insert:—

PART IE.

JOINT VENTURES, AGENCY, ETC.

(19) (a) Section 17, heading—

Omit the heading.

(b) Section 17—

Omit “Colonial”.

(20) Section 18, heading—

Omit the heading.

(21) Section 18A—

Omit the section.

(22) (a) Section 18B (2) (b) (iii)—

Omit “together with the amount of interest paid or payable by the Housing Account to the Consolidated Revenue Fund in respect of such expenditure under section 14”.

(b) Section 18B (2) (b) (iv)—

Omit “paragraph (b)”, insert instead “subparagraph”.

(23) Section 19—

Omit the section and the heading before the section.

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (24) Section 20—

Omit the section and the headings before and after the section.

## (25) Section 22—

Omit the section and the heading before the section.

## (26) Part IF, heading—

Omit the heading before section 23, insert instead:—

## PART IF.

## REGULATIONS.

## (27) Section 23 (2A)—

After section 23 (2), insert:—

## (2A) 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 any specified person or body,

or may do any combination of those things.

## (28) (a) Section 24, heading—

Omit the heading.

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 24 (a)—

Omit “as amended by subsequent Acts”.

(29) Sections 30, 31, 36, 37, 38, headings—

Omit the headings.

(30) Section 39, headings—

Omit the headings before and after the section.

(31) Section 39A—

After section 39, insert:—

**Building relief (cf. Act No. 65, 1941, s. 15).**

39A. 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 for the purpose of enabling—

- (a) any proprietor of land to alter, extend, paint, repair, renovate or improve buildings on that land, or to carry out other improvements of that land;
- (b) any building of a public or civic character or any public recreation ground to be constructed, erected, renovated, repaired or extended; or
- (c) any pastoral, agricultural and horticultural association, club, progress association or friendly society to extend, paint, repair or renovate buildings.

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (32) Parts IIA, IIB—

After Part II insert:—

## PART IIA.

## THE COMMISSION'S ACCOUNTS.

**Housing Account.**

40A. There shall be established in the Special Deposits Account in the Treasury a Housing Account.

**Assets and application of Housing Account.**

40B. (1) The Housing Account shall consist of—

- (a) all money advanced to the Commission by the Treasurer or appropriated by Parliament for the purposes of the Commission;
- (b) all money received in respect of land sold or leased under this Act;
- (c) all money directed or authorised to be paid into the Housing Account by or under this or any other Act; and
- (d) all money received by the Commission from any other source.

(2) The Housing Account shall be applied for the purpose of enabling the Commission to exercise the functions conferred or imposed on it by or under this or any other Act.

**Commission to keep accounts.**

40C. (1) The Commission shall cause to be kept proper accounts and records in relation to all of its operations.

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) The Commission shall, as soon as practicable, but within 6 months, after the end of each financial year of the Commission, prepare and forward to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

(3) The statement of accounts shall—

- (a) be in a form approved by the Auditor-General;
- (b) include such information as is requested by him; and
- (c) exhibit a true and fair view of the financial position and transactions of the Commission.

(4) The Commission shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(5) The Auditor-General's certificate shall—

- (a) state that he has audited the accounts of the Commission relating to the relevant financial year;
- (b) indicate whether the statement of accounts complies with subsection (3); and
- (c) set forth any qualifications subject to which the certificate is given.

(6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(8) The financial year of the Commission shall be the year commencing on 1st July.

**Audit.**

40D. (1) The accounts and records of financial transactions of the Commission, and the records relating to assets of or in the custody of the Commission, shall be inspected and audited by the Auditor-General.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Commission and may make copies thereof or take extracts therefrom.

(3) The Auditor-General or a person authorised by him may require a person, being a member, officer or employee of the Commission, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty: \$200.

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to the Commission and the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

(6) Towards defraying the costs and expenses of any such inspection and audit, the Commission shall pay to the Consolidated Fund such amounts, at such times, as the Treasurer decides.

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

**Money advanced by Commonwealth.**

40E. (1) Any money received by the State of New South Wales from the Treasurer of the Commonwealth in pursuance of any enactment of the Parliament of the Commonwealth passed either before or after the commencement of this section under which money is granted to the States to be applied by the States for purposes contemplated by this Act, shall be paid by the Treasurer of the State of New South Wales to a special account in the Treasury.

(2) From the special account referred to in subsection (1) the Treasurer of the State of New South Wales, on the recommendation of the Minister, shall from time to time make available to the Commission money to meet expenditure incurred or to be incurred in carrying out the purposes for which the money was granted by the Commonwealth.

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

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**PART IIb.**

MISCELLANEOUS PROVISIONS RELATING TO THE COMMISSION.

**Investigation (cf. Act No. 65, 1941, s. 17).**

40F. (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.



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*Housing (Amendment).*

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SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) The Commission shall furnish the Minister with a report setting out the results of any investigation made under this section.

(3) For the purposes of any investigation under this section the Commission shall have the power 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 Act, 1923, and the provisions of that Act (with the exception of section 13 and of Division 2 of Part II) shall apply to any witness or person summoned by or appearing before the Commission in the same way as the provisions apply to any witness or person summoned by or appearing before a royal commission.

**Miscellaneous powers (cf. Act No. 65, 1941, s. 18).**

40G. 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 any such survey or investigation;
- (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, concerning any matter relating to building; and

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (f) give to any person such advice or assistance of a technical or architectural nature, and such advice of a financial nature, upon matters relating to housing, as the Commission may from time to time determine.

**Staff of Commission.**

40H. (1) Such staff as may be necessary to enable the Commission to exercise its functions shall be employed under the Public Service Act, 1979.

(2) The Commission may, with the approval of the Minister and of the Minister administering a government department or administrative office, arrange for the use of the services of any staff or facilities of the department or office.

(3) The Commission may, with the approval of the Minister and of a local authority constituted by or under an Act, arrange for the use of the services of any staff or facilities of the local authority.

(4) The Commission may employ such casual employees as it deems necessary.

(5) The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of any casual employees under subsection (4) and any such casual employee is not subject to that Act during the period of his employment.

(6) The Commission may engage persons having suitable qualifications and experience as consultants to the Commission.

**Delegation.**

40r. (1) The Commission may, by instrument in writing, delegate to—

- (a) the Chief Executive;

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) a committee comprised of members, including the Chief Executive or a member nominated by the Chief Executive;
- (c) an officer or employee of the Commission;
- (d) a person for the time being holding or acting in a specified position in the staff establishment of the Commission;
- (e) any person of whose services the Commission makes use pursuant to this or any other Act;
- (f) the State Bank or any director or employee thereof; or
- (g) a person, or a person belonging to a class of persons, prescribed for the purposes of this section,

the exercise of such of the functions of the Commission as are specified in the instrument.

(2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by the delegate.

(3) Without limiting the operation of subsection (2), a function the exercise of which has been delegated under this section to the Chief Executive may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by—

- (a) an officer or employee of the Commission;
- (b) a person for the time being holding or acting in a specified position in the staff establishment of the Commission;
- (c) any person of whose services the Commission makes use pursuant to this or any other Act;
- (d) the State Bank or any director or employee thereof; or

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(e) a person, or a person belonging to a class of persons, prescribed for the purposes of this section,

as authorised by instrument in writing by the Chief Executive in that behalf either generally or in a particular case or class of cases.

(4) A delegation or authorisation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation or authorisation.

(5) Notwithstanding any delegation under this section, the Commission may continue to exercise any function delegated.

(6) Any act or thing done or suffered by a delegate acting in the exercise of a delegation under this section, or by a person duly authorised in that behalf by the Chief Executive under this section, has the same force and effect as it would have if it had been done or suffered by the Commission and shall be deemed to have been done or suffered by the Commission.

(7) The Commission may, by instrument in writing, revoke wholly or in part any delegation under this section, and the Chief Executive may, by instrument in writing, revoke wholly or in part any authorisation under this section.

(8) An instrument purporting to have been signed by a person in his capacity as a delegate of the Commission, or as a person authorised under this section, shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by the Commission and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Commission or by a person duly authorised under this section, as the case may be.

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(9) In subsection (8), a reference to a delegate includes a reference to the chairman of a committee to which the exercise of a function has been delegated under subsection (1).

**Annual report.**

40J. (1) As soon as practicable after 30th June, but on or before 31st December, in each year, the Commission shall prepare and forward to the Minister a report of its work and activities for the 12 months ending on 30th June in that year.

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

**Reports from Commission to Minister.**

40K. (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.

**Shortened references to Commission.**

40L. In any other Act, in any instrument made under any Act or in any other instrument of any kind (enacted, executed or made whether before or after the commencement of this section), except in so far as the context or subject-matter otherwise indicates or requires, a reference to the "Housing Commission" shall be construed as a reference to the Housing Commission of New South Wales constituted by this Act.

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

**Service of documents.**

40M. (1) A document may be served on the Commission by leaving it at, or by sending it by post to—

- (a) the office of the Commission; or
- (b) if it has more than one office—any one of its offices.

(2) Nothing in subsection (1) affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Commission in a manner not provided for by subsection (1).

**Authentication of certain documents.**

40N. 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 Chief Executive or by any officer or employee of the Commission authorised to do so by the Chief Executive.

**Recovery of charges, etc., by Commission.**

40o. Any charge, fee or money due to the Commission may be recovered by the Commission as a debt in a court of competent jurisdiction.

**Proof of certain matters not required.**

40P. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Commission;
- (b) any resolution of the Commission;

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*Housing (Amendment).*

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SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) the appointment of, or the holding of office by, any member;  
or
  - (d) the presence or nature of a quorum at any meeting of the Commission.
- (33) Part III, heading—  
After “MISCELLANEOUS”, insert “PROVISIONS RELATING TO LAND”.
- (34) (a) Section 41—  
Omit “the Housing Board or” wherever occurring.
- (b) Section 41 (1)—  
Omit “by either”, insert instead “by it”.
- (35) Section 47—  
Omit “, as amended by subsequent Acts”.
- (36) Section 48 (a)—  
Omit “or a rebate of rent as provided for by the Commonwealth and State Housing Agreement Act, 1946,”.
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*Housing (Amendment).*

## SCHEDULE 3.

(Sec. 6.)

## REPEALS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1924, No. 27 ..	Housing (Amendment) Act, 1924 .. ..	Section 2 (1), (2) and (3).
1934, No. 4 ..	Housing of the Unemployed Act, 1934 ..	The whole Act.
1936, No. 22 ..	Housing of the Unemployed (Amendment) Act, 1936.	The whole Act.
1936, No. 59 ..	Housing Improvement Act, 1936 .. ..	The whole Act.
1937, No. 27 ..	Housing (Further Provisions) Act, 1937 ..	Sections 2, 3; Part V.
1941, No. 65 ..	Housing Act, 1941 .. ..	The whole Act.
1947, No. 24 ..	Housing (Amendment) Act, 1947 .. ..	Section 3.
1955, No. 42 ..	Housing (Amendment) Act, 1955 .. ..	Section 3.
1960, No. 12 ..	Housing (Amendment) Act, 1960 .. ..	Section 3 (1) and (3).
1963, No. 16 ..	Housing (Amendment) Act, 1963 .. ..	Sections 1 (3) and 3.
1975, No. 5 ..	Housing (Amendment) Act, 1975 .. ..	Section 5.
1975, No. 72 ..	Metric Conversion Act, 1975 .. ..	So much of the Schedule as amends Act No. 59, 1936.
1976, No. 4 ..	Statutory and Other Offices Remuneration Act, 1975.	So much of Schedule 5 as amends Act No. 65, 1941.
1980, No. 187	Miscellaneous Acts (Retirement of Statutory Officers) Amendment Act, 1980.	So much of Schedule 1 as amends Act No. 65, 1941, and so much of Schedule 2 as relates to the office of Commissioner of the Housing Commission of New South Wales.
1981, No. 83 ..	Miscellaneous Acts (Financial Accommodation) Amendment Act, 1981.	So much of Schedule 1 as amends Act No. 65, 1941.
1981, No. 90 ..	Miscellaneous Acts (State Bank) Repeal and Amendment Act, 1981.	So much of Schedule 1 as amends Act No. 65, 1941.

## SCHEDULE 4.

(Sec. 7.)

## SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

**Interpretation.**

## 1. In this Schedule—

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

“Commission” means the Housing Commission of New South Wales constituted by the Principal Act, as amended by this Act;

“former corporation” means a corporation dissolved by clause 4.



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*Housing (Amendment).*

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SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Existing commissioners.**

2. (1) A person who, immediately before the appointed day, held office as a commissioner of The Housing Commission of New South Wales constituted by the Housing Act, 1941—

- (a) shall cease to hold office as such on the appointed day; and
- (b) is eligible, if otherwise qualified, to be appointed as a member of the Commission.

(2) A commissioner referred to in subclause (1) who ceases to hold office as such by reason of the operation of subclause (1) is not entitled to be paid any remuneration or compensation by reason of his ceasing to hold that office, but nothing in this clause prevents the payment to that person of such compensation (if any) as the Minister determines out of the funds of the Commission.

(3) A person who, immediately before the appointed day, held office as Chairman of The Housing Commission of New South Wales constituted by the Housing Act, 1941, and who ceases to hold that office pursuant to subclause (1) is, if—

- (a) he is not appointed as Chief Executive of the Commission with effect on the appointed day;
- (b) he was, immediately before his appointment as Chairman, an officer of the Public Service; and
- (c) he has not attained the age of 60 years,

entitled to be appointed to some position in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chairman.

**Continuation of body corporate.**

3. The corporation constituted by section 3 of the Principal Act, as amended by this Act, with the corporate name of the "Housing Commission of New South Wales" is a continuation of, and the same legal entity as, the corporation constituted by section 5 of the Housing Act, 1941, as in force immediately before the appointed day, with the corporate name of "The Housing Commission of New South Wales".

**Dissolution of former corporations.**

4. On the appointed day—

- (a) the corporation constituted by section 3 of the Principal Act, as in force immediately before the appointed day;

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*Housing (Amendment).*

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SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (b) the corporation constituted by section 4 of the Housing of the Unemployed Act, 1934, as in force immediately before the appointed day; and
  - (c) the corporation constituted by section 5 of the Housing Improvement Act, 1936, as in force immediately before the appointed day,
- are hereby dissolved.

**Transfer of assets, etc., of former corporations.**

5. (1) On and from the appointed day—
- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to a former corporation shall vest in and belong to the Commission;
  - (b) all money and liquidated and unliquidated claims that, immediately before that day, was or were payable to or recoverable by a former corporation shall be money and liquidated and unliquidated claims payable to or recoverable by the Commission;
  - (c) all proceedings pending immediately before that day at the suit of a former corporation shall be deemed to be proceedings pending on that day at the suit of the Commission and all proceedings so pending at the suit of any person against a former corporation shall be deemed to be proceedings pending at the suit of that person against the Commission;
  - (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, a former corporation and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Commission;
  - (e) the Commission may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of proceedings so referred to as a former corporation might have done before its dissolution;
  - (f) the Commission may enforce and realise any security or charge existing immediately before that day in favour of a former corporation and may exercise any powers thereby conferred on the former corporation as if the security or charge were a security or charge in favour of the Commission;

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*Housing (Amendment).*

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SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, a former corporation shall be debts due by, money payable by and claims recoverable against, the Commission; and
- (h) all liquidated and unliquidated claims for which a former corporation would, but for its dissolution, have been liable shall be liquidated and unliquidated claims for which the Commission shall be liable.

(2) Subject to the Principal Act and this Act, any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of a former corporation shall, to the extent that, but for the dissolution of the former corporation, that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the Commission.

(3) No attornment to the Commission by a lessee from a former corporation shall be required.

**Construction of references.**

6. On and from the appointed day, a reference in any Act (other than this Act) or in any regulation, by-law or other statutory instrument or in any document, whether of the same or a different kind, being a reference, or a reference to be construed as a reference—

## (a) to—

- (i) The Housing Commission of New South Wales;
- (ii) the corporation constituted by section 3 of the Principal Act as in force immediately before the appointed day;
- (iii) the Homes for Unemployed Trust; or
- (iv) The Housing Improvement Board of New South Wales,

shall be construed as a reference to the Commission; or

- (b) to the Housing of the Unemployed Act, 1934, the Housing Improvement Act, 1936, or the Housing Act, 1941, shall be construed as a reference to the Principal Act.

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*Housing (Amendment).*

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SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Officers, etc., of Commission.**

7. (1) Any officer or temporary employee under the Public Service Act, 1979, who was, immediately before the appointed day, on the staff establishment of the Commission shall be deemed, on and from the appointed day, to be on the staff establishment of the Commission pursuant to section 40H (1) of the Principal Act, as amended by this Act.

(2) Any casual employee in the service of the Commission immediately before the appointed day pursuant to section 6 (3) of the Housing Act, 1941, shall be deemed, on and from the appointed day, to be in the service of the Commission pursuant to section 40H (4) of the Principal Act, as amended by this Act.

**Delegations.**

8. (1) Any delegation in force under section 18A of the Principal Act or under section 34 of the Housing Act, 1941, immediately before the appointed day shall be deemed to be a delegation under section 40I of the Principal Act, as amended by this Act, and shall continue in force until revoked under the lastmentioned section.

(2) Any delegation referred to in subclause (1) made to the Chairman of the Housing Commission of New South Wales constituted by the Housing Act, 1941, shall be deemed to be a delegation to the Chief Executive of the Commission, and references therein to the Chairman shall accordingly be read and construed as references to the Chief Executive.

**Housing Account.**

9. The Housing Account established by the Housing Act, 1941, as in force immediately before the appointed day, shall be the Housing Account established by section 40A of the Principal Act, as amended by this Act.

**Accounts, audit and annual reports.**

10. (1) Sections 25, 26 and 35 of the Housing Act, 1941, as in force immediately before the appointed day, apply to and in respect of the year ending on 30th June, 1983, as if Schedule 2 had not been enacted.

(2) Sections 40c, 40d and 40J of the Principal Act, as amended by this Act, apply to and in respect of the year commencing on 1st July, 1983, and subsequent years.

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*Housing (Amendment).*

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SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***First meeting of Commission after the appointed day.**

11. The Minister shall call the first meeting of the Commission to be held on or after the appointed day in such manner as he **thinks fit**.

**Erskineville housing scheme.**

12. Notwithstanding the repeal of the Housing Improvement Act, 1936, by this Act, the Commission shall continue to have the care, control and management of the works referred to in section 14C of that Act and the powers referred to in section 14D of that Act in relation to that work.

**Regulations.**

13. (1) The Governor may make regulations containing other provisions of a saving or transitional nature consequent on the **enactment** of this Act.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule.

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