

New South Wales

**HOUSING ACT 1976 No. 62**

[Reprinted as at 9 May 1988]  
**CURRENT AS AT 7 JULY 1999**

**INCLUDES AMENDMENTS (SINCE DATE OF REPRINT) BY:**

Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 57

Roads Act 1993 No. 33

Statute Law (Penalties) Act 1993 No. 47

Statute Law Revision (Local Government) Act 1995 No. 11

Statute Law (Miscellaneous Provisions) Act (No. 2) 1997 No. 147

Environmental Planning and Assessment Amendment Act 1997 No. 152

Statute Law (Miscellaneous Provisions) Act 1999 No. 31

An Act to provide for the exercise by the New South Wales Land and Housing Corporation of certain functions relating to housing and land supply; and for other purposes.

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the Housing Act 1976.

### 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.

3. \* \* \* \* \*

### Definitions

4. In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

“**building**” includes a structure or a part of a structure;

“**commercial development**” in relation to land means commercial building development or commercial housing development;

“**commercial building development**” in relation to land means development of the land by the erection thereupon of premises that are to be used for industrial or commercial purposes;

“**commercial housing development**” in relation to land means the development of the land by the erection thereupon of dwellinghouses, flats or home units intended for sale, but does not include any such development where the nature or extent of the development does not conform with criteria established by regulation;

“**Corporation**” means the New South Wales Land and Housing Corporation constituted by the Housing Act 1985;

“**council**” has the same meaning as it has in the Local Government Act 1993.

“**functions**” includes responsibilities, powers, authorities and duties;

“**Housing Acts**” means this Act, the Housing Act 1912 and the Housing Act 1985;

“**planning unit**” means any land that the proprietor proposes to use for the purpose of commercial development;

“**proprietor**” in relation to land means the proprietor of a legal or equitable estate of fee simple in the land;

“**public authority**” means any public or local authority constituted by or under an Act other than this Act;

“**regulation**” means a regulation made under this Act.

## PART 2

5–8. \* \* \* \* \*

## PART 3—FUNCTIONS OF THE CORPORATION

### Functions of Corporation

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**9. (1)** In this section:

“**develop**” includes re-develop;

“**public purpose**” includes any purpose for which land may be acquired under any other Act;

“**urban development**” includes the expansion, establishment and re-development of urban areas.

**(2)** The functions of the Corporation under this Act are:

- (a) to acquire land for present or future urban development and for public purposes;
- (b) from time to time, as prevailing circumstances require, to develop and make available, or to make available for development by others, such of the land so acquired as the Corporation considers necessary or expedient for urban development and for public purposes;
- (c) to carry out or promote research or investigations into matters connected with urban development;
- (d) to make such reports or recommendations to the Minister or any other person or body in relation to urban development as the Corporation considers necessary or appropriate;
- (e) to exercise and perform such other functions as are conferred or imposed on the Corporation by the Housing Acts; and
- (f) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise or performance of its functions.

**(3)** In the exercise or performance of its functions, the Corporation shall:

- (a) make residential land available at the lowest price the Corporation considers practicable having regard to the costs incurred by the Corporation in relation to the land and the financial resources available for the Corporation’s continued operation; and
- (b) promote orderly and economic urban development.

### **General powers of Corporation**

**10. (1)** Subject to the Housing Acts, the Corporation may, for the purposes of the Housing Acts:

- (a) control and manage land vested in the Corporation;
- (b) \* \* \* \* \*
- (c) demolish any building on land vested in the Corporation of which it has exclusive possession;
- (d) provide or relocate, or arrange for the provision or relocation of, utility services to or in relation to land vested in the Corporation;
- (e) subdivide and re-subdivide land, and consolidate subdivided or re-subdivided land, vested in the Corporation;
- (f) set out and construct roads on land vested in the Corporation;
- (g) erect, alter, repair and renovate buildings on and make other improvements to land vested in the Corporation; and
- (h) cause any other work to be done on or in relation to land vested in the Corporation for the purpose of rendering it fit to be used for any purpose for which it may be used under any environmental planning instrument within the meaning of the Environmental Planning and Assessment Act 1979 applying to that land.

**(2)** Notwithstanding anything in any Act, upon the publication, pursuant to subsection (1) (b), of a notification closing a public road or part thereof, the estate or interest therein of any person or any public authority shall vest in the Corporation, freed and discharged from any trusts affecting it immediately before the publication and freed and discharged from any rights of the public or any person thereto as a public road.

### **Acquisition of land**

**11. (1)** The Corporation may, for the purposes of the Housing Acts, acquire land (including an interest in land) by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

**(2)** For the purposes of the Public Works Act 1912, any such acquisition of land is taken to be for an authorised work and the Corporation is, in relation to that authorised work, taken to be the Constructing Authority.

**(3)** Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in respect of works constructed under this Act.

**12.** \* \* \* \* \*

#### **Power to accept gifts etc. of property**

**13. (1)** The Corporation may acquire by gift, bequest or devise any property for any of the purposes of the Housing Acts and may agree to and carry out the conditions of the gift, bequest or devise.

**(2)** The rule of law relating to remoteness of vesting does not apply to any condition of a gift, bequest or devise to which the Corporation has agreed.

**(3)** Nothing in the Stamp Duties Act 1920 applies to any real or personal property of any nature or kind whatever comprised in any gift, bequest or devise made to the Corporation.

#### **Disposal of and dealings with land vested in Corporation**

**14. (1)** The Corporation may, in such manner and subject to such terms and conditions as it thinks fit, sell, lease, exchange or otherwise dispose of or deal with land vested in the Corporation and grant easements or rights-of-way over that land or any part thereof.

**(2)** Without affecting the generality of subsection (1), the Corporation may in any contract for the sale of land vested in the Corporation include conditions for or with respect to:

- (a) the erection of any building on that land by the purchaser within a specified period;
- (b) conferring on the Corporation an option or right to repurchase that land if the purchaser has failed to comply with a condition referred to in paragraph (a);
- (c) conferring on the Corporation an option or right to repurchase that land if the purchaser wishes to sell or otherwise dispose of that land before the expiration of a specified period or requiring the purchaser to pay to the Corporation a sum determined in a specified manner where the Corporation does not exercise that option or right; or
- (d) the determination of the repurchase price payable by the Corporation pursuant to a condition referred to in paragraph (b) or (c).

**(3)** A condition included in a contract of sale pursuant to subsection (2) shall not merge in the transfer of title to the land the subject of the contract of sale on completion of the sale.

**(4)** The Registrar-General shall, at the request of the Corporation made in a manner approved by the Registrar-General, and on payment of the fee prescribed under the Real Property Act 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 subsection (2); or
- (b) that a recording made pursuant to paragraph (a) has ceased to have effect.

**(5)** The Corporation shall not make a request pursuant to subsection (4) (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 inquire whether any such request has been made for that purpose.

(6) Where a recording pursuant to subsection (4) (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 Corporation unless it would be so registrable if this section had not been enacted and unless:

- (a) a recording pursuant to subsection (4) (b) has been made in respect of the land; or
- (b) the consent of the Corporation to the transfer has been endorsed thereon.

#### **Imposition of conditions re sale of certain land**

**14A. (1)** In this section, a reference to a purchaser, in relation to land, is a reference to a purchaser from the Corporation of the land.

(2) The Registrar-General shall, at the request of the Corporation made in a manner approved by the Registrar-General, and on payment of the fee prescribed under the Real Property Act 1900, make in the Register kept under that Act a recording appropriate to signify:

- (a) that land specified in the request, being land of which the Corporation is then the registered proprietor, is, upon a sale to a purchaser, to be held by the purchaser subject to conditions specified or referred to in the request; or
- (b) that a recording made pursuant to paragraph (a) has ceased to have effect.

(3) The conditions referred to in subsection (2) (a) may include, in relation to the land so referred to, conditions for or with respect to:

- (a) the erection of any building on the land by the purchaser within a specified period;
- (b) conferring on the Corporation an option or right to repurchase the land if the purchaser has failed to comply with a condition referred to in paragraph (a);
- (c) conferring on the Corporation an option or right to repurchase the land if the purchaser wishes to sell or otherwise dispose of the land before the expiration of a specified period or requiring the purchaser to pay to the Corporation a sum determined in a specified manner where the Corporation does not exercise that option or right; or
- (d) the determination of the repurchase price payable by the Corporation pursuant to a condition referred to in paragraph (b) or (c).

(4) Where a recording pursuant to subsection (2) (a) has been made in respect of any land (being a recording that has not ceased to have effect) and the Corporation subsequently enters into a contract for the sale of the land, each condition to which the recording relates has effect as a condition of the contract for the sale of the land.

(5) Section 14 (3) applies to and in respect of a condition referred to in subsection (4) in the same way as it applies to and in respect of a condition included in a contract of sale pursuant to section 14 (2).

#### **Restrictions on transfer of certain land**

**14B.** The Registrar-General shall, at the request of the Corporation made in a manner approved by the Registrar-General, and on payment of the fee prescribed under the Real Property Act 1900, make in the Register kept under that Act a recording appropriate to signify:

- (a) that land specified in the request, being land of which the Corporation is then the registered proprietor, is held subject to the restriction that the land may not be transferred, without a specified building or building of a specified class or description having been erected thereon, without the consent of the Corporation; or
- (b) that a recording made pursuant to paragraph (a) has ceased to have effect.

#### **Effect of recording**

**14C.** Where a recording pursuant to section 14A (2) (a) or 14B (a) has been made in

respect of any land, the Registrar-General shall not register under the Real Property Act 1900 a transfer of the land to or by a person other than the Corporation unless it would be so registrable if this section had not been enacted and unless:

- (a) a recording has been made pursuant to section 14A (2) (b) or 14B (b), as the case may require, appropriate to signify that the recording made pursuant to section 14A (2) (a) or 14B (a) has ceased to have effect in respect of the land; or
- (b) the consent of the Corporation to the transfer has been endorsed thereon.

#### **Dedication of land**

**15. (1)** The Corporation may, by order published in the Gazette, declare that it proposes to surrender to Her Majesty land that is vested in the Corporation and described or referred to in the order to be dedicated for any public purpose within the meaning of section 24 of the Crown Lands Consolidation Act 1913 specified in the order.

**(2)** Upon the surrender of land described or referred to in an order pursuant to subsection (1), the land so described or referred to shall be deemed to be Crown land dedicated under the Crown Lands Consolidation Act 1913 for the public purpose specified in the order.

**(3)** Without limiting the power conferred under subsection (1), the Corporation may, by notification published in the Gazette, dedicate as a public reserve or drainage reserve land that is vested in the Corporation and described or referred to in the notification and that is situated in an area within the meaning of the Local Government Act 1993.

**(4)** Upon the publication in the Gazette of a notification referred to in subsection (3), the land described or referred to in the notification shall vest in the council of the area within the meaning of the Local Government Act 1993 in which the land is situated and shall be subject to the provisions of that Act relating to public reserves or drainage reserves, as the case may be.

**(5)** For the purposes of section 81 of the Public Works Act 1912, the Corporation shall be deemed to be a Constructing Authority.

#### **Corporation may enter into contracts**

**16. (1)** The Corporation may make and enter into contracts with any person for the carrying out of works or the performance of services or the supply of goods or materials in connection with the exercise or performance by the Corporation of its functions.

**(2)** A contract under subsection (1) may provide for:

- (a) the whole or any part of any works to be undertaken by the Corporation;
- (b) the whole or any part of the cost of any works to be paid by the Corporation;
- (c) a loan to be made by the Corporation to meet the whole or any part of the cost of any works; or
- (d) the Corporation to pay the cost of providing any services during a specified period.

**(3)** Without affecting the generality of subsection (1), the Corporation may make and enter into a contract under that subsection with any person for the construction on land vested in the Corporation or that person, or in the Corporation and that person, of buildings or of other works, and for the sale, lease or exchange of any such land together with the buildings or other works thereon.

**(4)** A contract under this section shall be deemed for the purposes of the Constitution Act 1902 to be a contract for or on account of the Public Service of New South Wales.

#### **Corporation may enter into arrangements with other public authorities**

**17. (1)** The Corporation may enter into an arrangement or agreement with any public authority that:

- (a) the public authority shall act as agent of the Corporation for the purposes of the Housing Acts; or

(b) the Corporation shall act as agent of the public authority for the purposes of the Housing Acts,  
on such terms and conditions as are agreed upon between the Corporation and the public authority.

(2) Notwithstanding anything in any other Act, any public authority is hereby authorised and empowered to enter into arrangements or agreements referred to in subsection (1) and may do or suffer anything necessary or expedient for carrying out any such arrangements or agreements.

### **Consultation and negotiation**

**18. (1)** In the exercise or performance of its functions the Corporation shall, as far as practicable:

- (a) consult with public authorities whose functions include those of the same or of a similar nature; and
- (b) negotiate with any such authorities for the purpose of arranging or providing services and facilities on land vested in the Corporation.

(2) Without affecting the generality of subsection (1), any research or investigation into matters connected with urban development that is of the same or of a similar nature as that which may be undertaken within the Department of Environment and Planning or any other public authority shall, unless otherwise agreed, be carried out or promoted in conjunction with that Department or public authority.

### **Exercise of council's powers by Corporation**

**19. (1)** The Minister for Local Government may, by order published in the Gazette, transfer to the Corporation such of the functions conferred or imposed on a council by or under the Local Government Act 1993 as are specified or described in the order.

(2) An order under this section operates so as to transfer to the Corporation, in accordance with the terms of the order, the functions referred to therein.

(3) The provisions of the Local Government Act 1993 apply:

- (a) subject to paragraph (b)—with such adaptations as are necessary; or
- (b) with such adaptations as are specified in the order,

to and in relation to the exercise or performance of functions specified or described in an order under this section as if the Corporation were a council and the land in respect of which those functions may be exercised or performed formed part of that council's area within the meaning of the Local Government Act 1993.

(4) A function conferred or imposed on the Corporation by an order under this section shall, to the extent specified in the order, be deemed to be transferred from the council specified in the order, and, to that extent, the council thereupon ceases to have that function or to be under any obligation in relation thereto.

(5) Without affecting the generality of subsection (2), a function conferred or imposed on the Corporation by an order under this section shall be exercised or performed by the Corporation only in or in relation to land vested in the Corporation and specified or described in the order.

## **PART 4**

**20–25.** \* \* \* \* \*

## **PART 5—GENERAL**

**26–32.** \* \* \* \* \*

### **Penalties**

**33.** Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a Local Court constituted by a Magistrate sitting alone.

34. \* \* \* \* \*

### Regulations

**35. (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 regulation may impose a penalty not exceeding 1 penalty unit for any contravention thereof.

36. \* \* \* \* \*

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### SCHEDULES 1-3

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### NOTES

See also the Housing Act 1912; and the Housing Act 1985.

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### Table of Acts

Housing Act 1976 No. 62 (*formerly* Land Commission Act 1976). Assented to, 2.11.1976. Date of commencement, secs. 1 and 2 excepted, 8.11.1976, sec. 2 and Gazette No. 143 of 5.11.1976, p. 4834. This Act has been amended as follows:

Miscellaneous Acts (Planning) Repeal and Amendment Act 1979 No. 205. Assented to, 21.12.1979. Date of commencement of Sch. 2, Pt. 1, 1.9.1980, sec. 2 (4) and Gazette No. 91 of 4.7.1980, p. 3366.

Land Commission (Temporary Financial Accommodation) Amendment Act 1980 No. 60. Assented to, 28.4.1980.

Land Commission (Amendment) Act 1980 No. 124. Assented to, 27.11.1980.

Miscellaneous Acts (Retirement of Statutory Officers) Amendment Act 1980 No. 187. Assented to, 17.12.1980.

Miscellaneous Acts (Financial Accommodation) Amendment Act 1981 No. 83. Assented to, 9.6.1981. A proclamation was published in Gazette No. 79 of 12.6.1981, p. 3097, specifying 11.6.1981, as the date of commencement of Sch. 1. The amendments directed to be made by that Schedule have been included in this reprint.

Miscellaneous Acts (Public Finance and Audit) Repeal and Amendment Act 1983 No. 153. Assented to, 29.12.1983. Date of commencement of Sch. 2, 6.1.1984, sec. 2 (2) and Gazette No. 4 of 6.1.1984, p. 19.

Land Commission (Housing) Amendment Act 1985 No. 165. Assented to, 3.12.1985. Date of commencement of Sch. 1, 1.1.1986, sec. 2 (2).

Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 57. Assented to 8.10.1992. Date of commencement of the provisions of Sch. 2 relating to the Housing Act 1976, assent, Sch. 2.

Roads Act 1993 No. 33. Assented to, 8.6.1993. Date of commencement, 1.7.1993, sec. 2 and Gazette No. 73 of 1.7.1993, p. 3343.

Statute Law (Penalties) Act 1993 No. 47. Assented to, 15.6.1993. Date of



commencement, assent, sec. 2.

Statute Law Revision (Local Government) Act 1995 No. 11. Assented to, 9.6.1995. Date of commencement of the provisions of Sch. 1 relating to the Housing Act 1976, 23.6.1995, sec. 2 (1) and Gazette No. 77 of 23.6.1995, p. 3279.

Statute Law (Miscellaneous Provisions) Act (No. 2) 1997 No. 147. Assented to, 17.12.1997. Date of commencement of Sch. 3, 3 months after assent, sec. 2 (3).

Environmental Planning and Assessment Amendment Act 1997 No. 152. Assented to, 19.12.1997. Date of commencement, 1.7.1998, sec. 2 and Gazette No. 101 of 1.7.1998, p. 5119.

Statute Law (Miscellaneous Provisions) Act 1999 No. 31. Assented to, 7.7.1999. Date of commencement of Sch. 4, assent, sec. 2 (1).

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### Table of Amendments

(No reference is made to certain amendments made by Schedule 3 (amendments replacing gender-specific language) to the Statute Law (Miscellaneous Provisions) Act (No. 2) 1997.)

Long title—Subst. 1985 No. 165, Sch. 1 (1).

Sec. 1—Am. 1985 No. 165, Sch. 1 (2).

Sec. 3—Am. 1981 No. 83, Sch. 1. Rep. 1985 No. 165, Sch. 1 (3).

Sec. 4—Am. 1985 No. 165, Sch. 1 (4); 1995 No. 11, Sch. 1.

Part 2 (secs. 5–8)—Rep. 1985 No. 165, Sch. 1 (5).

Part 3, heading—Am. 1985 No. 165, Sch. 1 (6).

Sec. 9—Am. 1985 No. 165, Sch. 1 (7) (8).

Sec. 10—Am. 1979 No. 205, Sch. 2, Part 1; 1985 No. 165, Sch. 1 (7) (9); 1993 No. 33, Sch. 1.

Sec. 11—Am. 1985 No. 165, Sch. 1 (7) (9) (10). Subst. 1992 No. 57, Sch. 2.

Sec. 12—Am. 1985 No. 165, Sch. 1 (7) (9) (10). Rep. 1992 No. 57, Sch. 2.

Sec 13—Am. 1985 No. 165, Sch. 1 (7) (9).

Sec 14—Am. 1985 No. 165, Sch. 1 (7).

Secs. 14A–14C—Ins. 1980 No. 24, s. 2 (a). Am. 1985 No. 165, Sch. 1 (7).

Sec. 15—Am. 1985 No. 165, Sch. 1 (7); 1995 No. 11, Sch. 1.

Sec. 16—Am. 1985 No. 165, Sch. 1 (7).

Sec. 17—Am. 1985 No. 165, Sch. 1 (7) (9).

Sec. 18—Am. 1979 No. 205, Sch. 2, Part 1; 1985 No. 165, Sch. 1 (7) (11).

Sec. 19—Am. 1985 No. 165, Sch. 1 (7); 1995 No. 11, Sch. 1; 1997 No. 152, Sch. 4.14.

Part 4—Rep. 1985 No. 165, Sch. 1 (5).

Sec. 20—Subst. 1983 No. 153, Sch. 2. Rep. 1985 No. 165, Sch. 1 (5).

Secs. 21, 22—Rep. 1983 No. 153, Sch. 2.

Sec. 23—Rep. 1985 No. 165, Sch. 1 (5).

Sec. 24—Rep. 1981 No. 83, Sch. 1.

Sec. 24A—Ins. 1980 No. 60, s. 2 (a). Rep. 1981 No. 83, Sch. 1.

Sec. 25—Am. 1980 No. 60, s. 2 (b). Rep. 1981 No. 83, Sch. 1.

Sec. 26—Am. 1979 No. 205, Sch. 2, Part 1. Rep. 1985 No. 165, Sch. 1 (3).

Secs. 27, 28—Rep. 1985 No. 165, Sch. 1 (3).

Sec. 29—Am. 1980 No. 124, s. 2 (b). Rep. 1985 No. 165, Sch. 1 (3).

Secs. 30–32—Rep. 1985 No. 165, Sch. 1 (3).

Sec. 33—Am. 1999 No. 31, Sch. 4.40.

Sec. 34—Rep. 1985 No. 165, Sch. 1 (3).

Sec. 35—Am. 1993 No. 47, Sch. 1.

Sec. 36—Rep. 1985 No. 165, Sch. 1 (3).

Sch. 1—Am. 1980 No. 187, Sch. 1. Rep. 1985 No. 165, Sch. 1 (12).

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Sch. 2—Rep. 1992 No. 57, Sch. 2.

Sch. 3—Rep. 1981 No. 83, Sch. 1.

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