

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1922.

A BILL

To abolish the Housing Board ; to confer certain powers upon the Minister ; to vest certain lands in the Sydney Harbour Trust Commissioners ; to amend the Housing Act, 1912, and certain other Acts ; and for purposes connected therewith.

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

1. (1) This Act may be cited as the "Housing Short title. (Amendment) Act, 1922," and shall be construed with the Housing Act, 1912, as amended by the Housing (Extension) Act, 1919.

(2) The Housing Act, 1912, as so amended, is hereinafter referred to as the Principal Act.

2. (1) The Housing Board is hereby dissolved, and the powers, duties, and authorities of that board are vested in the Minister. Dissolution of board and substitution of Minister.

(2) All lands which at the commencement of this Act are vested in the Housing Board or any Minister or corporation for the purposes of the Principal Act, and all choses in action and property of any description at the said commencement vested in the said Housing Board, Minister, or corporation, are hereby vested in the Minister for Housing, subject to all equities affecting the same.

(3) Except as provided in this Act, any rights or liabilities which could have been enforced by or against the Housing Board if this Act had not been passed shall, from and after the passing of this Act, be enforceable by or against the Minister for Housing.

3. For the purposes of carrying out the above provision and for purposes relating thereto the Principal Act is amended as follows:— Consequential and minor amendments of Principal Act.

(1) (a) By omitting from section two the definition of the word "Board"; Sec. 2.

(b) by omitting from the same section the definition of the word "Minister" and inserting the following definition in lieu thereof—

"Minister" means the "Minister for Housing";

(2) by omitting section three and the short heading thereto and inserting the following section in lieu of the said section:— Sec. 3.

3. For the purposes of this Act the Minister for Housing is constituted a corporation sole under that name with perpetual succession and a seal of office which shall be judicially noticed, and may hold property of any description, and in his corporate name sue and be sued and take all legal proceedings; Minister for Housing a corporation sole.

(3) by inserting in section 4B after the word "stock" the word "debentures"; Sec. 4B.

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- (4) (a) by omitting from section five the words Sec. 5.
 "The board shall" and inserting in lieu thereof the words "The Minister may";
- (b) by omitting from the same section the words "so purchased, resumed, or appropriated" and inserting in lieu thereof the words "vested in or acquired by him";
- (c) by inserting in the same section after the word "reserves" the words "for public recreation or for other public purposes";
- (d) by omitting from the same section the words "and shall submit the same, and any alterations in it, to the Minister for his approval";
- (5) (a) by omitting from section six the words Sec. 6.
 "The board, in pursuance of any such plan which has been approved by the Minister," and inserting in lieu thereof the words "The Minister";
- (b) by inserting in paragraph (a) of the same section after the word "on" the words "or in relation to";
- (c) by inserting in paragraph (b) of the same section after the word "dedicate" the words "by notification in the Gazette any"; and by adding at the end of the same paragraph the words "by notification in the Gazette vest such reserves in a municipal or shire council, or in trustees.
- Where a reserve is so vested in trustees other than a council, the provisions of the Public Parks Act, 1912, shall be deemed to extend to the reserve";
- (6) by omitting section seven and inserting the Sec. 7.
 following section in lieu thereof :—
7. The Minister may erect on any such land buildings for residential, business, or other purposes, or for public use, and shall be charged with the duty of maintaining and repairing them, and insuring them against loss by fire;
- (7)

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- (7) (a) by omitting from section eleven the words Sec. 11.
“on the recommendation of the board”;
- (b) by omitting from the same section the words “purchased, resumed, or appropriated” and inserting in lieu thereof the words “vested in or acquired by him”;
- (c) by omitting from the same section the word “board” where secondly occurring and inserting the word “Minister” in lieu thereof;
- (d) by omitting from the same section the words “if the board so recommends” and inserting in lieu thereof the words “unless the Governor otherwise directs”;
- (8) (a) by omitting from section twelve the words Sec. 12.
“the board or the Minister on the recommendation of the board” and inserting in lieu thereof the words “(1) The Minister”;
- (b) by inserting in the same section after the word “leased” the word “dedicated”;
- (c) by omitting from the same section the word “board” where thirdly occurring and inserting in lieu thereof the word “Minister”;
- (9) by omitting from section fourteen the word Sec. 14.
“Minister” wherever occurring and by inserting in lieu thereof the words “Colonial Treasurer”; and by omitting the word “board” and inserting in lieu thereof the word “Minister”;
- (10) (a) by omitting from section seventeen the word Sec. 17.
“board” wherever occurring and inserting in lieu thereof the word “Minister”;
- (b) by omitting from the third paragraph of the same section the words “as the Minister may direct” and inserting in lieu thereof the words “as the Colonial Treasurer may direct”;
- (11) (a) by omitting from section nineteen the Sec. 19.
words “The fees of the board and”;
- (b)

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- (b) by omitting from the same section the word "board" where secondly and thirdly occurring and inserting in lieu thereof the word "Minister";
- (12) (a) by omitting from section twenty and from Sec. 20. the short heading thereto the word "board" wherever occurring and inserting in lieu thereof the word "Minister";
- (b) by omitting from the same section the word "it" and inserting in lieu thereof the word "him";
- (13) (a) by omitting from section twenty-one the Sec. 21. words "the board shall as soon as practicable after the close of each financial year prepare and forward to the Minister" and inserting in lieu thereof the words "as soon as practicable after the close of each financial year the Minister shall prepare";
- (b) by omitting from paragraph (d) of the same section the word "board" and inserting in lieu thereof the word "Minister";
- (c) by omitting from paragraph (e) of the same section the words "the fees of the board and";
- (d) by omitting from paragraph (f) of the same section the words "board's work" and inserting in lieu thereof the words "operations under this Act";
- (14) by omitting from section twenty-two the Sec. 22. words "shall appoint a manager who shall be the executive officer of the board and such other" and inserting in lieu thereof the words "may appoint such";
- (15) (a) by omitting from subsection one of section Sec. 26. twenty-six the words "on the recommendation of the board";
- (b) by omitting from subsections three and four of the same section the word "board" wherever occurring and inserting in lieu thereof the word "Minister"; (16)

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- (16) (a) by omitting from section twenty-eight ^{Sec. 28.} the word "board" wherever occurring and inserting in lieu thereof the word "Minister";
- (b) by omitting from the same section the words "in its opinion";
- (17) (a) by omitting from section thirty the word ^{Sec. 30.} "board" and inserting in lieu thereof the word "Minister";
- (b) by omitting the words "thirty" and "twenty" and inserting in lieu thereof respectively the words "forty" and "twenty-five";
- (18) by omitting from section thirty-two the words ^{Sec. 32.} "the board" and inserting in lieu thereof the words "(1) The Minister";
- (19) (a) by omitting from the first paragraph of ^{Sec. 34.} section thirty-four the words "board may at its option" and inserting in lieu thereof the words "Minister may";
- (b) by omitting from the second paragraph of the same section the word "board" where firstly and secondly occurring, and inserting in lieu thereof the word "Minister"; and by omitting from the same paragraph the words "the statutory declaration of one of the members of the board" and inserting in lieu thereof the words "statutory declaration";
- (c) by omitting from the third paragraph of the same section the word "board" wherever occurring and inserting in lieu thereof the word "Minister";
- (20) by omitting from sections nine, sixteen, ^{Secs. 9, 16,} eighteen, twenty-three, twenty-four, twenty- ^{18, 23, 24, 25,} five, twenty-seven, twenty-nine, thirty-one, ^{27, 29, 31, 33,} thirty-three, thirty-five, thirty-six, and thirty- ^{35, 36, and} seven, the words "board" or "Housing Board" ^{37.} wherever occurring therein and inserting in lieu thereof the word "Minister."

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4. The Principal Act is further amended—

Amendment
of Principal
Act, s. 8.

- (a) by omitting from section eight the words “The board may, in its discretion and subject to such conditions as it thinks fit, let on” and inserting in lieu thereof the words “(1) The Minister may”;
- (b) by inserting in the same section after the words “any other purpose” the words “than for public use”;
- (c) by omitting from the same section all words following the words “fifteen years” and inserting the following subsections in lieu thereof:—

(2) Where under this Act buildings are erected for public use, the Minister may lease them to any person for such term and upon such conditions as the Minister thinks fit.

(3) Every lease made under this section shall be made to take effect in possession not later than three months after its date.

cf. Conveyan-
cing Act,
1919, s. 106.

(4) Every such lease shall reserve the best rent that can reasonably be obtained, regard being had to the circumstances of the case, but without any fine being taken or the rent made payable in advance except as to the last payment, which may be made payable on a day not more than one month before the expiration of the term.

(5) Every such lease shall contain a condition of re-entry on the rent not being paid within a time therein specified, not exceeding thirty days, and the covenants implied by section eighty-four of the Conveyancing Act, 1919, shall not be excluded therefrom.

5. The Principal Act is further amended by omitting section ten and by inserting the following section in lieu thereof:—

Amendment
of Principal
Act, s. 10.

10. (1) The Minister may by public auction or private contract sell any such land upon such terms and conditions as he thinks fit to any person for cash or upon terms:

Power to sell.

Provided

Provided that—

- (a) no one person may purchase more than one house and the land reasonably required therewith not exceeding in area one quarter of an acre or thereabouts;
- (b) the buyer shall satisfy the Minister that he is purchasing the land for his home or for the home of a member of his family;
- (c) the maximum periods for the payment of purchase money by instalments shall be, for brick, concrete, or stone buildings, forty years, and for wooden buildings, twenty-five years;
- (d) the Minister shall not sell any land within the boundaries of the original Dacey Garden Suburb as defined by the Governor by proclamation in the Gazette.

(2) The Minister may, with the previous approval of the Governor, sell by auction upon such terms and conditions as may be so approved any land or other property vested in him by this Act without regard to the proviso to subsection one of this section.

6. The Principal Act is further amended by adding Amendment of Principal Act, s. 12. at the end of section twelve the following new subsections:—

(2) The Minister may agree to cancel any contract of sale made before or after the commencement of the Housing (Amendment) Act, 1922.

(3) The Minister may, if he thinks fit, pay to the person surrendering any land leased, granted, or dedicated, or to the purchaser upon the cancellation of a contract of sale, such sum by way of compensation for any visible and effective improvements on the land, but not exceeding the value of the improvements at the date of such surrender or cancellation, the cost of which has not been defrayed or advanced by the Housing Board or the Minister, as to the Minister may seem just.

7.

7. The Principal Act is further amended by omitting section thirteen and inserting in lieu thereof the following new sections :—

Amendment of Principal Act, s. 13.

13. (1) The Minister may—

Power to remit, extend times, &c.

(a) remit any part of the amount due under any contract of sale of land or land and buildings, or under any mortgage in respect of an advance made for the purchase, erection, or improvement of land or buildings ;

(b) extend the period provided for payment of any purchase money or advance to a term not exceeding forty years where the subject matter of the purchase or advance is a brick, concrete, or stone building, or to a term not exceeding twenty-five years in the case of a wooden building.

(2) The Minister may make and impose charges in connection with temporary services of water supply, lighting, or sewerage provided for houses built and sold or leased under this Act to recoup the expenses incurred in connection therewith or in connection with guarantees given in respect thereof.

(3) The powers conferred by this section shall extend to contracts of sale made, mortgages given, and services provided prior to the commencement of the Housing (Amendment) Act, 1922.

13A. The Minister may sell to any person by public auction or private contract and upon such terms and conditions as he may deem fit any land vested in him under this Act which has been acquired for the purpose of correcting encroachments.

Power to sell superfluous lands.

8. The Principal Act is further amended by inserting the following new section next after section eighteen :—

Ibid. s. 18.

18A. (1) The Minister may arrange with the Public Trustee, the Sydney Harbour Trust Commissioners, or the Minister for Lands, or any one or more of them, for the delegation of all or any of the powers and duties in relation to any land, and the buildings thereon, conferred and imposed on the

Delegation of powers.

Minister

Minister by this Act, and such Commissioners, Public Trustee, or Minister for Lands shall, as the deputy and attorney of the Minister, be authorised to exercise as and for the Minister the powers and duties so delegated as aforesaid.

(2) For so doing, such Commissioners or Public Trustee shall be entitled to receive out of the Housing Fund such annual fee or commission as may be arranged.

9. The Principal Act is further amended by adding to section thirty-two the following new subsection:—

Amendment
of Principal
Act, s. 32.

(2) In the event of the applicant refusing or failing to sign the prescribed form of mortgage in respect of any advance made under this Act, whether before or after the passing of the Housing (Amendment) Act, 1922, when required in writing under the hand of the Minister so to do, the Minister may nominate in writing under his official seal an officer of the public service to execute in the name and on behalf of such applicant the prescribed form of mortgage, and the mortgage when so executed shall for all purposes be as valid and effectual as if executed by the applicant.

10. The Principal Act is further amended by the addition after section forty of the following new Part:—

Ibid. new
Part.

PART III.

MISCELLANEOUS.

41. (1) The Governor may resume under the provisions of the Public Works Act, 1912, land upon which a dwelling-house has been erected by the Housing Board or the Minister for a purchaser, or by a person to whom an advance has been made under this Act for the erection of the dwelling-house, in the event of the purchaser or the person to whom the advance has been made declining or failing to execute the prescribed form of purchase agreement or mortgage, as the case may be, upon being required in writing so to do.

Resumption
under certain
circum-
stances.

(2)

(2) The compensation in any such case shall be assessed only in respect of the interest of the purchaser or person to whom the advance was made, and any increased value to the land occasioned by the expenditure of the Housing Board or the Minister, or of the advance made by either, shall be disregarded.

42. Where any agreement for purchase is cancelled or forfeited for non-fulfilment of the conditions thereof, it shall be lawful for the Minister in lieu of the damages provided for in the agreement to claim and recover for use and occupation an amount equivalent to eight and one-half per centum per annum of the improved capital value of the property.

Cancellation of agreement.

43. (1) Where a purchaser of a dwelling-house under this Act makes default in observing and performing any of the terms of the agreement, the Minister may cancel the agreement upon giving the purchaser at least one month's notice in writing of his intention so to do, and on or before the date of the expiration of such notice the purchaser shall give up possession of the said dwelling-house to the Minister.

Possession to Minister upon cancellation of agreement.

(2) If the purchaser refuses so to do the Minister may issue his warrant to the Sheriff to deliver possession of the dwelling-house to the person appointed in such warrant to receive the same.

(3) Upon the receipt of such warrant the Sheriff shall deliver possession of such dwelling-house accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the person refusing to give possession; the amount of such costs, if not paid on demand, shall be levied by distress, and upon application to any justice for that purpose he shall issue his warrant accordingly.

(4) The Minister may, in his discretion, repay to a purchaser whose agreement has been so cancelled the whole or such proportion as he thinks

thinks

thinks fit of the purchase money of the dwelling-house which has been paid by the purchaser under this Act.

11. (1) The following acts of the Housing Board ^{Validation.} and the Minister are validated :—

- (a) The sale and leasing of land and buildings to persons not qualified under the Principal Act ;
- (b) the reduction of the price and the extension of the period of payment for any land or buildings ;
- (c) the provision of temporary services for water supply, lighting, and sewerage in the case of certain houses built and sold or leased under the Principal Act, the giving of guarantees in connection with such provision, and the imposition of charges to pay for such services ;
- (d) the setting apart of land as sites for buildings, or for religious, charitable, or municipal purposes ;
- (e) the setting apart of land for public recreation or for other public purposes, and the improvement of such lands ;
- (f) the erection of buildings for residential, business, or other purposes or for public use ;
- (g) the making of advances or the incurring of expenditure for the erection or improvement of houses ;
- (h) the making of advances or the incurring of expenditure to enable an applicant to complete the purchase and the erection or improvement of a house or site, or both ;
- (i) the acceptance of deposits which were less than five per centum of the amount advanced or expended under the Principal Act ; and the acceptance of the lodgment of deeds of land in lieu of the lodgments of deposits required by the Principal Act ;
- (j) the extension of the term of payment for brick, concrete, and stone buildings to forty years ;
- (k) the charging of the cost of any of the foregoing upon the Housing Fund ;

(1)

(1) the sale by auction of any land and buildings to any purchaser at any price and subject to any conditions.

(2) All sales, purchases, and transactions made or entered into by the Minister or the Housing Board before the passing of this Act, which are in conformity with the provisions of the Principal Act as amended by this Act, shall be deemed to have been and to be valid.

(3) The Minister may complete any sales, purchases, and transactions pending at the passing of this Act; and may grant concessions in connection therewith.

Vesting of land in Sydney Harbour Trust Commissioners.

12. (1) The Governor may by proclamation vest the whole or any part of the lands described in a proclamation published under section seventeen of the Principal Act in the Government Gazette, number seventy, of the eighth day of May, one thousand nine hundred and twelve, in the Sydney Harbour Trust Commissioners as constituted under the Sydney Harbour Trust Act, 1900, and such lands shall, from and after publication of the proclamation, be deemed to be subject in all respects to the provisions of the Sydney Harbour Trust Act, 1900, relating to lands vested in the said Commissioners, and the said Commissioners shall after the said publication have in relation to the lands vested in them all the powers of management which are by the Principal Act as amended by this Act reposed in the Minister.

Vesting of lands in Sydney Harbour Trust Commissioners.

(2) Any rights or liabilities which, under the duties of management imposed on the Housing Board pursuant to section seventeen of the Principal Act and such proclamation or on the Minister by this Act, could have been enforced by or against the Housing Board if this Act had not been passed, or by or against the Minister, shall, from and after the publication of the proclamation, be enforceable by or against the said Commissioners.

13. (1) The Governor may from time to time, by proclamation in the Gazette, vest in the Commissioners of the Government Savings Bank of New South Wales any land vested in the Minister for Housing and which is the subject of an agreement for sale, and the right to receive any moneys payable under such agreement, and the right to receive any moneys payable to the Minister in respect of advances made by him or the Housing Board, and the securities therefor, for such estate and interest as is vested in the Minister at the date of such proclamation, subject to the equities affecting the same.

(2) The Governor shall not issue any such proclamation except with the consent of the Commissioners, and unless the Auditor-General has certified what in each case is the correct amount payable for principal, interest, and other charges upon any such agreement or security.

(3) Upon the publication of a proclamation under this section in the Gazette, the land therein described, the right to receive and recover any amounts therein stated to be payable in respect thereof, the securities for money, and the right to receive and recover such moneys shall be vested in the Commissioners for all the estate, right, title, and interest of the Minister therein. And the Commissioners shall be entitled to receive from the Minister all deeds, documents, policies of insurance, or any other evidence of title relating thereto.

(4) Any person indebted at the date of the publication in the Gazette of such proclamation in any sum of money in respect of such land or security, shall pay such sum to the Commissioners in accordance with the terms of his agreement or of the security, and the receipt of the Commissioners shall be a sufficient discharge for any such sum, and any right of action accrued to or against, and any agreement, mortgage, bond, guarantee, lease, covenant, judgment debt, policy of insurance, or obligation made or entered into by or with the Housing Board or the Minister, in relation to any land, security, or chose in action so vested by proclamation in the Commissioners may be prosecuted
and

and enforced by or against the Commissioners in their name as if the right of action had originally accrued to or against, or the agreement, mortgage, bond, guarantee, lease, covenant, judgment debt, policy of insurance, or obligation had been made or entered into with the Commissioners.

(5) All money due and owing at the date of the publication in the Gazette of any proclamation to any person by the Housing Board or the Minister in relation to any of the lands or securities so vested in the Commissioners by the proclamation shall be paid by and be recoverable from the Commissioners, and the payment shall by them be treated in account as provided in Part VIA of the Government Savings Bank Act, 1906, inserted by this Act.

14. The Government Savings Bank Act, 1906, is amended—

- (a) by inserting in section three after the words Sec. 3.
“Division 4—General—ss. 69, 70” the words
“Part VIA—Government Housing Department—ss. 70A–70G”;
- (b) in subsection one of section twenty-three by Sec. 23.
omitting the word “three” and inserting in lieu thereof the word “four”; and by adding at the end of the same subsection the words
“(d) the Government Housing Department”;
- (c) by inserting after section seventy the following Sec. 70.
new Part:—

PART VIA.

GOVERNMENT HOUSING DEPARTMENT.

70A. There shall be a Government Housing Establishment of Government Housing Department.
Department of the bank, to administer such properties and securities as may be vested in the Commissioners under the provisions of the Housing (Amendment) Act, 1922.

70B. The Commissioners shall collect and Functions.
carry to the Government Housing Department all payments of purchase money and interest, and all repayments of advances and interest thereon

thereon made under the Housing Act, 1912, and subsequent Acts amending the same, or any other amounts receivable in connection therewith so far as the properties sold or the securities for the advances have been vested in the Commissioners in pursuance of the Housing (Amendment) Act, 1922.

70c. The liability of the Commissioners in respect of the properties and securities so vested in them shall be shown in the books of the department, wherein the Minister for Housing shall be credited with the total amount owing by the purchasers or borrowers in respect of the properties or securities so vested in the Commissioners at the time of the vesting, and with interest at the rate fixed by the Colonial Treasurer under section fourteen of the Housing Act, 1912, as amended by subsequent Acts. Accounts.

Such account shall be debited with the amounts paid by the Commissioners to the Housing Fund or paid by them under the provisions of subsection five of section thirteen of the Housing (Amendment) Act, 1922, if chargeable to the Minister for Housing or to the Housing Board and not to a purchaser or borrower by the terms of any agreement or mortgage or by any rule of law or equity.

70d. Amounts received from purchasers or borrowers on account of purchase or principal moneys due and principal moneys arising from resales, foreclosures, or otherwise, shall be paid by the Commissioners to the Housing Fund established under the Housing Act, 1912, in a monthly settlement not later than the fifteenth day of each month in respect of the previous month's receipts.

70e. The Commissioners shall establish a reserve fund in respect of the properties and securities so vested in them, to which any profits therefrom shall be carried from profit and loss account, and to which any charges paid

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paid directly on behalf of the department, and the cost of administration of the department as apportioned under section twenty-three of this Act, and all losses however arising, shall be debited.

The balance of this fund shall be certified by the Auditor-General on or before the thirtieth day of September in each year, and if the reserve fund is in debit the amount shall be made good from the Housing Fund, or may be adjusted by the Commissioners from any amount payable to the Housing Fund in respect of principal moneys repaid or otherwise.

Such payment or adjustment shall be deemed to be payment from the capital division of the Housing Fund. In case of any deficiency in the Housing Fund such deficiency shall, on being certified by the Commissioners, be made good to the department out of the Consolidated Revenue Fund annually at the close of each financial year of the bank.

70F. Amounts payable by a purchaser or borrower in respect of a property so vested in the Commissioners may be paid at such branch of the bank as the Commissioners may approve.

70G. The Commissioners are hereby indemnified in respect of any act done by them, and of any losses, costs, or damages incurred by them in the bona fide execution of the powers vested in them under this Part of this Act.
