

LAND COMMISSION BILL.

*Schedule of the Amendments referred to in Legislative Council's
Message of 20 October, 1976*

- No. 1.—Page 3, Clause 4. *After line 2 insert*
“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;
- No. 2.—Page 3, Clause 4. *After line 26 insert*
“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;
- No. 3.—Page 7, Clause 11. *After line 31 insert*
(3) Notwithstanding anything contained in subsections (1) and (2) the Commission shall not acquire by compulsory process—
(a) any dwellinghouse that is occupied by the owner as his principal place of residence;
(b) any factory, workshop, warehouse, shop or other premises used for industrial or commercial purposes; or
(c) any premises used as an office or rooms for the conduct of any business or profession.
(4) Where a notice of intention to acquire land is served by or on behalf of the Commission on the proprietor of land constituting a planning unit, and no such notice has previously been served in relation to that land, the proprietor may, within three months after the date of the service of that notice, serve personally or by post upon the Commission prescribed particulars of the commercial development proposed by him in relation to the planning unit, and in that event, land comprised in the planning unit shall not be acquired by compulsory process within a period of two years after the date of service of those particulars, and if a substantial commencement of the commercial development has been made during that period, the land shall not be acquired by compulsory process after the expiration of that period.
(5) Where the acquisition of any land has been delayed or postponed for any period by reason of the provisions of subsection (4) of this section, but the land is subsequently acquired by the Commission by compulsory process, within three years after service of the first notice of intention to acquire the land served by or on behalf of the Commission, the compensation to which the proprietor of the land is entitled shall be assessed in all respects as if the acquisition had been effected as soon as practicable after service of that first notice of intention to acquire the land.

FINDINGS AND CONCLUSIONS

The Commission has conducted a thorough investigation into the operations of the [Company Name] and has found that the company has failed to comply with the provisions of the [Act Name].

The Commission has found that the company has engaged in a series of transactions that are inconsistent with the requirements of the [Act Name]. These transactions include the [Description of Transactions].

The Commission has also found that the company has failed to maintain accurate records of its operations, as required by the [Act Name]. This failure has made it difficult for the Commission to determine the true nature of the company's activities.

In light of these findings, the Commission has concluded that the company is in violation of the [Act Name]. The Commission has therefore issued an order requiring the company to [Describe the Order].

The Commission has also issued a notice of [Describe the Notice]. This notice requires the company to [Describe the Notice].

The Commission has the honor to acknowledge the assistance of [Name] in the course of its investigation.

Very truly yours,
[Signature]

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 19 October, 1976.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

A. W. SAXON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 20 October, 1976.*

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. , 1976.

An Act to constitute the Land Commission of New South Wales; to confer and impose on the Commission responsibilities, powers, authorities, duties and functions with respect to the acquisition, development and disposal of land for urban and public purposes; and to amend the Statutory and Other Offices Remuneration Act, 1975.

BE

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NOTE.—The words to be *inserted* are printed in **black letter**.

Land Commission.

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

PART I.

PRELIMINARY.

1. This Act may be cited as the "Land Commission Act, Short title. 1976".

10 2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-
ment.

(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 15 proclamation published in the Gazette.

3. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—*ss.* 1-4.

PART II.—CONSTITUTION OF THE COMMISSION—*ss.* 5-8.

20 PART III.—FUNCTIONS OF THE COMMISSION—*ss.* 9-19.

PART IV.—FINANCE—*ss.* 20-25.

PART V.—GENERAL—*ss.* 26-36.

SCHEDULE 1.—PROVISIONS RELATING TO CONSTITUTION AND PROCEDURE OF THE COMMISSION.

25 SCHEDULE 2.—MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

SCHEDULE 3.—PROVISIONS RELATING TO LOANS.

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

30 "building" includes a structure or a part of a structure;

"Chairman"

Land Commission.

- “Chairman” means the Chairman of the Commission appointed under section 6;
- 5 “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;
- 10 “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
- 15 development does not conform with criteria established by regulation;
- “Commission” means the Land Commission of New South Wales constituted under this Act;
- 20 “commissioner” means the Chairman or a part-time commissioner;
- “council” has the meaning ascribed thereto in the Local Government Act, 1919;
- “functions” includes responsibilities, powers, authorities and duties;
- 25 “part-time commissioner” means a part-time commissioner appointed under section 6;
- “planning unit” means any land that the proprietor proposes to use for the purpose of commercial development;
- 30 “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;
- 35 “regulation” means a regulation made under this Act.

PART

Land Commission.

PART II.

CONSTITUTION OF THE COMMISSION.

5 **5.** (1) There is hereby constituted a corporation under the corporate name of the "Land Commission of New South Wales".

Constitu-
tion of
Commis-
sion.

(2) The Commission shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown.

10 (3) In the exercise or performance of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), the Commission shall be subject in all respects to the control and direction of the Minister.

6. (1) The Commission shall consist of three commis-
sioners appointed by the Governor.

Provisions
relating to
constitu-
tion and
procedure
of Com-
mission.

15 (2) Of the commissioners—

(a) one shall be appointed as Chairman of the Commis-
sion; and

(b) two shall be appointed as part-time commissioners.

(3) Schedule 1 has effect.

20 **7.** Except as provided in section 8 (2), such officers and employees as may be necessary to enable the Commission to exercise and perform its functions shall be appointed and employed under and subject to the Public Service Act, 1902.

Officers
and
employees
of
Commission.

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8. (1) For the purposes of exercising and performing its functions, the Commission may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or servants, of any Department of the Government or public authority.

(2) The Commission may appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Commission any person, body or organisation considered capable of providing services, information or advice required by the Commission in exercising and performing its functions.

PART III.

FUNCTIONS OF THE COMMISSION.

15 9. (1) In this section—

Functions of
Commission.

“develop” includes re-develop;

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

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

(2) The functions of the Commission are—

(a) to acquire land for present or future urban development and for public purposes;

25 (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 Commission considers necessary or expedient for urban development and for public purposes;

30 (c) to carry out or promote research or investigations into matters connected with urban development;

(d)

Land Commission.

- (d) to make such reports or recommendations to the Minister or any other person or body in relation to urban development as the Commission considers necessary or appropriate;
- 5 (e) to exercise and perform such other functions as are conferred or imposed on the Commission by or under this or any other Act; and
- (f) to do such supplemental, incidental and consequential acts as may be necessary or expedient
- 10 for the exercise or performance of its functions.

(3) In the exercise or performance of its functions, the Commission shall—

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

10. (1) Subject to this Act, the Commission may, for the purposes of this Act—

- 20 (a) control and manage land vested in the Commission;
- (b) by notification published in the Gazette and with the approval of the Minister, close or realign any public road, or part thereof, within or adjoining or
- 25 in the vicinity of land vested in the Commission;
- (c) demolish any building on land vested in the Commission 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
- 30 land vested in the Commission;
- (e) subdivide and re-subdivide land, and consolidate subdivided or re-subdivided land, vested in the Commission;

(f)

General powers of Commission.

Land Commission.

- (f) set out and construct roads on land vested in the Commission;
- (g) erect, alter, repair and renovate buildings on and make other improvements to land vested in the Commission; and
- (h) cause any other work to be done on or in relation to land vested in the Commission for the purpose of rendering it fit to be used for any purpose for which it may be used under any interim development order, or prescribed scheme, made under Part XIIA of the Local Government Act, 1919, and 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 Commission, 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.

11. (1) The Commission may, for the purposes of this Act, acquire land (including land previously appropriated or resumed for any purpose) by lease, purchase or exchange or by resumption or appropriation in accordance with this Act.

(2) Notwithstanding anything contained in subsection (1), the Commission shall not acquire land which is designated land within the meaning of the Growth Centres (Land Acquisition) Act, 1974, unless the acquisition is made with the concurrence of the Minister for Decentralisation and Development.

(3) Notwithstanding anything contained in subsections (1) and (2) the Commission shall not acquire by compulsory process—

- (a) any dwellinghouse that is occupied by the owner as his principal place of residence;

(b)

Land Commission.

(b) any factory, workshop, warehouse, shop or other premises used for industrial or commercial purposes;
or

5 (c) any premises used as an office or rooms for the conduct of any business or profession.

(4) Where a notice of intention to acquire land is served by or on behalf of the Commission on the proprietor of land constituting a planning unit, and no such notice has previously been served in relation to that land, the proprietor
10 may, within three months after the date of the service of that notice, serve personally or by post upon the Commission prescribed particulars of the commercial development proposed by him in relation to the planning unit, and in that event, land comprised in the planning unit shall not be
15 acquired by compulsory process within a period of two years after the date of service of those particulars, and if a substantial commencement of the commercial development has been made during that period, the land shall not be acquired by compulsory process after the expiration of that period.

20 (5) Where the acquisition of any land has been delayed or postponed for any period by reason of the provisions of subsection (4) of this section, but the land is subsequently acquired by the Commission by compulsory process, within three years after service of the first notice of
25 intention to acquire the land served by or on behalf of the Commission, the compensation to which the proprietor of the land is entitled shall be assessed in all respects as if the acquisition had been effected as soon as practicable after service of that first notice of intention to acquire the land.

30 12. (1) Resumption or appropriation for the purposes of this Act shall be effected by the Governor under the Public Works Act, 1912, and, without affecting the generality of the foregoing, appropriation under that Act may be effected in respect of any land vested in Her Majesty or any person
35 in trust for Her Majesty.

(2) A resumption or appropriation for the purposes of this Act shall be deemed to be for an authorised work and the Commission shall be deemed to be the Constructing Authority.

(3)

Land Commission.

(3) Notwithstanding subsection (1), sections 34, 35, 36 and 37 of the Public Works Act, 1912, do not apply in respect of the expenditure on any works constructed in pursuance of this Act, but section 38 of that Act applies in
5 respect of that expenditure.

(4) For the purposes of this section and not otherwise, Schedule 2 has effect.

(5) Notwithstanding anything contained in this section and Schedule 2, the Growth Centres (Land Acquisition)
10 tion) Act, 1974, applies to and in respect of the acquisition by resumption of any land referred to in section 11 (2).

13. (1) The Commission may acquire by gift, bequest
15 or devise any property for any of the purposes of this Act and may agree to and carry out the conditions of the gift,
bequest or devise. Power to accept gifts, etc., of property.

(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 Commission has agreed.

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

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

(2)

Land Commission.

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

- 5 (a) the erection of any building on that land by the purchaser within a specified period;
- (b) conferring on the Commission an option or right to repurchase that land if the purchaser has failed to comply with a condition referred to in paragraph
- 10 (a);
- (c) conferring on the Commission 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
- 15 purchaser to pay to the Commission a sum determined in a specified manner where the Commission does not exercise that option or right;
- or
- 20 (d) the determination of the repurchase price payable by the Commission 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

25 completion of the sale.

(4) The Registrar-General shall, at the request of the Commission 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

30 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)

Land Commission.

(5) The Commission 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 Commission 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 Commission to the transfer has been endorsed thereon.

15. (1) The Commission may, by order published in the Gazette, declare that it proposes to surrender to Her Majesty land that is vested in the Commission 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. Dedication
of land.

(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 Commission may, by notification published in the Gazette, dedicate as a public reserve or drainage reserve land that is vested in the Commission and described or referred to in the notification and that is situated in a local government area within the meaning of the Local Government Act, 1919.

(4)

Land Commission.

(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 local government area in which the land is situated and shall
5 be subject to the provisions of the Local Government Act, 1919, 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 Commission shall be deemed to be a
10 Constructing Authority.

16. (1) The Commission 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
15 Commission 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 Commission;
- 20 (b) the whole or any part of the cost of any works to be paid by the Commission;
- (c) a loan to be made by the Commission to meet the whole or any part of the cost of any works; or
- 25 (d) the Commission to pay the cost of providing any services during a specified period.

(3) Without affecting the generality of subsection (1), the Commission may make and enter into a contract under that subsection with any person for the construction on land vested in the Commission or that person, or in the
30 Commission 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)

Land Commission.

(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.

5 17. (1) The Commission may enter into an arrangement or agreement with any public authority that—

(a) the public authority shall act as agent of the Commission for the purposes of this Act; or

(b) the Commission shall act as agent of the public authority for the purposes of this Act,

10 on such terms and conditions as are agreed upon between the Commission and the public authority.

Commission may enter into arrangements with other public authorities.

(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)

15 and may do or suffer anything necessary or expedient for carrying out any such arrangements or agreements.

20 18. (1) In the exercise or performance of its functions the Commission 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 Commission.

Consultation and negotiation.

25 (2) Without affecting the generality of subsection (1), any research or investigation under section 9 (2) (c) that is of the same or of a similar nature as that which may be undertaken by the New South Wales Planning and Environment Commission or any other public authority shall,

30 unless otherwise agreed, be carried out or promoted in conjunction with that Commission or public authority.

19.

Land Commission.

19. (1) The Minister for Local Government may, by order published in the Gazette, transfer to the Commission such of the functions conferred or imposed on a council by or under the Local Government Act, 1919, as are specified or described in the order. Exercise of council's powers by Commission.

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

(3) The provisions of the Local Government Act, 1919, 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 Commission were a council and the land in respect of which those functions may be exercised or performed formed part of that council's local government area within the meaning of that Act.

(4) A function conferred or imposed on the Commission 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 Commission by an order under this section shall be exercised or performed by the Commission only in or in relation to land vested in the Commission and specified or described in the order.

Land Commission.

PART IV.

FINANCE.

20 **20.** (1) The Commission shall cause to be kept proper **Accounts.**
accounts and records in relation to all of its operations and
5 shall, as soon as practicable after 30th June in each year,
prepare and submit to the Minister for presentation to
Parliament a statement of accounts in a form approved by
the Auditor-General, exhibiting a true and correct view of the
financial position and transactions of the Commission.

10 (2) The Minister shall lay the statement of accounts,
or cause it to be laid, before each House of Parliament as
soon as practicable after the receipt by him of the statement.

15 **21.** The accounts of the Commission shall be audited by **Audit.**
the Auditor-General, who shall have in respect thereof all
the powers conferred on him by any law for the time being
in force relating to the audit of public accounts.

22. (1) The Audit Act, 1902, shall apply to commission- **Application**
ers and officers and employees of the Commission in the same **of Audit**
way as it applies to accounting officers of public departments. **Act, 1902.**

20 (2) The Auditor-General shall report to the
Commission and the Minister—

(a) whether in his opinion—

- (i) due provision has been made for the
repayment of loans;
- 25 (ii) the value of assets has (so far as he can
judge) been in all cases fairly stated;

(iii)

Land Commission.

- 5 (iii) due diligence and care have been shown in the collection and banking of income;
- (iv) expenditure incurred has been duly authorised, vouched and supervised;
- 5 (v) proper account has been kept of plant, stores and materials; and
- 10 (vi) any of the money or other property of the Commission or over which it has control has been misappropriated or improperly or irregularly dealt with; and
- (b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of any audit under section 21, the Commission shall pay to the
15 Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

23. The Commission may invest money held by it in **Investment.** Government securities of the Commonwealth or of the State of New South Wales or in any securities guaranteed by the
20 Government of that State, or on call or on fixed deposit, or partly on call and partly on fixed deposit, with the Treasurer or with any bank or in such other securities as the Governor approves or as are prescribed.

24. (1) For the temporary accommodation of the
25 Commission, it may obtain advances by overdraft of current ^{Temporary accommodation.} account in any bank or banks upon the credit of the Commission's funds to such extent as may, from time to time, be approved by the Governor.

(2)

Land Commission.

(2) The Treasurer may advance such money to the Commission, on such terms and conditions as to repayment and interest, as may be agreed upon.

25. (1) The Commission may from time to time, with ^{Borrowing.} the concurrence of the Treasurer and the approval of the Governor, borrow money for—

- (a) the purpose of exercising or performing any of its functions;
- (b) the renewal of loans;
- 10 (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer or to any bank;
or
- (d) any other purpose of this Act.

(2) Schedule 3 has effect.

15

PART V.

GENERAL.

26. (1) Where, through his association with the Commission, a person has knowledge of specific information relating to proposals made, or to be made, by the Commission in respect of the acquisition, use, development or disposal of land and that information is not generally known but, if generally known, might reasonably be expected to affect materially the market price of that land, he contravenes this subsection if he—

- 25 (a) deals, directly or indirectly, in that or in any other land for the purpose of gaining an advantage for himself by the use of that information; or

Land Commission.

(b) divulges that information for the purpose of enabling another person to gain an advantage by using that information to deal, directly or indirectly, in that or in any other land.

5 Penalty : \$2,000.

(2) Where, through his association with the Commission, a person is in a position to influence proposals made, or to be made, by the Commission in respect of the acquisition, use, development or disposal of land and does influence
10 the proposals by securing the inclusion or alteration of any matter in, or the exclusion or omission of any matter from, the proposals, he contravenes this subsection if—

(a) he does so for the purpose of gaining an advantage for himself; or

15 (b) he does so for the purpose of enabling another person to gain an advantage.

Penalty : \$2,000.

(3) Where—

20 (a) a contravention of subsection (1) occurs and an advantage, referred to in that subsection, is gained from any dealing in land to which the contravention relates; or

25 (b) a contravention of subsection (2) occurs and an advantage, referred to in that subsection, is gained from any dealing in land which would not have been gained if the proposals concerned had not been influenced,

any person who gained that advantage is, whether or not any person has been prosecuted for or convicted of an offence in
30 respect of a contravention of subsection (1) or (2), as the case may be, liable to another person for the amount of any loss incurred by that other person by reason of the gaining of that advantage.

(4)

Land Commission.

(4) Where a loss referred to in subsection (3) is incurred by reason of an advantage gained from a dealing in land, the amount of the loss is the difference between the price at which the dealing was effected and—

- 5 (a) in the case of any dealing to which subsection (1) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the specific information used to gain that advantage had been
10 generally known at that time; or
- (b) in any case to which subsection (2) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would
15 have been the market price of the land at the time of the dealing if the proposals concerned had not been influenced.

(5) An action to recover a loss, referred to in subsection (3), may not be brought after the expiration of 5
20 years next succeeding the dealing in land in relation to which the loss was incurred.

(6) For the purposes of this section a person is associated with the Commission—

- 25 (a) if he is a commissioner or an officer or employee of the Commission;
- (b) if he is a commissioner or an officer or employee of the New South Wales Planning and Environment Commission or a person appointed to a committee or sub-committee established under section 15 of the
30 State Planning Authority Act, 1963, or to a regional planning committee appointed under Part IV of that Act;
- (c) if he is an officer or a servant of a council;

(d)

Land Commission.

- 5 (d) if he acts or has acted as banker, solicitor, auditor or professional adviser or in any other capacity for the Commission, the Minister, the New South Planning and Environment Commission or a council; or
- (e) where the person, so associated by virtue of paragraph (d), is a body corporate, if he is a director, manager or secretary of that body corporate.

27. (1) If a commissioner has an interest, direct or Disclosure of interest.
 10 indirect, in land, proposals in respect of the acquisition, use, development or disposal of which are to be considered by the Commission, or has a pecuniary interest, direct or
 15 indirect, in a contract or proposed contract with the Commission or in any other matter in which the Commission is
 concerned and is present at a meeting of the Commission at which the proposals are or the contract, proposed contract
 or other matter is the subject of consideration, he shall, at the meeting, as soon as practicable after the commencement
 20 thereof, disclose his interest and shall not take part in the consideration or discussion of or vote on any question with respect to the proposals or the contract, proposed contract or other matter.

(2) For the purposes of this section, a person shall be treated as having an indirect interest in land or a contract,
 25 proposed contract or other matter if—

- 30 (a) he or any nominee of his is a member of a company or other body which has an interest in the land, or with which the contract is made or is proposed to be made or which has a direct or indirect pecuniary interest in the other matter under consideration; or
- 35 (b) he is a partner, or is in the employment, of a person who has an interest in the land, or with whom the contract is made or is proposed to be made or who has a direct or indirect pecuniary interest in the other matter under consideration.

(3)

Land Commission.

(3) Notwithstanding subsection (2)—

- 5 (a) that subsection does not apply to membership of or employment under any council or statutory body within the meaning of the Local Government Act, 1919;
- (b) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body; and
- 10 (c) a member of a company having not less than 25 members shall not be treated as having an interest in land or in any contract or proposed contract with the Commission or in any other matter in which the Commission is concerned by reason only
- 15 that the company has an interest in the land or the contract or proposed contract is with or the other matter concerns the company.

(4) In the case of a man and his wife who are living together, the interest of one spouse shall, if known

20 to the other, be deemed, for the purposes of this section, to be also an interest of the other spouse.

(5) A general notice in writing to the secretary or the prescribed officer of the Commission by a commissioner to the effect that he or his spouse is a member, or is in the

25 employment, of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any land in which that company or other body has an

30 interest or in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(6)

Land Commission.

(6) The secretary or officer referred to in subsection (5) shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) and of any notice given under subsection (5) and the book shall 5 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.

(7) Subject to subsection (8), a commissioner contravenes this subsection if he fails to comply with the 10 provisions of subsection (1), unless he proves that he did not know that proposals in respect of the acquisition, use, development or disposal of the land in which he had an interest were, or that he did not know that a contract, proposed contract or other matter in which he had a pecuniary 15 interest was, the subject of consideration at the meeting.

Penalty : \$400.

(8) The Minister may, subject to such conditions as he thinks fit to impose, remove any disability imposed by subsection (1) in any case in which the number of 20 commissioners referred to in subsection (1) so disabled at any one time would be so great a proportion of the whole of the commissioners as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability 25 should be removed.

(9) The Commission may, by resolution, provide for the exclusion of any commissioner from a meeting of the Commission while any proposal, in respect of any land or any contract, proposed contract or other matter in which 30 that commissioner has an interest as referred to in this section, is under consideration.

(10) In this section, "shares" includes stock.

Land Commission.

28. A commissioner or another person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made—

Disclosure
of informa-
tion.

- 5 (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- 10 (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) with other lawful excuse.

Penalty : \$2,000.

29. (1) The Commission may, by resolution, delegate to a commissioner or an officer or employee of the Commission the exercise or performance of such of the Commission's functions (other than this power of delegation) as are specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

Delegation.

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

25 (3) A delegation under this section may be made subject to conditions or limitations as to the exercise or performance of any of the functions delegated, or as to time or circumstance.

30 (4) Notwithstanding any delegation under this section, the Commission may continue to exercise or perform all or any of the functions delegated.

(5)

Land Commission.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Commission and shall be deemed to have been done or suffered by the Commission.

(6) An instrument purporting to be signed by a delegate of the Commission in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Commission under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Commission under this section.

30. (1) The Commission shall, as soon as practicable after 30th June in each year, prepare and forward to the Minister a report of its work and activities for the 12 months preceding that date.

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

31. Any notice, summons, writ or other proceeding to be served on the Commission may be served—

(a) by being left; or

(b) in the case of a notice, by posting it addressed to the Commission,

at its office or, if it has more than one office, at one of its offices.

32. 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 Chairman.

33.

Land Commission.

33. Any penalty imposed by this Act or the regulations Penalties.
may be recovered in a summary manner before a court of
petty sessions constituted by a stipendiary magistrate sitting
alone.
- 5 34. Any charge, fee or money due to the Commission Recovery
may be recovered as a debt or liquidated demand in a court of money.
of competent jurisdiction.
35. (1) The Governor may make regulations, not Regulations.
inconsistent with this Act, for or with respect to any matter
10 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
\$100 for any contravention thereof.
- 15 36. The Statutory and Other Offices Remuneration Act, Amendment
1975, is amended by inserting at the end of Part 1 of Schedule of Act No.
2 the following matter :— 4, 1976.

Chairman of the Land Commission of New South Wales.

Land Commission.

SCHEDULE 1.

Sec. 6.

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION.

1. A person who is of or above the age of 65 years shall not be appointed as a commissioner or to act in the office of a commissioner under clause 7. **Age of commissioners.**

2. (1) The Chairman shall, subject to this Act, be appointed for such term, not exceeding 7 years, as is specified in the instrument of his appointment. **Terms of office.**

10 (2) A part-time commissioner shall, subject to this Act, be appointed for such term, not exceeding 5 years, as is specified in the instrument of his appointment.

15 (3) The Chairman or a part-time commissioner shall, if otherwise qualified, be eligible for re-appointment from time to time for such term, in accordance with subclause (1) or (2), as the case may be, as is specified in the instrument of his re-appointment.

3. The Chairman shall devote the whole of his time to the duties of his office. **Chairman to devote whole of his time to the duties of his office.**

20 4. (1) Where, by or under any 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, that provision shall not operate to disqualify him from holding that office and also the office of a part-time commissioner or from accepting and retaining any remuneration payable to a part-time commissioner under clause 5. **Provisions relating to part-time commissioners.**

25 (2) The office of part-time commissioner shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

30 5. (1) The Chairman is entitled to be paid—
(a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and **Remuneration of commissioners.**
(b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

- (2) Each part-time commissioner is entitled to be paid such
5 remuneration (including travelling and subsistence allowances) as the
Minister may from time to time determine in respect of him.
6. The provisions of the Public Service Act, 1902, shall not apply
to or in respect of the appointment of a commissioner and a com-
missioner shall not, in his capacity as a commissioner, be subject to
10 the provisions of that Act during his term of office. Public
Service
Act, 1902,
not to
apply.
7. (1) The Minister may appoint any person (including a part-time
commissioner) to act in the office of the Chairman or appoint any
person to act in the office of a part-time commissioner while the
Chairman or that part-time commissioner, as the case may be, is
15 absent from his office through illness or any other cause, and that
person while so acting— Appoint-
ment of
substitutes
to act during
absence of
Chairman or
part-time
commis-
sioner.
- (a) shall have and may exercise and perform the functions of
the commissioner in whose office he is appointed to act; and
- 20 (b) shall be deemed to be the Chairman or a part-time com-
missioner, according to whether he is appointed to act in
the office of the Chairman or of a part-time commissioner.
- (2) A part-time commissioner is, for the purposes of subclause
(1), deemed to be absent from his office if he is acting in the office
of the Chairman pursuant to subclause (1).
- 25 (3) A commissioner is, for the purposes of subclause (1),
deemed to be absent from his office if there is a vacancy in that
office which has not been filled in accordance with clause 9.
- (4) No person shall be concerned to inquire whether or not
30 any occasion has arisen requiring or authorising a person to act
in the office of a commissioner, and all things done or omitted to be
done by that person while so acting shall be as valid and effectual
and shall have the same consequences as if they had been done or
omitted to be done by that commissioner.
- 35 8. (1) A commissioner shall be deemed to have vacated his
office— Vacation of
office.
- (a) if he dies;
- 40 (b) if, being the Chairman, he engages in New South Wales or
elsewhere during his term of office in any paid employment
outside the duties of his office without the approval of the
Minister;

SCHEDULE

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

- 5 (c) if 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, allowances or estate for their benefit;
- 10 (d) if, being the Chairman, he absents himself from duty for a period exceeding 14 consecutive days, except on leave granted by the Minister, which leave the Minister is hereby authorised to grant, or unless the absence is occasioned by illness or unavoidable cause;
- 15 (e) if, being a part-time commissioner, he is absent from 4 consecutive ordinary meetings of the Commission of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister 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;
- 20 (f) if 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;
- 25 (g) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- 30 (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if he declines office;
- (j) if he is removed from office by the Governor under subclause (2); or
- 35 (k) upon his attaining the age of 65 years.

(2) The Governor may remove a commissioner from office for misbehaviour or incompetence.

9. On the occurrence of a vacancy in the office of a commissioner, the Governor may appoint a person to the vacant office for the balance of his predecessor's term of office. Filling of casual vacancies.

10. The number of commissioners which shall constitute a quorum at any meeting of the Commission shall be 2. Quorum.

SCHEDULE

Land Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

11. (1) Any duly convened meeting of the Commission at which **5** a quorum is present shall be competent to transact any business of the Commission. Meetings.
- (2) Questions arising at a meeting of the Commission shall be determined by a majority of votes of the members present and voting.
- 10 (3) The Chairman shall preside at all meetings of the Commission at which he is present.
- (4) If the Chairman is not present at a meeting of the Commission, a commissioner elected by the commissioners present shall preside at that meeting.
- 15 (5) The person presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
12. The Commission shall cause full and accurate minutes to be **20** kept of its proceedings at meetings, and shall submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held. Minutes.
13. The procedure for the calling of, and for the conduct of **25** business at, meetings of the Commission shall, subject to any procedure that is specified in this Act or prescribed, be as determined by the Commission. General procedure.
14. (1) No matter or thing done, and no contract entered into, **30** by the Commission, and no matter or thing done by a commissioner or by any other person acting under the direction or as delegate of the Commission shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject the commissioner or person personally to any action, liability, claim or demand. Protection from liability.
- (2) Nothing in subclause (1) exempts any commissioner or **35** other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Commission, and which the commissioner or other person authorised or joined in authorising.

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

15. (1) In this clause—
- 5 “servant” means an officer or employee of the Commission;
- “statutory body” means any body declared under clause 17 to
 be a statutory body for the purposes of this Schedule;
- 10 “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.
- Preservation
of
rights of
Chairman
and
certain
servants
previously
public
servants,
etc.
- (2) Subject to subclause (3) and to the terms of his appointment, where the Chairman or a servant was, immediately before his appointment as the Chairman or a servant—
- 15 (a) an officer of the Public Service;
- (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 as an officer or employee,
- 20 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
25 which he was a contributor immediately before his appointment as the Chairman or a servant; 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 the Chairman or a servant, and—
- 30 (h) his service as the Chairman or a servant 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
- 35 (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.

Land Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

5 (3) If the Chairman or a servant would, but for this sub-
clause, be entitled under subclause (2) to contribute to a superannua-
tion scheme or to receive any payment, pension or gratuity under
that scheme he shall not be so entitled upon his becoming (whether
upon his appointment as the Chairman or a servant or at any later
time while he holds office as the Chairman or a servant) a contributor
10 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.

15 (4) Subclause (3) does not prevent the payment to the Chair-
man or a servant upon his ceasing to be a contributor to a superan-
nuation 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 that scheme.

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

16. (1) In this clause—

“retiring age” means—

- 25 (a) in relation to a person who was, immediately before
his appointment as Chairman, an officer of the Public
Service—the age of 60 years; and
- 30 (b) in relation to a person who was, immediately before
his appointment as Chairman, an officer or employee
of a statutory body—the age at which officers or em-
ployees (being officers or employees of the class to
which that person belonged immediately before his
appointment as Chairman), as the case may be, of
that statutory body are entitled to retire;

Chairman
entitled to
re-appoint-
ment in
former
employment
in certain
cases.

35 “statutory body” means any body declared under clause 17 to
be a statutory body for the purposes of this Schedule.

(2) A person who ceases to be the Chairman, otherwise than
pursuant to clause 8 (1) (paragraph (h) excepted), shall, if he has
not attained the retiring age, be entitled to be appointed, where,
immediately before his appointment as Chairman, he was—

- 40 (a) an officer of the Public Service—to some office in the Public
Service; or

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

- 5 (b) an officer or employee of a statutory body—to some office
in the service of that body,
not lower in classification and salary than that which he held
immediately before his appointment as Chairman.
- 10 17. 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. Declaration of statutory bodies.
- 15 18. In proceedings by or against the Commission no proof shall be
required (until evidence is given to the contrary) of— Presump-
tions.
- (a) the constitution of the Commission;
- (b) any resolution of the Commission;
- (c) the appointment of any commissioner; or
- (d) the presence of a quorum at any meeting of the Commission.

SCHEDULE 2.

Sec. 12.

MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

- 20 The Public Works Act, 1912, shall, for the purposes referred to
in section 12, be deemed to be amended—
- (a) (i) by omitting from section 53 the words “so seised,
possessed or entitled as aforesaid”;
- 25 (ii) by omitting from section 53 the words “as in the
preceding section mentioned” and by inserting instead
the words “and may claim compensation in respect
of the land resumed and agree to, settle and determine
with the Constructing Authority the amount of such
compensation”;
- 30 (iii) by inserting in section 53 (3) after the word “release”
the words “and to claim, agree to, settle and
determine with the Constructing Authority the amount
of compensation”;
- (iv) by omitting section 53 (5);

SCHEDULE

Land Commission.

SCHEDULE 2—*continued.*MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

5 (b) (i) by inserting in section 102 after the word “time” where secondly occurring the words “as the Constructing Authority allows or, in default of any such allowance of further time, within such time”;

(ii) by omitting from section 102 the words “and upon the Crown Solicitor”;

10 (iii) by inserting at the end of section 102 the following subsection:—

15 (2) Upon receipt of such notice of claim, the Constructing Authority shall obtain from its solicitor, the Crown Solicitor, or the solicitor to any body corporate acting as agent for the Constructing Authority or a solicitor retained by such a body corporate, a report on the title of the land in respect of which the claim has been served by the claimant.

20 (c) by omitting from section 103 the words “Crown Solicitor he shall forward the same, together with his report thereon to the Constructing Authority, who” and by inserting instead the words “Constructing Authority it”;

(d) by omitting section 124 and by inserting instead the following section:—

25 124. (1) For the purpose of ascertaining the compensation to be paid, regard shall in every case be had by the Court not only to the value of the land taken but also to the damage (if any) caused by the severing of the lands taken from other lands of the owner or by the exercise of any statutory powers by the Constructing Authority otherwise injuriously affecting such other lands and the Court shall assess the compensation according to what it finds to have been the value of such lands, estate or interest at the time the notification was published in the Gazette and without being bound in any way by the amount of the valuation notified to such claimant and without reference to any alteration in such value arising from the construction of any works on the lands taken.

30
35
40 (2) Notwithstanding subsection (1), the Court in ascertaining such compensation shall take into consideration and give effect to, by way of set-off or abatement, any enhancement in the value of the interest of any such owner in any land adjoining the land taken or severed therefrom

Land Commission.

SCHEDULE 2—*continued.*MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

- 5 by the construction of any works on the land taken, but in no case does this subsection operate so as to require any payment to be made by such owner to the Constructing Authority in consideration of such enhancement in value as aforesaid.
- 10 (3) Notwithstanding subsection (1), in the case of land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel no compensation shall be allowed or awarded unless—
- 15 (a) the surface of the overlying soil is disturbed;
- (b) the support of such surface is destroyed or injuriously affected by the construction of such tunnel; or
- (c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.
- 20 (e) by omitting section 126 (3);
- (f) (i) by omitting from section 135 (1) the words “such conveyances” and by inserting instead the words “conveyances or assurances of lands taken”;
- 25 (ii) by omitting from section 135 (2) the words “incurred on the part as well of the vendor as of the purchaser.”

SCHEDULE 3.

Sec. 25.

PROVISIONS RELATING TO LOANS.

1. (1) The Commission shall establish a reserve for loan repayment Reserves for fund in respect of each loan or renewal loan raised by the Commission. repayments.
- 30 (2) The Commission shall, during each year, transfer from the revenue of the Commission to each such fund a sum not less than the sum that the Commission, in its application for approval of the loan, specified that it proposed to transfer to that fund.

SCHEDULE

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

- (3) Money held as a reserve for loan repayment may be invested in Government securities of the Commonwealth or the State of New South Wales or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Commission or in any securities guaranteed by the Government of that State or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.
- 10 (4) Any interest or profits realised on any such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.
- (5) All money paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards 15 repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.
- (6) Where the Commission decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the 20 reserve for repayment of the loan for which they were issued, the Commission shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of four 25 and a half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.
- (7) If, after a loan has been repaid, there remains in the reserve for repayment of that loan any balance, that balance shall form part 30 of the general funds of the Commission.
- (8) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.
- (9) This clause shall not apply to any loan to be repaid by 35 instalments at intervals of one year or less.
2. (1) For securing repayment of the principal and interest on any Debentures, money borrowed, the Commission may, as provided by the regulations, etc. issue debentures, bonds, inscribed stock or other prescribed securities.
- (2) Every such debenture or bond and every coupon originally 40 annexed to the debenture or bond, and whether separated therefrom or not, may be transferred by simple delivery.

*Land Commission.*SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

- (3) Inscribed stock shall be transferable in the books of the Commission in accordance with the regulations.
- 5 (4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall, as regards both the issue and transfer thereof for full consideration or money or money's worth, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule
- 10 to that Act.
3. (1) The holder of a coupon originally annexed to a debenture or bond, and whether separated therefrom or not, shall be entitled to receive payment from the Commission of the interest specified in the coupon on its presentation on or after the date when, and at the
- 15 place where, the interest is payable. Payment of debentures and coupons.
- (2) The due repayment of any loan in respect of which debentures, bonds, stock or any other prescribed securities have been issued by the Commission and the interest thereon, shall be a charge upon the income and revenue of the Commission from whatever source
- 20 arising and is hereby guaranteed by the Government.
- (3) Any liability arising under the guarantee given by subclause (2) shall be discharged out of money provided by Parliament.
- (4) The charge created by subclause (2) shall not prejudice or affect any power of the Commission to sell, convey, lease or other-
- 25 wise deal with, free of the charge, any property vested in it.
4. (1) Notwithstanding any other provision of this Act, any money which the Commission is authorised to borrow may be borrowed by a loan raised, wholly or in part, in such places outside New South Wales as the Governor on the recommendation of the Treasurer may
- 30 approve, and may be negotiated and raised in any currency. Raising loans in any country.
- (2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and contain any term, condition or provision permitted under the law of the place where the loan is raised and the Commission may establish and
- 35 conduct in that place registries relating to the securities issued in respect of that loan.
- (3) The Commission may, in respect of any such loan, agree that a sinking fund shall be established and controlled at such place and in such manner as may be found necessary or expedient in the

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

circumstances of the case and, where any sinking fund is so established, the provisions of clause 1 shall apply with regard to that loan
5 only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

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

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

(6) The Governor may, upon the recommendation of the
25 Commission, by notification published in the Gazette, appoint two or more persons to enter into for and on behalf of the Commission all such agreements as the Commission is by this clause authorised to enter into and to sign, execute or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by
30 this clause provided for and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Act and may, upon the like recommendation and by a like notification, revoke or vary any such appointment and make any fresh appointment.

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

(8) All debentures, bonds, stock or other securities, bearing
40 the signatures of the persons so appointed in that behalf, shall be deemed to be securities lawfully issued under the seal of the Commission and the principal money and interest secured thereby shall be a charge upon the income and revenue of the Commission from whatever source arising, and the due repayment of that principal

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

- money and that interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or
5 issued under the authority of this clause and bearing the signatures of those persons shall be deemed to have been lawfully made or issued by the Commission and, if they purport to have been sealed by those persons, to have been lawfully executed by the Commission under seal.
- 10 (9) A holder of any such debenture, bond, stock or other security shall not be bound to inquire whether the issue of the debenture, bond, stock or security was, in fact, duly authorised.
- (10) Subject to this clause and the law in force in the place where any loan is raised under this clause and applicable to that
15 loan and the securities issued in connection therewith, the provisions of this Schedule, other than clauses 2 (1), 6 (3) and 6 (4), shall apply to and in respect of that loan and those securities in the same way as they apply to and in respect of any other loan and any other securities.
- 20 5. (1) Any trustee, unless expressly forbidden by any instrument **Trustees.** creating the trust, may invest any trust money in his hands in stock inscribed by the Commission or in any debentures, bonds or other securities issued in accordance with this Act, and the investment shall be deemed to be an investment authorised by the Trustee Act,
25 1925.
- (2) Any debenture or bond issued, stock inscribed, or other security issued, in pursuance of this Act, shall be a lawful investment for any money which any company, council or body corporate, incorporated by any Act, is authorised or directed to invest in addition to any other investment authorised for the investment of that
30 money.
- (3) No notice of any express, implied or constructive trust shall be received by the Commission or by any officer or employee of the Commission in relation to any debenture or coupon issued or
35 stock inscribed by the Commission.
6. (1) If any debenture or bond issued by the Commission is lost, **Lost** destroyed or defaced before it has been redeemed the Commission **debentures.** may, subject to the provisions of this clause, issue a new debenture or bond in its place.

SCHEDULE

*Land Commission.*SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

- (2) A new debenture or bond, issued under subclause (1) with interest coupon annexed, shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.
- (3) Where a debenture or bond is lost or destroyed, a new debenture or bond shall not be issued unless—
- (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before redemption;
 - (b) such advertisements as the Court may direct have been published;
 - (c) 6 months have elapsed since the publication of the last of those advertisements; and
 - (d) sufficient security has been given to the Commission to indemnify it against any double payment if the missing debenture or bond is at any time thereafter presented for redemption.
- (4) Where a debenture or bond is defaced, a new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Commission for cancellation.
- (5) The provisions of this clause shall apply to and in respect of the case of a lost, destroyed or defaced coupon in the same way as they apply to and in respect of a lost, destroyed or defaced debenture or bond.
- (6) Notwithstanding any other provision of this clause, in the case of loss, theft, destruction, mutilation or defacement of any debenture or bond issued under clause 4, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Commission of the loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Commission receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond is at any time thereafter presented for payment.
7. (1) A person advancing money to the Commission shall not be bound to inquire into the application of the money advanced or in any way responsible for its non-application or misapplication. Protection of investors.
- (2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Commission shall, in favour of a lender and of any holder of any security given by the

SCHEDULE

Land Commission.

SCHEDULE 3—continued.

PROVISIONS RELATING TO LOANS—continued.

Commission, be conclusive evidence that all conditions precedent to the borrowing have been complied with and, where the approval notified is to a borrowing by the Commission in a place outside New South Wales and in a particular currency, shall also be conclusive evidence in favour of those persons of the approval of the Governor to the borrowing in the place and in the currency specified in the notification.

- 10 8. All debentures, bonds, stock or other securities which are Securities secured upon the income and revenue of the Commission shall rank pari passu without any preference one above another by reason of priority of date or otherwise.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1976

[40c]

SCHEDULE

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 19 October, 1976.*

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. , 1976.

An Act to constitute the Land Commission of New South Wales; to confer and impose on the Commission responsibilities, powers, authorities, duties and functions with respect to the acquisition, development and disposal of land for urban and public purposes; and to amend the Statutory and Other Offices Remuneration Act, 1975.

BE

Land Commission.

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

PART I.

PRELIMINARY.

1. This Act may be cited as the "Land Commission Act, Short title. 1976".

10 2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-
ment.

(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
15 proclamation published in the Gazette.

3. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—ss. 1-4.

PART II.—CONSTITUTION OF THE COMMISSION—ss.
5-8.

20 PART III.—FUNCTIONS OF THE COMMISSION—ss. 9-19.

PART IV.—FINANCE—ss. 20-25.

PART V.—GENERAL—ss. 26-36.

SCHEDULE 1.—PROVISIONS RELATING TO CONSTITUTION AND PROCEDURE OF THE COMMISSION.

SCHEDULE

Land Commission.

SCHEDULE 2.—MODIFICATION OF THE PUBLIC WORKS
ACT, 1912.

SCHEDULE 3.—PROVISIONS RELATING TO LOANS.

4. In this Act, except in so far as the context or subject-
5 matter otherwise indicates or requires— **Interpreta-
tion.**

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

“Chairman” means the Chairman of the Commission
appointed under section 6;

10 “Commission” means the Land Commission of New
South Wales constituted under this Act;

“commissioner” means the Chairman or a part-time
commissioner;

“council” has the meaning ascribed thereto in the Local
Government Act, 1919;

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

“part-time commissioner” means a part-time commis-
sioner appointed under section 6;

20 “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

Land Commission.

PART II.

CONSTITUTION OF THE COMMISSION.

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

(2) The Commission shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown.

10 (3) In the exercise or performance of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), the Commission shall be subject in all respects to the control and direction of the Minister.

6. (1) The Commission shall consist of three commissioners appointed by the Governor. Provisions relating to constitution and procedure of Commission.

15 (2) Of the commissioners—

- (a) one shall be appointed as Chairman of the Commission; and
- (b) two shall be appointed as part-time commissioners.

(3) Schedule 1 has effect.

20 **7.** Except as provided in section 8 (2), such officers and employees as may be necessary to enable the Commission to exercise and perform its functions shall be appointed and employed under and subject to the Public Service Act, 1902. Officers and employees of Commission.

Land Commission.

8. (1) For the purposes of exercising and performing its functions, the Commission may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or servants, of any Department of the Government or public authority.

Commission may make use of facilities and employees of Crown, etc.

(2) The Commission may appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Commission any person, body or organisation considered capable of providing services, information or advice required by the Commission in exercising and performing its functions.

PART III.

FUNCTIONS OF THE COMMISSION.

15 9. (1) In this section—

Functions of Commission.

“develop” includes re-develop;

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

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

(2) The functions of the Commission are—

(a) to acquire land for present or future urban development and for public purposes;

(b)

Land Commission.

- 5 (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 Commission 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;
- 10 (d) to make such reports or recommendations to the Minister or any other person or body in relation to urban development as the Commission considers necessary or appropriate;
- 15 (e) to exercise and perform such other functions as are conferred or imposed on the Commission by or under this or any other Act; 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,
20 the Commission shall—

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

Land Commission.

10. (1) Subject to this Act, the Commission may, for the purposes of this Act—

General powers of Commission.

- (a) control and manage land vested in the Commission;
- 5 (b) by notification published in the Gazette and with the approval of the Minister, close or realign any public road, or part thereof, within or adjoining or in the vicinity of land vested in the Commission;
- (c) demolish any building on land vested in the Commission of which it has exclusive possession;
- 10 (d) provide or relocate, or arrange for the provision or relocation of, utility services to or in relation to land vested in the Commission;
- (e) subdivide and re-subdivide land, and consolidate subdivided or re-subdivided land, vested in the Commission;
- 15 (f) set out and construct roads on land vested in the Commission;
- (g) erect, alter, repair and renovate buildings on and make other improvements to land vested in the Commission; and
- 20 (h) cause any other work to be done on or in relation to land vested in the Commission for the purpose of rendering it fit to be used for any purpose for which it may be used under any interim development order, or prescribed scheme, made under Part XIIA of the Local Government Act, 1919, and applying to that land.
- 25

(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

Land Commission.

therein of any person or any public authority shall vest in the Commission, 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.

11. (1) The Commission may, for the purposes of this Act, acquire land (including land previously appropriated or resumed for any purpose) by lease, purchase or exchange or by resumption or appropriation in accordance with this Act.

Acquisition of land.

(2) Notwithstanding anything contained in subsection (1), the Commission shall not acquire land which is designated land within the meaning of the Growth Centres (Land Acquisition) Act, 1974, unless the acquisition is made with the concurrence of the Minister for Decentralisation and Development.

12. (1) Resumption or appropriation for the purposes of this Act shall be effected by the Governor under the Public Works Act, 1912, and, without affecting the generality of the foregoing, appropriation under that Act may be effected in respect of any land vested in Her Majesty or any person in trust for Her Majesty.

Resumption.

(2) A resumption or appropriation for the purposes of this Act shall be deemed to be for an authorised work and the Commission shall be deemed to be the Constructing Authority.

(3)

Land Commission.

(3) Notwithstanding subsection (1), sections 34, 35, 36 and 37 of the Public Works Act, 1912, do not apply in respect of the expenditure on any works constructed in pursuance of this Act, but section 38 of that Act applies in respect of that expenditure.

(4) For the purposes of this section and not otherwise, Schedule 2 has effect.

(5) Notwithstanding anything contained in this section and Schedule 2, the Growth Centres (Land Acquisition) Act, 1974, applies to and in respect of the acquisition by resumption of any land referred to in section 11 (2).

13. (1) The Commission may acquire by gift, bequest or devise any property for any of the purposes of this Act and may agree to and carry out the conditions of the gift, bequest or devise.

Power to accept gifts, etc., of property.

(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 Commission has agreed.

20 (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 Commission.

25 **14.** (1) The Commission 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 Commission and grant easements or rights-of-way over that land or any part thereof.

Disposal of and dealings with land vested in Commission.

(2)

Land Commission.

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

- 5 (a) the erection of any building on that land by the purchaser within a specified period;
- (b) conferring on the Commission an option or right to repurchase that land if the purchaser has failed to comply with a condition referred to in paragraph
- 10 (a);
- (c) conferring on the Commission 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
- 15 purchaser to pay to the Commission a sum determined in a specified manner where the Commission does not exercise that option or right; or
- (d) the determination of the repurchase price payable
- 20 by the Commission 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

25 completion of the sale.

(4) The Registrar-General shall, at the request of the Commission 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

30 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)

Land Commission.

(5) The Commission 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 Commission 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 Commission to the transfer has been endorsed thereon.

15. (1) The Commission may, by order published in the Gazette, declare that it proposes to surrender to Her Majesty land that is vested in the Commission 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 Commission may, by notification published in the Gazette, dedicate as a public reserve or drainage reserve land that is vested in the Commission and described or referred to in the notification and that is situated in a local government area within the meaning of the Local Government Act, 1919.

(4)

Land Commission.

(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 local government area in which the land is situated and shall
 5 be subject to the provisions of the Local Government Act, 1919, 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 Commission shall be deemed to be a
 10 Constructing Authority.

16. (1) The Commission 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
 15 Commission of its functions. Commission may enter contracts.

(2) A contract under subsection (1) may provide for—

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

(3) Without affecting the generality of subsection (1), the Commission may make and enter into a contract under that subsection with any person for the construction on land vested in the Commission or that person, or in the
 30 Commission 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)

(4)

Land Commission.

(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.

17. (1) The Commission may enter into an arrangement or agreement with any public authority that—

Commission may enter into arrangements with other public authorities.

(a) the public authority shall act as agent of the Commission for the purposes of this Act; or

(b) the Commission shall act as agent of the public authority for the purposes of this Act,

10 on such terms and conditions as are agreed upon between the Commission 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.

18. (1) In the exercise or performance of its functions the Commission shall, as far as practicable—

Consultation and negotiation.

20 (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 Commission.

25 (2) Without affecting the generality of subsection (1), any research or investigation under section 9 (2) (c) that is of the same or of a similar nature as that which may be undertaken by the New South Wales Planning and Environment Commission or any other public authority shall, 30 unless otherwise agreed, be carried out or promoted in conjunction with that Commission or public authority.

19.

Land Commission.

19. (1) The Minister for Local Government may, by order published in the Gazette, transfer to the Commission such of the functions conferred or imposed on a council by or under the Local Government Act, 1919, as are specified or described in the order.

Exercise of council's powers by Commission.

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

(3) The provisions of the Local Government Act, 1919, 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 Commission were a council and the land in respect of which those functions may be exercised or performed formed part of that council's local government area within the meaning of that Act.

(4) A function conferred or imposed on the Commission 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 Commission by an order under this section shall be exercised or performed by the Commission only in or in relation to land vested in the Commission and specified or described in the order.

Land Commission.

PART IV.

FINANCE.

20 **20.** (1) The Commission shall cause to be kept proper **Accounts.**
accounts and records in relation to all of its operations and
5 shall, as soon as practicable after 30th June in each year,
prepare and submit to the Minister for presentation to
Parliament a statement of accounts in a form approved by
the Auditor-General, exhibiting a true and correct view of the
financial position and transactions of the Commission.

10 (2) The Minister shall lay the statement of accounts,
or cause it to be laid, before each House of Parliament as
soon as practicable after the receipt by him of the statement.

15 **21.** The accounts of the Commission shall be audited by **Audit.**
the Auditor-General, who shall have in respect thereof all
the powers conferred on him by any law for the time being
in force relating to the audit of public accounts.

18 **22.** (1) The Audit Act, 1902, shall apply to commission- **Application**
ers and officers and employees of the Commission in the same **of Audit**
way as it applies to accounting officers of public departments. **Act, 1902.**

20 (2) The Auditor-General shall report to the
Commission and the Minister—

(a) whether in his opinion—

- (i) due provision has been made for the
repayment of loans;
- 25 (ii) the value of assets has (so far as he can
judge) been in all cases fairly stated;

(iii)

Land Commission.

- (iii) due diligence and care have been shown in the collection and banking of income;
- (iv) expenditure incurred has been duly authorised, vouched and supervised;
- 5 (v) proper account has been kept of plant, stores and materials; and
- (vi) any of the money or other property of the Commission or over which it has control has been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of any audit under section 21, the Commission shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

23. The Commission may invest money held by it in Investment. Government securities of the Commonwealth or of the State of New South Wales or in any securities guaranteed by the Government of that State, or on call or on fixed deposit, or partly on call and partly on fixed deposit, with the Treasurer or with any bank or in such other securities as the Governor approves or as are prescribed.

24. (1) For the temporary accommodation of the Temporary Commission, it may obtain advances by overdraft of current accommodation. account in any bank or banks upon the credit of the Commission's funds to such extent as may, from time to time, be approved by the Governor.

(iii)

(2)

Land Commission.

(2) The Treasurer may advance such money to the Commission, on such terms and conditions as to repayment and interest, as may be agreed upon.

25. (1) The Commission may from time to time, with Borrowing.
5 the concurrence of the Treasurer and the approval of the Governor, borrow money for—

- (a) the purpose of exercising or performing any of its functions;
- (b) the renewal of loans;
- 10 (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer or to any bank; or
- (d) any other purpose of this Act.

(2) Schedule 3 has effect.

15

PART V.

GENERAL.

26. (1) Where, through his association with the Com-
mission, a person has knowledge of specific information Misuse
relating to proposals made, or to be made, by the Commis- of infor-
20 sion in respect of the acquisition, use, development or disposal mation.
of land and that information is not generally known but, if generally known, might reasonably be expected to affect materially the market price of that land, he contravenes this subsection if he—

- 25 (a) deals, directly or indirectly, in that or in any other land for the purpose of gaining an advantage for himself by the use of that information; or

121—B

(b)

Land Commission.

(b) divulges that information for the purpose of enabling another person to gain an advantage by using that information to deal, directly or indirectly, in that or in any other land.

5 Penalty : \$2,000.

(2) Where, through his association with the Commission, a person is in a position to influence proposals made, or to be made, by the Commission in respect of the acquisition, use, development or disposal of land and does influence
10 the proposals by securing the inclusion or alteration of any matter in, or the exclusion or omission of any matter from, the proposals, he contravenes this subsection if—

(a) he does so for the purpose of gaining an advantage for himself; or

15 (b) he does so for the purpose of enabling another person to gain an advantage.

Penalty : \$2,000.

(3) Where—

20 (a) a contravention of subsection (1) occurs and an advantage, referred to in that subsection, is gained from any dealing in land to which the contravention relates; or

25 (b) a contravention of subsection (2) occurs and an advantage, referred to in that subsection, is gained from any dealing in land which would not have been gained if the proposals concerned had not been influenced,

any person who gained that advantage is, whether or not any person has been prosecuted for or convicted of an offence in
30 respect of a contravention of subsection (1) or (2), as the case may be, liable to another person for the amount of any loss incurred by that other person by reason of the gaining of that advantage.

(4)

Land Commission.

(4) Where a loss referred to in subsection (3) is incurred by reason of an advantage gained from a dealing in land, the amount of the loss is the difference between the price at which the dealing was effected and—

- 5 (a) in the case of any dealing to which subsection (1) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the specific information used to gain that advantage had been generally known at that time; or
- 10
- (b) in any case to which subsection (2) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the proposals concerned had not been influenced.
- 15

(5) An action to recover a loss, referred to in subsection (3), may not be brought after the expiration of 5 years next succeeding the dealing in land in relation to which the loss was incurred.

20

(6) For the purposes of this section a person is associated with the Commission—

- 25 (a) if he is a commissioner or an officer or employee of the Commission;
- (b) if he is a commissioner or an officer or employee of the New South Wales Planning and Environment Commission or a person appointed to a committee or sub-committee established under section 15 of the State Planning Authority Act, 1963, or to a regional planning committee appointed under Part IV of that Act;
- 30
- (c) if he is an officer or a servant of a council;

(d)

Land Commission.

- 5 (d) if he acts or has acted as banker, solicitor, auditor or professional adviser or in any other capacity for the Commission, the Minister, the New South Planning and Environment Commission or a council; or
- (e) where the person, so associated by virtue of paragraph (d), is a body corporate, if he is a director, manager or secretary of that body corporate.

10 **27.** (1) If a commissioner has an interest, direct or Disclosure
indirect, in land, proposals in respect of the acquisition, of interest.
use, development or disposal of which are to be considered
by the Commission, or has a pecuniary interest, direct or
15 indirect, in a contract or proposed contract with the Com-
mission or in any other matter in which the Commission is
concerned and is present at a meeting of the Commission
at which the proposals are or the contract, proposed contract
or other matter is the subject of consideration, he shall, at the
meeting, as soon as practicable after the commencement
20 thereof, disclose his interest and shall not take part in the
consideration or discussion of or vote on any question with
respect to the proposals or the contract, proposed contract
or other matter.

(2) For the purposes of this section, a person shall
be treated as having an indirect interest in land or a contract,
25 proposed contract or other matter if—

- 30 (a) he or any nominee of his is a member of a company or other body which has an interest in the land, or with which the contract is made or is proposed to be made or which has a direct or indirect pecuniary interest in the other matter under consideration; or
- 35 (b) he is a partner, or is in the employment, of a person who has an interest in the land, or with whom the contract is made or is proposed to be made or who has a direct or indirect pecuniary interest in the other matter under consideration.

(3)

Land Commission.

(3) Notwithstanding subsection (2)—

- 5 (a) that subsection does not apply to membership of or employment under any council or statutory body within the meaning of the Local Government Act, 1919;
- (b) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body; and
- 10 (c) a member of a company having not less than 25 members shall not be treated as having an interest in land or in any contract or proposed contract with the Commission or in any other matter in which the Commission is concerned by reason only
15 that the company has an interest in the land or the contract or proposed contract is with or the other matter concerns the company.

(4) In the case of a man and his wife who are living together, the interest of one spouse shall, if known
20 to the other, be deemed, for the purposes of this section, to be also an interest of the other spouse.

(5) A general notice in writing to the secretary or the prescribed officer of the Commission by a commissioner to the effect that he or his spouse is a member, or is in the
25 employment, of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any land in which that company or other body has an
30 interest or in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(6)

Land Commission.

(6) The secretary or officer referred to in subsection (5) shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) and of any notice given under subsection (5) and the book shall
5 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.

(7) Subject to subsection (8), a commissioner contravenes this subsection if he fails to comply with the
10 provisions of subsection (1), unless he proves that he did not know that proposals in respect of the acquisition, use, development or disposal of the land in which he had an interest were, or that he did not know that a contract,
15 proposed contract or other matter in which he had a pecuniary interest was, the subject of consideration at the meeting.

Penalty : \$400.

(8) The Minister may, subject to such conditions as he thinks fit to impose, remove any disability imposed by subsection (1) in any case in which the number of
20 commissioners referred to in subsection (1) so disabled at any one time would be so great a proportion of the whole of the commissioners as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability
25 should be removed.

(9) The Commission may, by resolution, provide for the exclusion of any commissioner from a meeting of the Commission while any proposal, in respect of any land or any contract, proposed contract or other matter in which
30 that commissioner has an interest as referred to in this section, is under consideration.

(10) In this section, "shares" includes stock.

Land Commission.

28. A commissioner or another person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made—

Disclosure
of informa-
tion.

- 5 (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- 10 (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) with other lawful excuse.

Penalty : \$2,000.

29. (1) The Commission may, by resolution, delegate to a commissioner or an officer or employee of the Commission the exercise or performance of such of the Commission's functions (other than this power of delegation) as are specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

Delegation.

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

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise or performance of any of the functions delegated, or as to time or circumstance.

(4) Notwithstanding any delegation under this section, the Commission may continue to exercise or perform all or any of the functions delegated.

(5)

Land Commission.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Commission and shall be deemed to have been done or suffered by the Commission.

(6) An instrument purporting to be signed by a delegate of the Commission in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Commission under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Commission under this section.

30. (1) The Commission shall, as soon as practicable after 30th June in each year, prepare and forward to the Minister a report of its work and activities for the 12 months preceding that date.

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

31. Any notice, summons, writ or other proceeding to be served on the Commission may be served—

(a) by being left; or

(b) in the case of a notice, by posting it addressed to the Commission,

at its office or, if it has more than one office, at one of its offices.

32. 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 Chairman.

33.

Land Commission.

- 33.** Any penalty imposed by this Act or the regulations Penalties. may be recovered in a summary manner before a court of petty sessions constituted by a stipendiary magistrate sitting alone.
- 5 34.** Any charge, fee or money due to the Commission Recovery may be recovered as a debt or liquidated demand in a court of money. of competent jurisdiction.
- 10 35.** (1) The Governor may make regulations, not Regulations. 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 \$100 for any contravention thereof.
- 15 36.** The Statutory and Other Offices Remuneration Act, Amendment 1975, is amended by inserting at the end of Part 1 of Schedule of Act No. 2 the following matter :—

Chairman of the Land Commission of New South Wales.

Land Commission.

SCHEDULE 1.

Sec. 6.

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION.

1. A person who is of or above the age of 65 years shall not be appointed as a commissioner or to act in the office of a commissioner under clause 7. **Age of commissioners.**
2. (1) The Chairman shall, subject to this Act, be appointed for such term, not exceeding 7 years, as is specified in the instrument of his appointment. **Terms of office.**
- 10 (2) A part-time commissioner shall, subject to this Act, be appointed for such term, not exceeding 5 years, as is specified in the instrument of his appointment.
- 15 (3) The Chairman or a part-time commissioner shall, if otherwise qualified, be eligible for re-appointment from time to time for such term, in accordance with subclause (1) or (2), as the case may be, as is specified in the instrument of his re-appointment.
3. The Chairman shall devote the whole of his time to the duties of his office. **Chairman to devote whole of his time to the duties of his office.**
- 20 4. (1) Where, by or under any 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, that provision shall not operate to disqualify him from holding that office and also the office of a part-time commissioner or from accepting and retaining any remuneration payable to a part-time commissioner under clause 5. **Provisions relating to part-time commissioners.**
- 25 (2) The office of part-time commissioner shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.
5. (1) The Chairman is entitled to be paid—
- 30 (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and **Remuneration of commissioners.**
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

SCHEDULE

Land Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

5 (2) Each part-time commissioner 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.

6. The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a commissioner and a commissioner shall not, in his capacity as a commissioner, be subject to the provisions of that Act during his term of office. Public Service Act, 1902, not to apply.

7. (1) The Minister may appoint any person (including a part-time commissioner) to act in the office of the Chairman or appoint any person to act in the office of a part-time commissioner while the Chairman or that part-time commissioner, as the case may be, is absent from his office through illness or any other cause, and that person while so acting— Appointment of substitutes to act during absence of Chairman or part-time commissioner.

(a) shall have and may exercise and perform the functions of the commissioner in whose office he is appointed to act; and

20 (b) shall be deemed to be the Chairman or a part-time commissioner, according to whether he is appointed to act in the office of the Chairman or of a part-time commissioner.

(2) A part-time commissioner is, for the purposes of subclause (1), deemed to be absent from his office if he is acting in the office of the Chairman pursuant to subclause (1).

25 (3) A commissioner is, for the purposes of subclause (1), deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with clause 9.

30 (4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a commissioner, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by that commissioner.

35 8. (1) A commissioner shall be deemed to have vacated his office— Vacation of office.

(a) if he dies;

40 (b) if, being the Chairman, he engages in New South Wales or elsewhere during his term of office in any paid employment outside the duties of his office without the approval of the Minister;

SCHEDULE

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

- 5 (c) if 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, allowances or estate for their benefit;
- 10 (d) if, being the Chairman, he absents himself from duty for a period exceeding 14 consecutive days, except on leave granted by the Minister, which leave the Minister is hereby authorised to grant, or unless the absence is occasioned by illness or unavoidable cause;
- 15 (e) if, being a part-time commissioner, he is absent from 4 consecutive ordinary meetings of the Commission of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister 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;
- 20 (f) if 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;
- 25 (g) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- 30 (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if he declines office;
- (j) if he is removed from office by the Governor under subclause (2); or
- 35 (k) upon his attaining the age of 65 years.

(2) The Governor may remove a commissioner from office for misbehaviour or incompetence.

9. On the occurrence of a vacancy in the office of a commissioner, Filling of
the Governor may appoint a person to the vacant office for the casual
40 balance of his predecessor's term of office. vacancies.

10. The number of commissioners which shall constitute a quorum Quorum
at any meeting of the Commission shall be 2.

SCHEDULE

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

11. (1) Any duly convened meeting of the Commission at which Meetings.
5 a quorum is present shall be competent to transact any business of the Commission.
- (2) Questions arising at a meeting of the Commission shall be determined by a majority of votes of the members present and voting.
- 10 (3) The Chairman shall preside at all meetings of the Commission at which he is present.
- (4) If the Chairman is not present at a meeting of the Commission, a commissioner elected by the commissioners present shall preside at that meeting.
- 15 (5) The person presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
12. The Commission shall cause full and accurate minutes to be Minutes.
20 kept of its proceedings at meetings, and shall submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held.
13. The procedure for the calling of, and for the conduct of General
business at, meetings of the Commission shall, subject to any pro- procedure.
25 cedure that is specified in this Act or prescribed, be as determined by the Commission.
14. (1) No matter or thing done, and no contract entered into, Protection
by the Commission, and no matter or thing done by a commissioner from
or by any other person acting under the direction or as delegate of liability.
30 the Commission shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject the commissioner or person personally to any action, liability, claim or demand.
- (2) Nothing in subclause (1) exempts any commissioner or
35 other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Commission, and which the commissioner or other person authorised or joined in authorising.

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

15. (1) In this clause—
- 5 “servant” means an officer or employee of the Commission;
- “statutory body” means any body declared under clause 17 to be a statutory body for the purposes of this Schedule;
- 10 “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.
- Preservation of rights of Chairman and certain servants previously public servants, etc.
- (2) Subject to subclause (3) and to the terms of his appointment, where the Chairman or a servant was, immediately before his appointment as the Chairman or a servant—
- (a) an officer of the Public Service;
- 15 (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 as an officer or employee,
- 20 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 the Chairman or a servant; and
- 25 (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 the Chairman or a servant, and—
- 30 (h) his service as the Chairman or a servant 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
- 35 (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.

SCHEDULE

Land Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

5 (3) If the Chairman or a servant would, but for this sub-
clause, be entitled under subclause (2) to contribute to a superannua-
tion scheme or to receive any payment, pension or gratuity under
that scheme he shall not be so entitled upon his becoming (whether
upon his appointment as the Chairman or a servant or at any later
10 time while he holds office as the Chairman or a servant) 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.

15 (4) Subclause (3) does not prevent the payment to the Chair-
man or a servant upon his ceasing to be a contributor to a superan-
nuation 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 that scheme.

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

16. (1) In this clause—

“retiring age” means—

25 (a) in relation to a person who was, immediately before
his appointment as Chairman, an officer of the Public
Service—the age of 60 years; and

30 (b) in relation to a person who was, immediately before
his appointment as Chairman, an officer or employee
of a statutory body—the age at which officers or em-
ployees (being officers or employees of the class to
which that person belonged immediately before his
appointment as Chairman), as the case may be, of
that statutory body are entitled to retire;

35 “statutory body” means any body declared under clause 17 to
be a statutory body for the purposes of this Schedule.

(2) A person who ceases to be the Chairman, otherwise than
pursuant to clause 8 (1) (paragraph (h) excepted), shall, if he has
not attained the retiring age, be entitled to be appointed, where,
immediately before his appointment as Chairman, he was—

40 (a) an officer of the Public Service—to some office in the Public
Service; or

Chairman
entitled to
re-appoint-
ment in
former
employment
in certain
cases.

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

- 5 (b) an officer or employee of a statutory body—to some office
in the service of that body,
not lower in classification and salary than that which he held
immediately before his appointment as Chairman.
- 10 17. 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. Declaration of statutory bodies.
- 15 18. In proceedings by or against the Commission no proof shall be required (until evidence is given to the contrary) of— Presump-
tions.
- (a) the constitution of the Commission;
- (b) any resolution of the Commission;
- (c) the appointment of any commissioner; or
- (d) the presence of a quorum at any meeting of the Commission.

SCHEDULE 2.

Sec. 12.

MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

- 20 The Public Works Act, 1912, shall, for the purposes referred to
in section 12, be deemed to be amended—
- (a) (i) by omitting from section 53 the words “so seised,
possessed or entitled as aforesaid”;
- 25 (ii) by omitting from section 53 the words “as in the
preceding section mentioned” and by inserting instead
the words “and may claim compensation in respect
of the land resumed and agree to, settle and determine
with the Constructing Authority the amount of such
compensation”;
- 30 (iii) by inserting in section 53 (3) after the word “release”
the words “and to claim, agree to, settle and
determine with the Constructing Authority the amount
of compensation”;
- (iv) by omitting section 53 (5);

SCHEDULE

Land Commission.

SCHEDULE 2—*continued.*MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

- 5 (b) (i) by inserting in section 102 after the word “time”
where secondly occurring the words “as the Construct-
ing Authority allows or, in default of any such
allowance of further time, within such time”;
- (ii) by omitting from section 102 the words “and upon
the Crown Solicitor”;
- 10 (iii) by inserting at the end of section 102 the following
subsection:—
- (2) Upon receipt of such notice of claim,
the Constructing Authority shall obtain from its
solicitor, the Crown Solicitor, or the solicitor to any
body corporate acting as agent for the Constructing
15 Authority or a solicitor retained by such a body cor-
porate, a report on the title of the land in respect of
which the claim has been served by the claimant.
- 20 (c) by omitting from section 103 the words “Crown Solicitor
he shall forward the same, together with his report thereon
to the Constructing Authority, who” and by inserting
instead the words “Constructing Authority it”;
- (d) by omitting section 124 and by inserting instead the
following section:—
- 25 124. (1) For the purpose of ascertaining the compen-
sation to be paid, regard shall in every case be had by the
Court not only to the value of the land taken but also to the
damage (if any) caused by the severing of the lands taken
from other lands of the owner or by the exercise of any
30 statutory powers by the Constructing Authority otherwise
injuriously affecting such other lands and the Court shall
assess the compensation according to what it finds to have
been the value of such lands, estate or interest at the time
the notification was published in the Gazette and without
35 being bound in any way by the amount of the valuation
notified to such claimant and without reference to any
alteration in such value arising from the construction of any
works on the lands taken.
- (2) Notwithstanding subsection (1), the Court in
40 ascertaining such compensation shall take into considera-
tion and give effect to, by way of set-off or abatement, any
enhancement in the value of the interest of any such owner
in any land adjoining the land taken or severed therefrom

*Land Commission.*SCHEDULE 2—*continued.*MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

5 by the construction of any works on the land taken, but in no case does this subsection operate so as to require any payment to be made by such owner to the Constructing Authority in consideration of such enhancement in value as aforesaid.

10 (3) Notwithstanding subsection (1), in the case of land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel no compensation shall be allowed or awarded unless—

- 15 (a) the surface of the overlying soil is disturbed;
 (b) the support of such surface is destroyed or injuriously affected by the construction of such tunnel; or
 (c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.

20 (e) by omitting section 126 (3);

(f) (i) by omitting from section 135 (1) the words “such conveyances” and by inserting instead the words “conveyances or assurances of lands taken”;

25 (ii) by omitting from section 135 (2) the words “incurred on the part as well of the vendor as of the purchaser.”

SCHEDULE 3.

Sec. 25.

PROVISIONS RELATING TO LOANS.

1. (1) The Commission shall establish a reserve for loan repayment Reserves for fund in respect of each loan or renewal loan raised by the Commission. repayments.

30 (2) The Commission shall, during each year, transfer from the revenue of the Commission to each such fund a sum not less than the sum that the Commission, in its application for approval of the loan, specified that it proposed to transfer to that fund.

SCHEDULE

*Land Commission.*SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

- (3) Money held as a reserve for loan repayment may be invested in Government securities of the Commonwealth or the State of New South Wales or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Commission or in any securities guaranteed by the Government of that State or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.
- 10 (4) Any interest or profits realised on any such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.
- (5) All money paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.
- 20 (6) Where the Commission decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, the Commission shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of four and a half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.
- 25 (7) If, after a loan has been repaid, there remains in the reserve for repayment of that loan any balance, that balance shall form part of the general funds of the Commission.
- (8) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.
- 30 (9) This clause shall not apply to any loan to be repaid by instalments at intervals of one year or less.
2. (1) For securing repayment of the principal and interest on any money borrowed, the Commission may, as provided by the regulations, issue debentures, bonds, inscribed stock or other prescribed securities. **Debentures, etc.**
- 40 (2) Every such debenture or bond and every coupon originally annexed to the debenture or bond, and whether separated therefrom or not, may be transferred by simple delivery.

Land Commission.

SCHEDULE 3—*continued.*

PROVISIONS RELATING TO LOANS—*continued.*

(3) Inscribed stock shall be transferable in the books of the Commission in accordance with the regulations.

5 (4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall, as regards both the issue and transfer thereof for full consideration or money or money's worth, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule
10 to that Act.

3. (1) The holder of a coupon originally annexed to a debenture or bond, and whether separated therefrom or not, shall be entitled to receive payment from the Commission of the interest specified in the coupon on its presentation on or after the date when, and at the
15 place where, the interest is payable. Payment of debentures and coupons.

(2) The due repayment of any loan in respect of which debentures, bonds, stock or any other prescribed securities have been issued by the Commission and the interest thereon, shall be a charge upon the income and revenue of the Commission from whatever source
20 arising and is hereby guaranteed by the Government.

(3) Any liability arising under the guarantee given by subclause (2) shall be discharged out of money provided by Parliament.

(4) The charge created by subclause (2) shall not prejudice or affect any power of the Commission to sell, convey, lease or otherwise
25 deal with, free of the charge, any property vested in it.

4. (1) Notwithstanding any other provision of this Act, any money which the Commission is authorised to borrow may be borrowed by a loan raised, wholly or in part, in such places outside New South Wales as the Governor on the recommendation of the Treasurer may
30 approve, and may be negotiated and raised in any currency. Raising loans in any country.

(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and contain any term, condition or provision permitted under the law of the place where the loan is raised and the Commission may establish and
35 conduct in that place registries relating to the securities issued in respect of that loan.

(3) The Commission may, in respect of any such loan, agree that a sinking fund shall be established and controlled at such place and in such manner as may be found necessary or expedient in the

SCHEDULE

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

circumstances of the case and, where any sinking fund is so established, the provisions of clause 1 shall apply with regard to that loan
5 only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

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

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

(6) The Governor may, upon the recommendation of the
25 Commission, by notification published in the Gazette, appoint two or more persons to enter into for and on behalf of the Commission all such agreements as the Commission is by this clause authorised to enter into and to sign, execute or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by
30 this clause provided for and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Act and may, upon the like recommendation and by a like notification, revoke or vary any such appointment and make any fresh appointment.

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

(8) All debentures, bonds, stock or other securities, bearing
40 the signatures of the persons so appointed in that behalf, shall be deemed to be securities lawfully issued under the seal of the Commission and the principal money and interest secured thereby shall be a charge upon the income and revenue of the Commission from whatever source arising, and the due repayment of that principal

SCHEDULE

*Land Commission.*SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

- money and that interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or
 5 issued under the authority of this clause and bearing the signatures of those persons shall be deemed to have been lawfully made or issued by the Commission and, if they purport to have been sealed by those persons, to have been lawfully executed by the Commission under seal.
- 10 (9) A holder of any such debenture, bond, stock or other security shall not be bound to inquire whether the issue of the debenture, bond, stock or security was, in fact, duly authorised.
- (10) Subject to this clause and the law in force in the place where any loan is raised under this clause and applicable to that
 15 loan and the securities issued in connection therewith, the provisions of this Schedule, other than clauses 2 (1), 6 (3) and 6 (4), shall apply to and in respect of that loan and those securities in the same way as they apply to and in respect of any other loan and any other securities.
- 20 5. (1) Any trustee, unless expressly forbidden by any instrument **Trustees.** creating the trust, may invest any trust money in his hands in stock inscribed by the Commission or in any debentures, bonds or other securities issued in accordance with this Act, and the investment shall be deemed to be an investment authorised by the Trustee Act,
 25 1925.
- (2) Any debenture or bond issued, stock inscribed, or other security issued, in pursuance of this Act, shall be a lawful investment for any money which any company, council or body corporate, incorporated by any Act, is authorised or directed to invest in addition to any other investment authorised for the investment of that
 30 money.
- (3) No notice of any express, implied or constructive trust shall be received by the Commission or by any officer or employee of the Commission in relation to any debenture or coupon issued or
 35 stock inscribed by the Commission.
6. (1) If any debenture or bond issued by the Commission is lost, **Lost** destroyed or defaced before it has been redeemed the Commission **debentures.** may, subject to the provisions of this clause, issue a new debenture or bond in its place.

SCHEDULE

*Land Commission.*SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

- (2) A new debenture or bond, issued under subclause (1) with interest coupon annexed, shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.
- (3) Where a debenture or bond is lost or destroyed, a new debenture or bond shall not be issued unless—
- (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before redemption;
 - (b) such advertisements as the Court may direct have been published;
 - (c) 6 months have elapsed since the publication of the last of those advertisements; and
 - (d) sufficient security has been given to the Commission to indemnify it against any double payment if the missing debenture or bond is at any time thereafter presented for redemption.
- (4) Where a debenture or bond is defaced, a new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Commission for cancellation.
- (5) The provisions of this clause shall apply to and in respect of the case of a lost, destroyed or defaced coupon in the same way as they apply to and in respect of a lost, destroyed or defaced debenture or bond.
- (6) Notwithstanding any other provision of this clause, in the case of loss, theft, destruction, mutilation or defacement of any debenture or bond issued under clause 4, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Commission of the loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Commission receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond is at any time thereafter presented for payment.
7. (1) A person advancing money to the Commission shall not be bound to inquire into the application of the money advanced or be in any way responsible for its non-application or misapplication. Protection
of inves-
tors.
- (2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Commission shall, in favour of a lender and of any holder of any security given by the

SCHEDULE

Land Commission.

SCHEDULE 3—*continued.*

PROVISIONS RELATING TO LOANS—*continued.*

- Commission, be conclusive evidence that all conditions precedent to the borrowing have been complied with and, where the approval notified is to a borrowing by the Commission in a place outside New South Wales and in a particular currency, shall also be conclusive evidence in favour of those persons of the approval of the Governor to the borrowing in the place and in the currency specified in the notification.
- 5
- 10 8. All debentures, bonds, stock or other securities which are Securities secured upon the income and revenue of the Commission shall rank pari passu without any preference one above another by reason of priority of date or otherwise.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1976
[40c]

Act No. , 1976.

Land Commission

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

PART I.

PARLIAMINARY.

No. , 1976.

A BILL

To constitute the Land Commission of New South Wales; to confer and impose on the Commission responsibilities, powers, authorities, duties and functions with respect to the acquisition, development and disposal of land for urban and public purposes; and to amend the Statutory and Other Offices Remuneration Act, 1975.

[Mr FERGUSON—29 September, 1976.]

BE

Land Commission.

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

PART I.

PRELIMINARY.

1. This Act may be cited as the "Land Commission Act, Short title. 1976".

10 2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-
ment.

(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
15 proclamation published in the Gazette.

3. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—*ss.* 1–4.

PART II.—CONSTITUTION OF THE COMMISSION—*ss.*
5–8.

20 PART III.—FUNCTIONS OF THE COMMISSION—*ss.* 9–19.

PART IV.—FINANCE—*ss.* 20–25.

PART V.—GENERAL—*ss.* 26–36.

SCHEDULE 1.—PROVISIONS RELATING TO CONSTITU-
TION AND PROCEDURE OF THE COMMISSION.

SCHEDULE

Land Commission.

SCHEDULE 2.—MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

SCHEDULE 3.—PROVISIONS RELATING TO LOANS.

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

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

“Chairman” means the Chairman of the Commission appointed under section 6;

10 “Commission” means the Land Commission of New South Wales constituted under this Act;

“commissioner” means the Chairman or a part-time commissioner;

“council” has the meaning ascribed thereto in the Local Government Act, 1919;

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

“part-time commissioner” means a part-time commissioner appointed under section 6;

20 “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.

Land Commission.

PART II.

CONSTITUTION OF THE COMMISSION.

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

Constitution of Commission.

(2) The Commission shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown.

(3) In the exercise or performance of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), the Commission shall be subject in all respects to the control and direction of the Minister.

6. (1) The Commission shall consist of three commissioners appointed by the Governor.

Provisions relating to constitution and procedure of Commission.

15 (2) Of the commissioners—

(a) one shall be appointed as Chairman of the Commission; and

(b) two shall be appointed as part-time commissioners.

(3) Schedule 1 has effect.

20 **7.** Except as provided in section 8 (2), such officers and employees as may be necessary to enable the Commission to exercise and perform its functions shall be appointed and employed under and subject to the Public Service Act, 1902.

Officers and employees of Commission.

Land Commission.

8. (1) For the purposes of exercising and performing its functions, the Commission may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or servants, of any Department of the Government or public authority.

Commission may make use of facilities and employees of Crown, etc.

(2) The Commission may appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Commission any person, body or organisation considered capable of providing services, information or advice required by the Commission in exercising and performing its functions.

PART III.

FUNCTIONS OF THE COMMISSION.

9. (1) In this section—

Functions of Commission.

“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 Commission are—

(a) to acquire land for present or future urban development and for public purposes;

(b)

Land Commission.

- 5 (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 Commission 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;
- 10 (d) to make such reports or recommendations to the Minister or any other person or body in relation to urban development as the Commission considers necessary or appropriate;
- 15 (e) to exercise and perform such other functions as are conferred or imposed on the Commission by or under this or any other Act; 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,
20 the Commission shall—

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

Land Commission.

10. (1) Subject to this Act, the Commission may, for the purposes of this Act— General powers of Commission

- (a) control and manage land vested in the Commission;
- 5 (b) by notification published in the Gazette and with the approval of the Minister, close or realign any public road, or part thereof, within or adjoining or in the vicinity of land vested in the Commission;
- (c) demolish any building on land vested in the Commission of which it has exclusive possession;
- 10 (d) provide or relocate, or arrange for the provision or relocation of, utility services to or in relation to land vested in the Commission;
- 15 (e) subdivide and re-subdivide land, and consolidate subdivided or re-subdivided land, vested in the Commission;
- (f) set out and construct roads on land vested in the Commission;
- 20 (g) erect, alter, repair and renovate buildings on and make other improvements to land vested in the Commission; and
- 25 (h) cause any other work to be done on or in relation to land vested in the Commission for the purpose of rendering it fit to be used for any purpose for which it may be used under any interim development order, or prescribed scheme, made under Part XIIA of the Local Government Act, 1919, and 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

Land Commission.

therein of any person or any public authority shall vest in the Commission, 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 5 thereto as a public road.

11. (1) The Commission may, for the purposes of this Act, acquire land (including land previously appropriated or resumed for any purpose) by lease, purchase or exchange or by resumption or appropriation in accordance with this 10 Act. ^{Acquisition of land.}

(2) Notwithstanding anything contained in subsection (1), the Commission shall not acquire land which is designated land within the meaning of the Growth Centres (Land Acquisition) Act, 1974, unless the acquisition is made 15 with the concurrence of the Minister for Decentralisation and Development.

12. (1) Resumption or appropriation for the purposes of this Act shall be effected by the Governor under the Public Works Act, 1912, and, without affecting the generality of 20 the foregoing, appropriation under that Act may be effected in respect of any land vested in Her Majesty or any person in trust for Her Majesty. ^{Resumption.}

(2) A resumption or appropriation for the purposes of this Act shall be deemed to be for an authorised work and 25 the Commission shall be deemed to be the Constructing Authority.

(3)

Land Commission.

(3) Notwithstanding subsection (1), sections 34, 35, 36 and 37 of the Public Works Act, 1912, do not apply in respect of the expenditure on any works constructed in pursuance of this Act, but section 38 of that Act applies in
5 respect of that expenditure.

(4) For the purposes of this section and not otherwise, Schedule 2 has effect.

(5) Notwithstanding anything contained in this section and Schedule 2, the Growth Centres (Land Acquisition)
10 Act, 1974, applies to and in respect of the acquisition by resumption of any land referred to in section 11 (2).

13. (1) The Commission may acquire by gift, bequest
15 or devise any property for any of the purposes of this Act and may agree to and carry out the conditions of the gift, bequest or devise. Power to accept gifts, etc., of property.

(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 Commission has agreed.

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

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

(2)

Land Commission.

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

- 5 (a) the erection of any building on that land by the purchaser within a specified period;
- (b) conferring on the Commission an option or right to repurchase that land if the purchaser has failed to comply with a condition referred to in paragraph
- 10 (a);
- (c) conferring on the Commission 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
- 15 purchaser to pay to the Commission a sum determined in a specified manner where the Commission does not exercise that option or right; or
- (d) the determination of the repurchase price payable
- 20 by the Commission 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

25 completion of the sale.

(4) The Registrar-General shall, at the request of the Commission 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

30 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)

Land Commission.

(5) The Commission 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 Commission 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 Commission to the transfer has been endorsed thereon.

15. (1) The Commission may, by order published in the Gazette, declare that it proposes to surrender to Her Majesty land that is vested in the Commission 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. Dedication
of land.

(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 Commission may, by notification published in the Gazette, dedicate as a public reserve or drainage reserve land that is vested in the Commission and described or referred to in the notification and that is situated in a local government area within the meaning of the Local Government Act, 1919.

(4)

Land Commission.

(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 local government area in which the land is situated and shall
 5 be subject to the provisions of the Local Government Act, 1919, 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 Commission shall be deemed to be a
 10 Constructing Authority.

16. (1) The Commission 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
 15 Commission of its functions. Commission may enter contracts.

(2) A contract under subsection (1) may provide for—

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

(3) Without affecting the generality of subsection (1), the Commission may make and enter into a contract under that subsection with any person for the construction on land vested in the Commission or that person, or in the
 30 Commission 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)

(4)

Land Commission.

(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.

17. (1) The Commission may enter into an arrangement
5 or agreement with any public authority that—

(a) the public authority shall act as agent of the Commission for the purposes of this Act; or

(b) the Commission shall act as agent of the public
15 authority for the purposes of this Act,

Commission may enter into arrangements with other public authorities.

10 on such terms and conditions as are agreed upon between the Commission 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)
15 and may do or suffer anything necessary or expedient for carrying out any such arrangements or agreements.

18. (1) In the exercise or performance of its functions
the Commission shall, as far as practicable—

Consultation and negotiation.

20 (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 Commission.

25 (2) Without affecting the generality of subsection (1), any research or investigation under section 9 (2) (c) that is of the same or of a similar nature as that which may be undertaken by the New South Wales Planning and Environment Commission or any other public authority shall,
30 unless otherwise agreed, be carried out or promoted in conjunction with that Commission or public authority.

19.

Land Commission.

19. (1) The Minister for Local Government may, by order published in the Gazette, transfer to the Commission such of the functions conferred or imposed on a council by or under the Local Government Act, 1919, as are specified or described in the order.

Exercise of council's powers by Commission.

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

(3) The provisions of the Local Government Act, 1919, 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 Commission were a council and the land in respect of which those functions may be exercised or performed formed part of that council's local government area within the meaning of that Act.

(4) A function conferred or imposed on the Commission 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 Commission by an order under this section shall be exercised or performed by the Commission only in or in relation to land vested in the Commission and specified or described in the order.

Land Commission.

PART IV.

FINANCE.

20. (1) The Commission shall cause to be kept proper Accounts. accounts and records in relation to all of its operations and shall, as soon as practicable after 30th June in each year, prepare and submit to the Minister for presentation to Parliament a statement of accounts in a form approved by the Auditor-General, exhibiting a true and correct view of the financial position and transactions of the Commission.

10 (2) The Minister shall lay the statement of accounts, or cause it to be laid, before each House of Parliament as soon as practicable after the receipt by him of the statement.

21. The accounts of the Commission shall be audited by Audit. the Auditor-General, who shall have in respect thereof all the powers conferred on him by any law for the time being in force relating to the audit of public accounts.

22. (1) The Audit Act, 1902, shall apply to commission-ers and officers and employees of the Commission in the same way as it applies to accounting officers of public departments. Application of Audit Act, 1902.

20 (2) The Auditor-General shall report to the Commission and the Minister—

(a) whether in his opinion—

- (i) due provision has been made for the repayment of loans;
- 25 (ii) the value of assets has (so far as he can judge) been in all cases fairly stated;

(iii)

Land Commission.

- (iii) due diligence and care have been shown in the collection and banking of income;
- (iv) expenditure incurred has been duly authorised, vouched and supervised;
- 5 (v) proper account has been kept of plant, stores and materials; and
- (vi) any of the money or other property of the Commission or over which it has control has been misappropriated or improperly or
- 10 irregularly dealt with; and
- (b) as to any other matters which in his judgment call for special notice or which are prescribed.
- (3) Towards defraying the costs and expenses of any audit under section 21, the Commission shall pay to the
- 15 Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.
- 23.** The Commission may invest money held by it in **Investment.** Government securities of the Commonwealth or of the State of New South Wales or in any securities guaranteed by the
- 20 Government of that State, or on call or on fixed deposit, or partly on call and partly on fixed deposit, with the Treasurer or with any bank or in such other securities as the Governor approves or as are prescribed.
- 24.** (1) For the temporary accommodation of the **Temporary** Commission, it may obtain advances by overdraft of current **accommo-** account in any bank or banks upon the credit of the Com- **dation.** mission's funds to such extent as may, from time to time, be approved by the Governor.

(iii)

(2)

Land Commission.

(2) The Treasurer may advance such money to the Commission, on such terms and conditions as to repayment and interest, as may be agreed upon.

- 25.** (1) The Commission may from time to time, with **Borrowing.**
 5 the concurrence of the Treasurer and the approval of the Governor, borrow money for—
- (a) the purpose of exercising or performing any of its functions;
 - (b) the renewal of loans;
 - 10 (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer or to any bank;
 or
 - (d) any other purpose of this Act.
- (2) Schedule 3 has effect.

15

PART V.

GENERAL.

- 26.** (1) Where, through his association with the Commission, a person has knowledge of specific information relating to proposals made, or to be made, by the Commission in respect of the acquisition, use, development or disposal
 20 of land and that information is not generally known but, if generally known, might reasonably be expected to affect materially the market price of that land, he contravenes this subsection if he—
- Misuse of information.
- 25 (a) deals, directly or indirectly, in that or in any other land for the purpose of gaining an advantage for himself by the use of that information; or

Land Commission.

(b) divulges that information for the purpose of enabling another person to gain an advantage by using that information to deal, directly or indirectly, in that or in any other land.

5 Penalty : \$2,000.

(2) Where, through his association with the Commission, a person is in a position to influence proposals made, or to be made, by the Commission in respect of the acquisition, use, development or disposal of land and does influence
10 the proposals by securing the inclusion or alteration of any matter in, or the exclusion or omission of any matter from, the proposals, he contravenes this subsection if—

(a) he does so for the purpose of gaining an advantage for himself; or

15 (b) he does so for the purpose of enabling another person to gain an advantage.

Penalty : \$2,000.

(3) Where—

20 (a) a contravention of subsection (1) occurs and an advantage, referred to in that subsection, is gained from any dealing in land to which the contravention relates; or

25 (b) a contravention of subsection (2) occurs and an advantage, referred to in that subsection, is gained from any dealing in land which would not have been gained if the proposals concerned had not been influenced,

any person who gained that advantage is, whether or not any person has been prosecuted for or convicted of an offence in
30 respect of a contravention of subsection (1) or (2), as the case may be, liable to another person for the amount of any loss incurred by that other person by reason of the gaining of that advantage.

(4)

Land Commission.

(4) Where a loss referred to in subsection (3) is incurred by reason of an advantage gained from a dealing in land, the amount of the loss is the difference between the price at which the dealing was effected and—

- 5 (a) in the case of any dealing to which subsection (1) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the specific information used to gain that advantage had been
10 generally known at that time; or
- (b) in any case to which subsection (2) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would
15 have been the market price of the land at the time of the dealing if the proposals concerned had not been influenced.

(5) An action to recover a loss, referred to in subsection (3), may not be brought after the expiration of 5
20 years next succeeding the dealing in land in relation to which the loss was incurred.

(6) For the purposes of this section a person is associated with the Commission—

- 25 (a) if he is a commissioner or an officer or employee of the Commission;
- (b) if he is a commissioner or an officer or employee of the New South Wales Planning and Environment Commission or a person appointed to a committee or sub-committee established under section 15 of the
30 State Planning Authority Act, 1963, or to a regional planning committee appointed under Part IV of that Act;
- (c) if he is an officer or a servant of a council;

(d)

Land Commission.

- 5 (d) if he acts or has acted as banker, solicitor, auditor or professional adviser or in any other capacity for the Commission, the Minister, the New South Planning and Environment Commission or a council; or
- (e) where the person, so associated by virtue of paragraph (d), is a body corporate, if he is a director, manager or secretary of that body corporate.

10 27. (1) If a commissioner has an interest, direct or indirect, in land, proposals in respect of the acquisition, use, development or disposal of which are to be considered by the Commission, or has a pecuniary interest, direct or indirect, in a contract or proposed contract with the Commission or in any other matter in which the Commission is
15 concerned and is present at a meeting of the Commission at which the proposals are or the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting, as soon as practicable after the commencement thereof, disclose his interest and shall not take part in the
20 consideration or discussion of or vote on any question with respect to the proposals or the contract, proposed contract or other matter.

Disclosure
of interest.

25 (2) For the purposes of this section, a person shall be treated as having an indirect interest in land or a contract, proposed contract or other matter if—

- 30 (a) he or any nominee of his is a member of a company or other body which has an interest in the land, or with which the contract is made or is proposed to be made or which has a direct or indirect pecuniary interest in the other matter under consideration; or
- 35 (b) he is a partner, or is in the employment, of a person who has an interest in the land, or with whom the contract is made or is proposed to be made or who has a direct or indirect pecuniary interest in the other matter under consideration.

(3)

Land Commission.

(3) Notwithstanding subsection (2)—

- 5 (a) that subsection does not apply to membership of or employment under any council or statutory body within the meaning of the Local Government Act, 1919;
- (b) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body; and
- 10 (c) a member of a company having not less than 25 members shall not be treated as having an interest in land or in any contract or proposed contract with the Commission or in any other matter in which the Commission is concerned by reason only
- 15 that the company has an interest in the land or the contract or proposed contract is with or the other matter concerns the company.

(4) In the case of a man and his wife who are living together, the interest of one spouse shall, if known

20 to the other, be deemed, for the purposes of this section, to be also an interest of the other spouse.

(5) A general notice in writing to the secretary or the prescribed officer of the Commission by a commissioner to the effect that he or his spouse is a member, or is in the

25 employment, of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any land in which that company or other body has an

30 interest or in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(6)

Land Commission.

(6) The secretary or officer referred to in subsection (5) shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) and of any notice given under subsection (5) and the book shall
5 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.

(7) Subject to subsection (8), a commissioner contravenes this subsection if he fails to comply with the
10 provisions of subsection (1), unless he proves that he did not know that proposals in respect of the acquisition, use, development or disposal of the land in which he had an interest were, or that he did not know that a contract,
15 proposed contract or other matter in which he had a pecuniary interest was, the subject of consideration at the meeting.

Penalty : \$400.

(8) The Minister may, subject to such conditions as he thinks fit to impose, remove any disability imposed by subsection (1) in any case in which the number of
20 commissioners referred to in subsection (1) so disabled at any one time would be so great a proportion of the whole of the commissioners as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability
25 should be removed.

(9) The Commission may, by resolution, provide for the exclusion of any commissioner from a meeting of the Commission while any proposal, in respect of any land or any contract, proposed contract or other matter in which
30 that commissioner has an interest as referred to in this section, is under consideration.

(10) In this section, "shares" includes stock.

Land Commission.

28. A commissioner or another person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made—

Disclosure
of informa-
tion.

- 5 (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- 10 (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) with other lawful excuse.

Penalty : \$2,000.

29. (1) The Commission may, by resolution, delegate to a commissioner or an officer or employee of the Commission the exercise or performance of such of the Commission's functions (other than this power of delegation) as are specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

Delegation.

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

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise or performance of any of the functions delegated, or as to time or circumstance.

(4) Notwithstanding any delegation under this section, the Commission may continue to exercise or perform all or any of the functions delegated.

(5)

Land Commission.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Commission and shall be deemed to have been done or suffered by the Commission.

(6) An instrument purporting to be signed by a delegate of the Commission in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Commission under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Commission under this section.

30. (1) The Commission shall, as soon as practicable after 30th June in each year, prepare and forward to the Minister a report of its work and activities for the 12 months preceding that date.

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

31. Any notice, summons, writ or other proceeding to be served on the Commission may be served—

(a) by being left; or

(b) in the case of a notice, by posting it addressed to the Commission,

at its office or, if it has more than one office, at one of its offices.

32. 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 Chairman.

Land Commission.

33. Any penalty imposed by this Act or the regulations ^{Penalties.} may be recovered in a summary manner before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

34. Any charge, fee or money due to the Commission ^{Recovery} may be recovered as a debt or liquidated demand in a court ^{of money.} of competent jurisdiction.

35. (1) The Governor may make regulations, ^{not Regulations.} inconsistent with this Act, for or with respect to any matter ¹⁰ 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 \$100 for any contravention thereof.

36. The Statutory and Other Offices Remuneration Act, ^{Amendment} 1975, is amended by inserting at the end of Part 1 of Schedule ^{of Act No.} 2 the following matter :— ^{4, 1976.}

Chairman of the Land Commission of New South Wales.

Land Commission.

SCHEDULE 1.

Sec. 6.

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION.

- 5 1. A person who is of or above the age of 65 years shall not be appointed as a commissioner or to act in the office of a commissioner under clause 7. **Age of commissioners.**
2. (1) The Chairman shall, subject to this Act, be appointed for such term, not exceeding 7 years, as is specified in the instrument of his appointment. **Terms of office.**
- 10 (2) A part-time commissioner shall, subject to this Act, be appointed for such term, not exceeding 5 years, as is specified in the instrument of his appointment.
- (3) The Chairman or a part-time commissioner shall, if otherwise qualified, be eligible for re-appointment from time to time for 15 such term, in accordance with subclause (1) or (2), as the case may be, as is specified in the instrument of his re-appointment.
3. The Chairman shall devote the whole of his time to the duties of his office. **Chairman to devote whole of his time to the duties of his office.**
- 20 4. (1) Where, by or under any 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, that provision shall not operate to disqualify him from holding that office and also the office of a part-time commissioner or from accepting and retaining any remuneration payable to a part-time commissioner under clause 5. **Provisions relating to part-time commissioners.**
- 25 (2) The office of part-time commissioner shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.
5. (1) The Chairman is entitled to be paid—
- 30 (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and **Remuneration of commissioners.**
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

SCHEDULE

Land Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

5 (2) Each part-time commissioner 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.

6. The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a commissioner and a commissioner shall not, in his capacity as a commissioner, be subject to the provisions of that Act during his term of office. Public Service Act, 1902, not to apply.

7. (1) The Minister may appoint any person (including a part-time commissioner) to act in the office of the Chairman or appoint any person to act in the office of a part-time commissioner while the Chairman or that part-time commissioner, as the case may be, is absent from his office through illness or any other cause, and that person while so acting— Appointment of substitutes to act during absence of Chairman or part-time commissioner.

- (a) shall have and may exercise and perform the functions of the commissioner in whose office he is appointed to act; and
- (b) shall be deemed to be the Chairman or a part-time commissioner, according to whether he is appointed to act in the office of the Chairman or of a part-time commissioner.

(2) A part-time commissioner is, for the purposes of subclause (1), deemed to be absent from his office if he is acting in the office of the Chairman pursuant to subclause (1).

25 (3) A commissioner is, for the purposes of subclause (1), deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with clause 9.

30 (4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a commissioner, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by that commissioner.

35 8. (1) A commissioner shall be deemed to have vacated his office— Vacation of office.

- (a) if he dies;
- (b) if, being the Chairman, he engages in New South Wales or elsewhere during his term of office in any paid employment outside the duties of his office without the approval of the Minister;

SCHEDULE

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

- 5 (c) if 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, allowances or estate for their benefit;
- 10 (d) if, being the Chairman, he absents himself from duty for a period exceeding 14 consecutive days, except on leave granted by the Minister, which leave the Minister is hereby authorised to grant, or unless the absence is occasioned by illness or unavoidable cause;
- 15 (e) if, being a part-time commissioner, he is absent from 4 consecutive ordinary meetings of the Commission of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister 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;
- 20 (f) if 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;
- 25 (g) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- 30 (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if he declines office;
- (j) if he is removed from office by the Governor under subclause (2); or
- 35 (k) upon his attaining the age of 65 years.

(2) The Governor may remove a commissioner from office for misbehaviour or incompetence.

9. On the occurrence of a vacancy in the office of a commissioner, Filling of the Governor may appoint a person to the vacant office for the casual balance of his predecessor's term of office. vacancies.

10. The number of commissioners which shall constitute a quorum Quorum. at any meeting of the Commission shall be 2.

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

11. (1) Any duly convened meeting of the Commission at which
5 a quorum is present shall be competent to transact any business of
the Commission. Meetings.
- (2) Questions arising at a meeting of the Commission shall
be determined by a majority of votes of the members present and
voting.
- 10 (3) The Chairman shall preside at all meetings of the Com-
mission at which he is present.
- (4) If the Chairman is not present at a meeting of the Com-
mission, a commissioner elected by the commissioners present shall
preside at that meeting.
- 15 (5) The person presiding at a meeting of the Commission
has a deliberative vote and, in the event of an equality of votes, also
has a casting vote.
12. The Commission shall cause full and accurate minutes to be
20 kept of its proceedings at meetings, and shall submit to the Minister a
copy of the minutes of each meeting within 14 days after the date
on which the meeting is held. Minutes.
13. The procedure for the calling of, and for the conduct of
25 business at, meetings of the Commission shall, subject to any pro-
cedure that is specified in this Act or prescribed, be as determined
by the Commission. General procedure.
14. (1) No matter or thing done, and no contract entered into,
30 by the Commission, and no matter or thing done by a commissioner
or by any other person acting under the direction or as delegate of
the Commission shall, if the matter or thing was done, or the contract
was entered into, in good faith for the purposes of executing this
Act, subject the commissioner or person personally to any action,
liability, claim or demand. Protection from liability.
- (2) Nothing in subclause (1) exempts any commissioner or
35 other person from liability to be surcharged with the amount of any
payment which is disallowed by the Auditor-General in the accounts
of or relating to the Commission, and which the commissioner or
other person authorised or joined in authorising.

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

15. (1) In this clause—
- 5 “servant” means an officer or employee of the Commission; Preservation of
“statutory body” means any body declared under clause 17 to rights of
be a statutory body for the purposes of this Schedule; Chairman
and
“superannuation scheme” means a scheme, fund or arrangement certain
servants
under which any superannuation or retirement benefits are previously
public
10 provided and which is established by or under any Act. servants,
etc.
- (2) Subject to subclause (3) and to the terms of his appointment, where the Chairman or a servant was, immediately before his appointment as the Chairman or a servant—
- (a) an officer of the Public Service;
- 15 (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 as an officer or employee,
- 20 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 the Chairman or a servant; and
- 25 (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 the Chairman or a servant, and—
- 30 (h) his service as the Chairman or a servant 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
- 35 (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.

SCHEDULE

Land Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

5 (3) If the Chairman or a servant would, but for this sub-
clause, be entitled under subclause (2) to contribute to a superannua-
tion scheme or to receive any payment, pension or gratuity under
that scheme he shall not be so entitled upon his becoming (whether
upon his appointment as the Chairman or a servant or at any later
time while he holds office as the Chairman or a servant) a contributor
10 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.

15 (4) Subclause (3) does not prevent the payment to the Chair-
man or a servant upon his ceasing to be a contributor to a superan-
nuation 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 that scheme.

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

16. (1) In this clause—

“retiring age” means—

- 25 (a) in relation to a person who was, immediately before
his appointment as Chairman, an officer of the Public
Service—the age of 60 years; and
- 30 (b) in relation to a person who was, immediately before
his appointment as Chairman, an officer or employee
of a statutory body—the age at which officers or em-
ployees (being officers or employees of the class to
which that person belonged immediately before his
appointment as Chairman), as the case may be, of
that statutory body are entitled to retire;

Chairman
entitled to
re-appoint-
ment in
former
employment
in certain
cases.

35 “statutory body” means any body declared under clause 17 to
be a statutory body for the purposes of this Schedule.

(2) A person who ceases to be the Chairman, otherwise than
pursuant to clause 8 (1) (paragraph (h) excepted), shall, if he has
not attained the retiring age, be entitled to be appointed, where,
immediately before his appointment as Chairman, he was—

- 40 (a) an officer of the Public Service—to some office in the Public
Service; or

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

- 5 (b) an officer or employee of a statutory body—to some office
in the service of that body,
not lower in classification and salary than that which he held
immediately before his appointment as Chairman.
17. The Governor may, by proclamation published in the Gazette, **Declaration**
declare any body constituted by or under any Act to be a statutory **of statu-**
10 body for the purposes of this Schedule. **tory bodies.**
18. In proceedings by or against the Commission no proof shall be **Presump-**
required (until evidence is given to the contrary) of— **tions.**
- 15 (a) the constitution of the Commission;
(b) any resolution of the Commission;
(c) the appointment of any commissioner; or
(d) the presence of a quorum at any meeting of the **Commis-**
sion.

SCHEDULE 2.

Sec. 12.

MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

- 20 The Public Works Act, 1912, shall, for the purposes referred to
in section 12, be deemed to be amended—
- (a) (i) by omitting from section 53 the words “so seized,
possessed or entitled as aforesaid”;
- 25 (ii) by omitting from section 53 the words “as in the
preceding section mentioned” and by inserting instead
the words “and may claim compensation in respect
of the land resumed and agree to, settle and determine
with the Constructing Authority the amount of such
compensation”;
- 30 (iii) by inserting in section 53 (3) after the word “release”
the words “and to claim, agree to, settle and
determine with the Constructing Authority the amount
of compensation”;
- (iv) by omitting section 53 (5);

SCHEDULE

*Land Commission.*SCHEDULE 2—*continued.*MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

- 5 (b) (i) by inserting in section 102 after the word "time" where secondly occurring the words "as the Constructing Authority allows or, in default of any such allowance of further time, within such time";
- (ii) by omitting from section 102 the words "and upon the Crown Solicitor";
- 10 (iii) by inserting at the end of section 102 the following subsection:—
- (2) Upon receipt of such notice of claim, the Constructing Authority shall obtain from its solicitor, the Crown Solicitor, or the solicitor to any body corporate acting as agent for the Constructing Authority or a solicitor retained by such a body corporate, a report on the title of the land in respect of which the claim has been served by the claimant.
- 15
- (c) by omitting from section 103 the words "Crown Solicitor he shall forward the same, together with his report thereon to the Constructing Authority, who" and by inserting instead the words "Constructing Authority it";
- 20
- (d) by omitting section 124 and by inserting instead the following section:—
- 25 124. (1) For the purpose of ascertaining the compensation to be paid, regard shall in every case be had by the Court not only to the value of the land taken but also to the damage (if any) caused by the severing of the lands taken from other lands of the owner or by the exercise of any statutory powers by the Constructing Authority otherwise injuriously affecting such other lands and the Court shall assess the compensation according to what it finds to have been the value of such lands, estate or interest at the time the notification was published in the Gazette and without being bound in any way by the amount of the valuation notified to such claimant and without reference to any alteration in such value arising from the construction of any works on the lands taken.
- 30
- (2) Notwithstanding subsection (1), the Court in ascertaining such compensation shall take into consideration and give effect to, by way of set-off or abatement, any enhancement in the value of the interest of any such owner in any land adjoining the land taken or severed therefrom
- 35
- 40

Land Commission.

SCHEDULE 2—*continued.*

MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

5 by the construction of any works on the land taken, but in no case does this subsection operate so as to require any payment to be made by such owner to the Constructing Authority in consideration of such enhancement in value as aforesaid.

10 (3) Notwithstanding subsection (1), in the case of land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel no compensation shall be allowed or awarded unless—

- 15 (a) the surface of the overlying soil is disturbed;
(b) the support of such surface is destroyed or injuriously affected by the construction of such tunnel; or
(c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.

20 (e) by omitting section 126 (3);

(f) (i) by omitting from section 135 (1) the words “such conveyances” and by inserting instead the words “conveyances or assurances of lands taken”;

25 (ii) by omitting from section 135 (2) the words “incurred on the part as well of the vendor as of the purchaser,”.

SCHEDULE 3.

Sec. 25.

PROVISIONS RELATING TO LOANS.

1. (1) The Commission shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Commission. Reserves for repayments.
- 30 (2) The Commission shall, during each year, transfer from the revenue of the Commission to each such fund a sum not less than the sum that the Commission, in its application for approval of the loan, specified that it proposed to transfer to that fund.

SCHEDULE

Land Commission.

SCHEDULE 3—*continued.*

PROVISIONS RELATING TO LOANS—*continued.*

- (3) Money held as a reserve for loan repayment may be invested in Government securities of the Commonwealth or the State of New South Wales or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Commission or in any securities guaranteed by the Government of that State or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.
- 10 (4) Any interest or profits realised on any such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.
- (5) All money paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.
- 15 (6) Where the Commission decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, the Commission shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of four and a half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.
- 20 (7) If, after a loan has been repaid, there remains in the reserve for repayment of that loan any balance, that balance shall form part of the general funds of the Commission.
- 25 (8) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.
- (9) This clause shall not apply to any loan to be repaid by instalments at intervals of one year or less.
- 35
2. (1) For securing repayment of the principal and interest on any money borrowed, the Commission may, as provided by the regulations, issue debentures, bonds, inscribed stock or other prescribed securities. **Debtentures, etc.**
- (2) Every such debenture or bond and every coupon originally annexed to the debenture or bond, and whether separated therefrom or not, may be transferred by simple delivery.
- 40

*Land Commission.*SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

(3) Inscribed stock shall be transferable in the books of the Commission in accordance with the regulations.

5 (4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall, as regards both the issue and transfer thereof for full consideration or money or money's worth, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule
10 to that Act.

3. (1) The holder of a coupon originally annexed to a debenture or bond, and whether separated therefrom or not, shall be entitled to receive payment from the Commission of the interest specified in the coupon on its presentation on or after the date when, and at the
15 place where, the interest is payable. Payment of debentures and coupons.

(2) The due repayment of any loan in respect of which debentures, bonds, stock or any other prescribed securities have been issued by the Commission and the interest thereon, shall be a charge upon the income and revenue of the Commission from whatever source
20 arising and is hereby guaranteed by the Government.

(3) Any liability arising under the guarantee given by subclause (2) shall be discharged out of money provided by Parliament.

(4) The charge created by subclause (2) shall not prejudice or affect any power of the Commission to sell, convey, lease or otherwise
25 deal with, free of the charge, any property vested in it.

4. (1) Notwithstanding any other provision of this Act, any money which the Commission is authorised to borrow may be borrowed by a loan raised, wholly or in part, in such places outside New South Wales as the Governor on the recommendation of the Treasurer may
30 approve, and may be negotiated and raised in any currency. Raising loans in any country.

(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and contain any term, condition or provision permitted under the law of the place where the loan is raised and the Commission may establish and
35 conduct in that place registries relating to the securities issued in respect of that loan.

(3) The Commission may, in respect of any such loan, agree that a sinking fund shall be established and controlled at such place and in such manner as may be found necessary or expedient in the

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

circumstances of the case and, where any sinking fund is so established, the provisions of clause 1 shall apply with regard to that loan
5 only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

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

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

(6) The Governor may, upon the recommendation of the
25 Commission, by notification published in the Gazette, appoint two or more persons to enter into for and on behalf of the Commission all such agreements as the Commission is by this clause authorised to enter into and to sign, execute or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by
30 this clause provided for and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Act and may, upon the like recommendation and by a like notification, revoke or vary any such appointment and make any fresh appointment.

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

(8) All debentures, bonds, stock or other securities, bearing
40 the signatures of the persons so appointed in that behalf, shall be deemed to be securities lawfully issued under the seal of the Commission and the principal money and interest secured thereby shall be a charge upon the income and revenue of the Commission from whatever source arising, and the due repayment of that principal

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

- money and that interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or
5 issued under the authority of this clause and bearing the signatures of those persons shall be deemed to have been lawfully made or issued by the Commission and, if they purport to have been sealed by those persons, to have been lawfully executed by the Commission under seal.
- 10 (9) A holder of any such debenture, bond, stock or other security shall not be bound to inquire whether the issue of the debenture, bond, stock or security was, in fact, duly authorised.
- (10) Subject to this clause and the law in force in the place where any loan is raised under this clause and applicable to that
15 loan and the securities issued in connection therewith, the provisions of this Schedule, other than clauses 2 (1), 6 (3) and 6 (4), shall apply to and in respect of that loan and those securities in the same way as they apply to and in respect of any other loan and any other securities.
- 20 5. (1) Any trustee, unless expressly forbidden by any instrument Trustees. creating the trust, may invest any trust money in his hands in stock inscribed by the Commission or in any debentures, bonds or other securities issued in accordance with this Act, and the investment shall be deemed to be an investment authorised by the Trustee Act,
25 1925.
- (2) Any debenture or bond issued, stock inscribed, or other security issued, in pursuance of this Act, shall be a lawful investment for any money which any company, council or body corporate, incorporated by any Act, is authorised or directed to invest in addition to any other investment authorised for the investment of that
30 money.
- (3) No notice of any express, implied or constructive trust shall be received by the Commission or by any officer or employee of the Commission in relation to any debenture or coupon issued or
35 stock inscribed by the Commission.
6. (1) If any debenture or bond issued by the Commission is lost, Lost destroyed or defaced before it has been redeemed the Commission debentures. may, subject to the provisions of this clause, issue a new debenture or bond in its place.

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

- (2) A new debenture or bond, issued under subclause (1) with interest coupon annexed, shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.
- (3) Where a debenture or bond is lost or destroyed, a new debenture or bond shall not be issued unless—
- (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before redemption;
- (b) such advertisements as the Court may direct have been published;
- (c) 6 months have elapsed since the publication of the last of those advertisements; and
- (d) sufficient security has been given to the Commission to indemnify it against any double payment if the missing debenture or bond is at any time thereafter presented for redemption.
- (4) Where a debenture or bond is defaced, a new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Commission for cancellation.
- (5) The provisions of this clause shall apply to and in respect of the case of a lost, destroyed or defaced coupon in the same way as they apply to and in respect of a lost, destroyed or defaced debenture or bond.
- (6) Notwithstanding any other provision of this clause, in the case of loss, theft, destruction, mutilation or defacement of any debenture or bond issued under clause 4, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Commission of the loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Commission receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond is at any time thereafter presented for payment.
7. (1) A person advancing money to the Commission shall not be bound to inquire into the application of the money advanced or in any way responsible for its non-application or misapplication. Protection of investors.
- (2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Commission shall, in favour of a lender and of any holder of any security given by the

SCHEDULE

Land Commission.

SCHEDULE 3—*continued.*

PROVISIONS RELATING TO LOANS—*continued.*

- Commission, be conclusive evidence that all conditions precedent to the borrowing have been complied with and, where the approval notified is to a borrowing by the Commission in a place outside New South Wales and in a particular currency, shall also be conclusive evidence in favour of those persons of the approval of the Governor to the borrowing in the place and in the currency specified in the notification.
- 5
- 10 8. All debentures, bonds, stock or other securities which are Securities secured upon the income and revenue of the Commission shall rank pari passu without any preference one above another by reason of priority of date or otherwise. equally.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1976

[40c]

LAND COMMISSION BILL, 1976

EXPLANATORY NOTE

THE object of this Bill is to constitute the Land Commission of New South Wales and to confer and impose on the Commission responsibilities, powers, authorities, duties and functions with respect to the acquisition, development and disposal of land for urban and public purposes.

The Bill contains the following provisions:—

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Division of Act.

Clause 4. Interpretation.

Clause 5 constitutes a corporation under the name of the "Land Commission of New South Wales" and provides that the Commission is to be a statutory body representing the Crown and is to be subject to Ministerial control.

Clause 6 provides that the Commission shall consist of a full-time Chairman and 2 part-time commissioners.

Clause 7 provides for the appointment of officers and employees of the Commission under and subject to the Public Service Act, 1902.

Clause 8 enables the Commission to make use of the facilities and employees of Government Departments and public authorities and the services of certain other persons and organisations.

Clause 9 prescribes the functions of the Commission. The principal functions of the Commission are—

- (a) to acquire land for present or future urban development and for public purposes;
- (b) to develop and make available, or to make available for development by others, land so acquired, for urban development and for public purposes; and
- (c) to carry out or promote research and make reports or recommendations in relation to urban development.

In exercising or performing its functions, the Commission is required—

- (a) to make residential land available at the lowest price it considers practicable; and
- (b) to promote orderly and economic urban development.

Clause 10 contains general powers to enable the Commission to manage and develop land vested in it for the purposes of the proposed Act.

Clause 11 empowers the Commission to acquire land by lease, purchase, exchange, resumption or appropriation for the purposes of the proposed Act.

Clause 12 specifies that the resumption or appropriation of land shall be effected, with certain modifications, under and subject to the Public Works Act, 1912.

Clause 13 empowers the Commission to acquire property by gift, devise or bequest.

Clause 14 authorises the Commission to dispose of or deal with land vested in it. The clause also authorises the Commission to include certain conditions in any contract for the sale of that land relating to the erection of buildings on the land and the future disposal of the land.

Clause 15 enables the Commission to dedicate land vested in it for any public purpose or for a public road.

Clauses 16 and 17 enable the Commission to enter into certain contracts with any person and to enter into certain arrangements with any public authority in connection with the exercise or performance of its functions.

Clause 18 requires the Commission in the exercise or performance of its functions to consult with public authorities and to negotiate for the provision of services and facilities on land vested in it.

Clause 19 provides for the transfer of certain powers and duties of councils to the Commission.

Clause 20 requires the Commission to keep proper books of account and requires the Minister to table the Commission's statement of accounts.

Clause 21 requires the Auditor-General to audit the accounts of the Commission.

Clause 22 applies the provisions of the Audit Act, 1902, to the commissioners and the officers and employees of the Commission.

Clause 23 authorises the Commission to invest money held by it in certain securities.

Clause 24 empowers the Commission to borrow by way of overdraft from banks or arrange temporary loans from the Treasurer.

Clause 25 specifies the purposes for which the Commission may borrow money.

Clause 26 creates an offence in respect of the misuse of information gained by a person through his association with the Commission.

Clause 27 requires the disclosure by a commissioner of his interest in certain matters which are before the Commission.

Clause 28 prohibits the disclosure of information obtained in connection with the administration or execution of the proposed Act except in certain circumstances.

Clause 29 empowers the Commission to delegate its functions to a commissioner or an officer or employee of the Commission.

Clause 30 requires the Commission to furnish an annual report to the Minister and for the Minister to table the report.

Clause 31 specifies the method in which documents may be given to or served on the Commission.

Clause 32 deals with the authentication of documents issued by the Commission.

Clause 33 provides that any penalty imposed by or under the proposed Act may be recovered in a summary manner before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

Clause 34 provides for the recovery by civil proceedings of money due to the Commission.

Clause 35 provides for the making by the Governor of regulations in connection with the administration of the proposed Act.

Clause 36 makes a consequential amendment of the Statutory and Other Offices Remuneration Act, 1975, in connection with the salary to be paid to the Chairman of the Commission.

Schedule 1 contains provisions relating to the constitution and procedure of the Commission.

Schedule 2 provides for the modification of the Public Works Act, 1912, in respect of the resumption or appropriation of land for the purposes of the proposed Act.

Schedule 3 contains provisions relating to loans raised by the Commission.

PROOF

No. , 1976.

A BILL

To constitute the Land Commission of New South Wales; to confer and impose on the Commission responsibilities, powers, authorities, duties and functions with respect to the acquisition, development and disposal of land for urban and public purposes; and to amend the Statutory and Other Offices Remuneration Act, 1975.

[Mr FERGUSON—29 September, 1976.]

BE

Land Commission.

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

PART I.

PRELIMINARY.

1. This Act may be cited as the "Land Commission Act, Short title. 1976".

10 2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-
ment.

(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
15 proclamation published in the Gazette.

3. This Act is divided as follows :— Division
of Act.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—CONSTITUTION OF THE COMMISSION—ss.
5–8.

20 PART III.—FUNCTIONS OF THE COMMISSION—ss. 9–19.

PART IV.—FINANCE—ss. 20–25.

PART V.—GENERAL—ss. 26–36.

SCHEDULE 1.—PROVISIONS RELATING TO CONSTITUTION AND PROCEDURE OF THE COMMISSION.

SCHEDULE

Land Commission.

SCHEDULE 2.—MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

SCHEDULE 3.—PROVISIONS RELATING TO LOANS.

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

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

“Chairman” means the Chairman of the Commission appointed under section 6;

10 “Commission” means the Land Commission of New South Wales constituted under this Act;

“commissioner” means the Chairman or a part-time commissioner;

“council” has the meaning ascribed thereto in the Local Government Act, 1919;

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

“part-time commissioner” means a part-time commissioner appointed under section 6;

20 “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.

Land Commission.

PART II.

CONSTITUTION OF THE COMMISSION.

5 **5.** (1) There is hereby constituted a corporation under the corporate name of the "Land Commission of New South Wales".

Constitu-
tion of
Commis-
sion.

(2) The Commission shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown.

10 (3) In the exercise or performance of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), the Commission shall be subject in all respects to the control and direction of the Minister.

6. (1) The Commission shall consist of three commissioners appointed by the Governor.

Provisions
relating to
constitu-
tion and
procedure
of Com-
mission.

15 (2) Of the commissioners—

(a) one shall be appointed as Chairman of the Commission; and

(b) two shall be appointed as part-time commissioners.

(3) Schedule 1 has effect.

20 **7.** Except as provided in section 8 (2), such officers and employees as may be necessary to enable the Commission to exercise and perform its functions shall be appointed and employed under and subject to the Public Service Act, 1902.

Officers
and
employees
of
Commission.

Land Commission.

8. (1) For the purposes of exercising and performing its functions, the Commission may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or servants, of any Department of the Government or public authority.

Commission
may make
use of
facilities and
employees
of Crown,
etc.

(2) The Commission may appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Commission any person, body or organisation considered capable of providing services, information or advice required by the Commission in exercising and performing its functions.

PART III.

FUNCTIONS OF THE COMMISSION.

15 9. (1) In this section—

Functions of
Commission.

“develop” includes re-develop;

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

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

(2) The functions of the Commission are—

(a) to acquire land for present or future urban development and for public purposes;

(b)

Land Commission.

- 5 (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 Commission 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;
- 10 (d) to make such reports or recommendations to the Minister or any other person or body in relation to urban development as the Commission considers necessary or appropriate;
- 15 (e) to exercise and perform such other functions as are conferred or imposed on the Commission by or under this or any other Act; and
- (f) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise or performance of its functions.
- 20 (3) In the exercise or performance of its functions, the Commission shall—
- 25 (a) make residential land available at the lowest price the Commission considers practicable having regard to the costs incurred by the Commission in relation to the land and the financial resources available for the Commission's continued operation; and
- (b) promote orderly and economic urban development.

Land Commission.

10. (1) Subject to this Act, the Commission may, for the purposes of this Act— General powers of Commission.

- (a) control and manage land vested in the Commission;
- 5 (b) by notification published in the Gazette and with the approval of the Minister, close or realign any public road, or part thereof, within or adjoining or in the vicinity of land vested in the Commission;
- (c) demolish any building on land vested in the Commission of which it has exclusive possession;
- 10 (d) provide or relocate, or arrange for the provision or relocation of, utility services to or in relation to land vested in the Commission;
- 15 (e) subdivide and re-subdivide land, and consolidate subdivided or re-subdivided land, vested in the Commission;
- (f) set out and construct roads on land vested in the Commission;
- 20 (g) erect, alter, repair and renovate buildings on and make other improvements to land vested in the Commission; and
- 25 (h) cause any other work to be done on or in relation to land vested in the Commission for the purpose of rendering it fit to be used for any purpose for which it may be used under any interim development order, or prescribed scheme, made under Part XIIA of the Local Government Act, 1919, and 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

Land Commission.

therein of any person or any public authority shall vest in the Commission, 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
5 thereto as a public road.

11. (1) The Commission may, for the purposes of this Act, acquire land (including land previously appropriated or resumed for any purpose) by lease, purchase or exchange or by resumption or appropriation in accordance with this
10 Act.

Acquisition of land.

(2) Notwithstanding anything contained in subsection (1), the Commission shall not acquire land which is designated land within the meaning of the Growth Centres (Land Acquisition) Act, 1974, unless the acquisition is made
15 with the concurrence of the Minister for Decentralisation and Development.

12. (1) Resumption or appropriation for the purposes of this Act shall be effected by the Governor under the Public Works Act, 1912, and, without affecting the generality of
20 the foregoing, appropriation under that Act may be effected in respect of any land vested in Her Majesty or any person in trust for Her Majesty.

Resumption.

(2) A resumption or appropriation for the purposes of this Act shall be deemed to be for an authorised work and
25 the Commission shall be deemed to be the Constructing Authority.

(3)

Land Commission.

(3) Notwithstanding subsection (1), sections 34, 35, 36 and 37 of the Public Works Act, 1912, do not apply in respect of the expenditure on any works constructed in pursuance of this Act, but section 38 of that Act applies in
5 respect of that expenditure.

(4) For the purposes of this section and not otherwise, Schedule 2 has effect.

(5) Notwithstanding anything contained in this section and Schedule 2, the Growth Centres (Land Acquisition) Act, 1974, applies to and in respect of the acquisition
10 by resumption of any land referred to in section 11 (2).

13. (1) The Commission may acquire by gift, bequest
15 bequest or devise. Power to accept gifts, etc., of property.

(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 Commission has agreed.

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

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

(2)

Land Commission.

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

- 5 (a) the erection of any building on that land by the purchaser within a specified period;
- (b) conferring on the Commission an option or right to repurchase that land if the purchaser has failed to comply with a condition referred to in paragraph
- 10 (a);
- (c) conferring on the Commission 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 Commission a sum determined in a specified manner where the Commission does not exercise that option or right;
- 15 or
- (d) the determination of the repurchase price payable
- 20 by the Commission 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

25 completion of the sale.

(4) The Registrar-General shall, at the request of the Commission 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

30 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)

Land Commission.

(5) The Commission 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 Commission 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 Commission to the transfer has been endorsed thereon.

15. (1) The Commission may, by order published in the Gazette, declare that it proposes to surrender to Her Majesty land that is vested in the Commission 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. Dedication
of land.

(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 Commission may, by notification published in the Gazette, dedicate as a public reserve or drainage reserve land that is vested in the Commission and described or referred to in the notification and that is situated in a local government area within the meaning of the Local Government Act, 1919.

(4)

Land Commission.

(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 local government area in which the land is situated and shall
5 be subject to the provisions of the Local Government Act, 1919, 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 Commission shall be deemed to be a
10 Constructing Authority.

16. (1) The Commission 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
15 Commission of its functions. Commission may enter contracts.

(2) A contract under subsection (1) may provide for—

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

(3) Without affecting the generality of subsection (1), the Commission may make and enter into a contract under that subsection with any person for the construction on land vested in the Commission or that person, or in the
30 Commission 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)

Land Commission.

(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.

5 **17.** (1) The Commission may enter into an arrangement or agreement with any public authority that—

(a) the public authority shall act as agent of the Commission for the purposes of this Act; or

(b) the Commission shall act as agent of the public authority for the purposes of this Act,
10 on such terms and conditions as are agreed upon between the Commission and the public authority.

Commission may enter into arrangements with other public authorities.

(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)
15 and may do or suffer anything necessary or expedient for carrying out any such arrangements or agreements.

20 **18.** (1) In the exercise or performance of its functions the Commission 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 Commission.

Consultation and negotiation.

25 (2) Without affecting the generality of subsection (1), any research or investigation under section 9 (2) (c) that is of the same or of a similar nature as that which may be undertaken by the New South Wales Planning and Environment Commission or any other public authority shall,
30 unless otherwise agreed, be carried out or promoted in conjunction with that Commission or public authority.

19.

Land Commission.

19. (1) The Minister for Local Government may, by order published in the Gazette, transfer to the Commission such of the functions conferred or imposed on a council by or under the Local Government Act, 1919, as are specified or described in the order. Exercise of council's powers by Commission.

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

(3) The provisions of the Local Government Act, 1919, 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 Commission were a council and the land in respect of which those functions may be exercised or performed formed part of that council's local government area within the meaning of that Act.

(4) A function conferred or imposed on the Commission 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 Commission by an order under this section shall be exercised or performed by the Commission only in or in relation to land vested in the Commission and specified or described in the order.

PART

Land Commission.

PART IV.

FINANCE.

20. (1) The Commission shall cause to be kept proper **Accounts.** accounts and records in relation to all of its operations and shall, as soon as practicable after 30th June in each year, prepare and submit to the Minister for presentation to Parliament a statement of accounts in a form approved by the Auditor-General, exhibiting a true and correct view of the financial position and transactions of the Commission.

10 (2) The Minister shall lay the statement of accounts, or cause it to be laid, before each House of Parliament as soon as practicable after the receipt by him of the statement.

21. The accounts of the Commission shall be audited by **Audit.** the Auditor-General, who shall have in respect thereof all the powers conferred on him by any law for the time being in force relating to the audit of public accounts.

22. (1) The Audit Act, 1902, shall apply to commission- **Application** ers and officers and employees of the Commission in the same **of Audit** way as it applies to accounting officers of public departments. **Act, 1902.**

20 (2) The Auditor-General shall report to the Commission and the Minister—

(a) whether in his opinion—

(i) due provision has been made for the repayment of loans;

25 (ii) the value of assets has (so far as he can judge) been in all cases fairly stated;

(iii)

Land Commission.

- (iii) due diligence and care have been shown in the collection and banking of income;
 - (iv) expenditure incurred has been duly authorised, vouched and supervised;
 - 5 (v) proper account has been kept of plant, stores and materials; and
 - (vi) any of the money or other property of the Commission or over which it has control has been misappropriated or improperly or
10 irregularly dealt with; and
- (b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of any audit under section 21, the Commission shall pay to the
15 Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

23. The Commission may invest money held by it in **Investment.** Government securities of the Commonwealth or of the State of New South Wales or in any securities guaranteed by the
20 Government of that State, or on call or on fixed deposit, or partly on call and partly on fixed deposit, with the Treasurer or with any bank or in such other securities as the Governor approves or as are prescribed.

24. (1) For the temporary accommodation of the **Temporary** Commission, it may obtain advances by overdraft of current **accommodation.** account in any bank or banks upon the credit of the Commission's funds to such extent as may, from time to time, be approved by the Governor.

(2)

Land Commission.

(2) The Treasurer may advance such money to the Commission, on such terms and conditions as to repayment and interest, as may be agreed upon.

25. (1) The Commission may from time to time, with ^{Borrowing.} the concurrence of the Treasurer and the approval of the Governor, borrow money for—

- (a) the purpose of exercising or performing any of its functions;
- (b) the renewal of loans;
- 10 (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer or to any bank; or
- (d) any other purpose of this Act.

(2) Schedule 3 has effect.

15

PART V.

GENERAL.

20 26. (1) Where, through his association with the Commission, a person has knowledge of specific information relating to proposals made, or to be made, by the Commission in respect of the acquisition, use, development or disposal of land and that information is not generally known but, if generally known, might reasonably be expected to affect materially the market price of that land, he contravenes this subsection if he—

- 25 (a) deals, directly or indirectly, in that or in any other land for the purpose of gaining an advantage for himself by the use of that information; or

121—B

(b)

Land Commission.

(b) divulges that information for the purpose of enabling another person to gain an advantage by using that information to deal, directly or indirectly, in that or in any other land.

5 Penalty : \$2,000.

(2) Where, through his association with the Commission, a person is in a position to influence proposals made, or to be made, by the Commission in respect of the acquisition, use, development or disposal of land and does influence
10 the proposals by securing the inclusion or alteration of any matter in, or the exclusion or omission of any matter from, the proposals, he contravenes this subsection if—

(a) he does so for the purpose of gaining an advantage for himself; or

15 (b) he does so for the purpose of enabling another person to gain an advantage.

Penalty : \$2,000.

(3) Where—

20 (a) a contravention of subsection (1) occurs and an advantage, referred to in that subsection, is gained from any dealing in land to which the contravention relates; or

25 (b) a contravention of subsection (2) occurs and an advantage, referred to in that subsection, is gained from any dealing in land which would not have been gained if the proposals concerned had not been influenced,

any person who gained that advantage is, whether or not any person has been prosecuted for or convicted of an offence in
30 respect of a contravention of subsection (1) or (2), as the case may be, liable to another person for the amount of any loss incurred by that other person by reason of the gaining of that advantage.

(4)

Land Commission.

(4) Where a loss referred to in subsection (3) is incurred by reason of an advantage gained from a dealing in land, the amount of the loss is the difference between the price at which the dealing was effected and—

- 5 (a) in the case of any dealing to which subsection (1) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the specific information used to gain that advantage had been
10 generally known at that time; or
- (b) in any case to which subsection (2) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would
15 have been the market price of the land at the time of the dealing if the proposals concerned had not been influenced.

(5) An action to recover a loss, referred to in subsection (3), may not be brought after the expiration of 5
20 years next succeeding the dealing in land in relation to which the loss was incurred.

(6) For the purposes of this section a person is associated with the Commission—

- 25 (a) if he is a commissioner or an officer or employee of the Commission;
- (b) if he is a commissioner or an officer or employee of the New South Wales Planning and Environment Commission or a person appointed to a committee or sub-committee established under section 15 of the
30 State Planning Authority Act, 1963, or to a regional planning committee appointed under Part IV of that Act;
- (c) if he is an officer or a servant of a council;

(d)

Land Commission.

- 5 (d) if he acts or has acted as banker, solicitor, auditor or professional adviser or in any other capacity for the Commission, the Minister, the New South Planning and Environment Commission or a council; or
- (e) where the person, so associated by virtue of paragraph (d), is a body corporate, if he is a director, manager or secretary of that body corporate.
- 10 **27.** (1) If a commissioner has an interest, direct or indirect, in land, proposals in respect of the acquisition, use, development or disposal of which are to be considered by the Commission, or has a pecuniary interest, direct or indirect, in a contract or proposed contract with the Commission or in any other matter in which the Commission is concerned and is present at a meeting of the Commission at which the proposals are or the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting, as soon as practicable after the commencement thereof, disclose his interest and shall not take part in the consideration or discussion of or vote on any question with respect to the proposals or the contract, proposed contract or other matter. Disclosure of interest.
- 20
- (2) For the purposes of this section, a person shall be treated as having an indirect interest in land or a contract, proposed contract or other matter if—
- 25
- (a) he or any nominee of his is a member of a company or other body which has an interest in the land, or with which the contract is made or is proposed to be made or which has a direct or indirect pecuniary interest in the other matter under consideration; or
- 30
- (b) he is a partner, or is in the employment, of a person who has an interest in the land, or with whom the contract is made or is proposed to be made or who has a direct or indirect pecuniary interest in the other matter under consideration.
- 35

(3)

Land Commission.

(3) Notwithstanding subsection (2)—

- 5 (a) that subsection does not apply to membership of or
employment under any council or statutory body
within the meaning of the Local Government Act,
1919;
- (b) a member of a company or other body shall not,
by reason only of his membership, be treated as
being so interested if he has no beneficial interest in
any shares of that company or other body; and
- 10 (c) a member of a company having not less than 25
members shall not be treated as having an interest
in land or in any contract or proposed contract
with the Commission or in any other matter in
15 which the Commission is concerned by reason only
that the company has an interest in the land or the
contract or proposed contract is with or the other
matter concerns the company.

(4) In the case of a man and his wife who are
living together, the interest of one spouse shall, if known
20 to the other, be deemed, for the purposes of this section, to
be also an interest of the other spouse.

(5) A general notice in writing to the secretary or
the prescribed officer of the Commission by a commissioner
to the effect that he or his spouse is a member, or is in the
25 employment, of a specified company or other body, or that
he or his spouse is a partner or in the employment of a
specified person shall, unless and until the notice is with-
drawn, be deemed to be a sufficient disclosure of his interest
in any land in which that company or other body has an
30 interest or in any contract, proposed contract or other
matter relating to that company or other body or to that
person which may be the subject of consideration after the
date of the notice.

(6)

Land Commission.

(6) The secretary or officer referred to in subsection (5) shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) and of any notice given under subsection (5) and the book shall 5 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.

(7) Subject to subsection (8), a commissioner contravenes this subsection if he fails to comply with the 10 provisions of subsection (1), unless he proves that he did not know that proposals in respect of the acquisition, use, development or disposal of the land in which he had an interest were, or that he did not know that a contract, proposed contract or other matter in which he had a pecuniary 15 interest was, the subject of consideration at the meeting.

Penalty : \$400.

(8) The Minister may, subject to such conditions as he thinks fit to impose, remove any disability imposed by subsection (1) in any case in which the number of 20 commissioners referred to in subsection (1) so disabled at any one time would be so great a proportion of the whole of the commissioners as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability 25 should be removed.

(9) The Commission may, by resolution, provide for the exclusion of any commissioner from a meeting of the Commission while any proposal, in respect of any land or any contract, proposed contract or other matter in which 30 that commissioner has an interest as referred to in this section, is under consideration.

(10) In this section, "shares" includes stock.

Land Commission.

28. A commissioner or another person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made—

Disclosure
of informa-
tion.

- 5 (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- 10 (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) with other lawful excuse.

Penalty : \$2,000.

29. (1) The Commission may, by resolution, delegate to a commissioner or an officer or employee of the Commission the exercise or performance of such of the Commission's functions (other than this power of delegation) as are specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

Delegation.

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

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise or performance of any of the functions delegated, or as to time or circumstance.

(4) Notwithstanding any delegation under this section, the Commission may continue to exercise or perform all or any of the functions delegated.

(5)

Land Commission.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Commission and shall be 5 deemed to have been done or suffered by the Commission.

(6) An instrument purporting to be signed by a delegate of the Commission in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by 10 the Commission under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Commission under this section.

30. (1) The Commission shall, as soon as practicable 15 after 30th June in each year, prepare and forward to the Minister a report of its work and activities for the 12 months preceding that date. ^{Annual report.}

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

20 31. Any notice, summons, writ or other proceeding to be served on the Commission may be served— ^{Service of process.}

(a) by being left; or

(b) in the case of a notice, by posting it addressed to the Commission,

25 at its office or, if it has more than one office, at one of its offices.

30 32. 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 Chairman. ^{Authentication of process.}

Land Commission.

- 33.** Any penalty imposed by this Act or the regulations ^{Penalties.} may be recovered in a summary manner before a court of petty sessions constituted by a stipendiary magistrate sitting alone.
- 5 34.** Any charge, fee or money due to the Commission ^{Recovery} may be recovered as a debt or liquidated demand in a court ^{of money.} of competent jurisdiction.
- 10 35.** (1) The Governor may make regulations, ^{not Regulations.} 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 \$100 for any contravention thereof.
- 15 36.** The Statutory and Other Offices Remuneration Act, ^{Amendment} 1975, is amended by inserting at the end of Part 1 of Schedule ^{of Act No.} 2 the following matter :—

Chairman of the Land Commission of New South Wales.

Land Commission.

SCHEDULE 1.

Sec. 6.

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION.

1. A person who is of or above the age of 65 years shall not be appointed as a commissioner or to act in the office of a commissioner under clause 7. **Age of commissioners.**
2. (1) The Chairman shall, subject to this Act, be appointed for such term, not exceeding 7 years, as is specified in the instrument of his appointment. **Terms of office.**
- 10 (2) A part-time commissioner shall, subject to this Act, be appointed for such term, not exceeding 5 years, as is specified in the instrument of his appointment.
- (3) The Chairman or a part-time commissioner shall, if otherwise qualified, be eligible for re-appointment from time to time for 15 such term, in accordance with subclause (1) or (2), as the case may be, as is specified in the instrument of his re-appointment.
3. The Chairman shall devote the whole of his time to the duties of his office. **Chairman to devote whole of his time to the duties of his office.**
4. (1) Where, by or under any Act, provision is made requiring 20 the holder of an office specified therein to devote the whole of his time to 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 commissioner or from accepting and retaining any remuneration payable to a part-time commissioner under clause 5. **Provisions relating to part-time commissioners.**
- 25 (2) The office of part-time commissioner shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.
5. (1) The Chairman is entitled to be paid—
- 30 (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and **Remuneration of commissioners.**
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

5 (2) Each part-time commissioner 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.

10 6. The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a commissioner and a commissioner shall not, in his capacity as a commissioner, be subject to the provisions of that Act during his term of office. Public Service Act, 1902, not to apply.

15 7. (1) The Minister may appoint any person (including a part-time commissioner) to act in the office of the Chairman or appoint any person to act in the office of a part-time commissioner while the Chairman or that part-time commissioner, as the case may be, is absent from his office through illness or any other cause, and that person while so acting— Appointment of substitutes to act during absence of Chairman or part-time commissioner.

(a) shall have and may exercise and perform the functions of the commissioner in whose office he is appointed to act; and

20 (b) shall be deemed to be the Chairman or a part-time commissioner, according to whether he is appointed to act in the office of the Chairman or of a part-time commissioner.

(2) A part-time commissioner is, for the purposes of subclause (1), deemed to be absent from his office if he is acting in the office of the Chairman pursuant to subclause (1).

25 (3) A commissioner is, for the purposes of subclause (1), deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with clause 9.

30 (4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a commissioner, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by that commissioner.

35 8. (1) A commissioner shall be deemed to have vacated his office— Vacation of office.

(a) if he dies;

40 (b) if, being the Chairman, he engages in New South Wales or elsewhere during his term of office in any paid employment outside the duties of his office without the approval of the Minister;

SCHEDULE

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

- 5 (c) if 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, allowances or estate for their benefit;
- 10 (d) if, being the Chairman, he absents himself from duty for a period exceeding 14 consecutive days, except on leave granted by the Minister, which leave the Minister is hereby authorised to grant, or unless the absence is occasioned by illness or unavoidable cause;
- 15 (e) if, being a part-time commissioner, he is absent from 4 consecutive ordinary meetings of the Commission of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister 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;
- 20 (f) if 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;
- 25 (g) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- 30 (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if he declines office;
- (j) if he is removed from office by the Governor under subclause (2); or
- 35 (k) upon his attaining the age of 65 years.

(2) The Governor may remove a commissioner from office for misbehaviour or incompetence.

9. On the occurrence of a vacancy in the office of a commissioner, Filling of the Governor may appoint a person to the vacant office for the casual balance of his predecessor's term of office. casual vacancies.

10. The number of commissioners which shall constitute a quorum Quorum. at any meeting of the Commission shall be 2.

SCHEDULE

Land Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

11. (1) Any duly convened meeting of the Commission at which Meetings.
5 a quorum is present shall be competent to transact any business of
the Commission.

(2) Questions arising at a meeting of the Commission shall
be determined by a majority of votes of the members present and
voting.

10 (3) The Chairman shall preside at all meetings of the Com-
mission at which he is present.

(4) If the Chairman is not present at a meeting of the Com-
mission, a commissioner elected by the commissioners present shall
preside at that meeting.

15 (5) The person presiding at a meeting of the Commission
has a deliberative vote and, in the event of an equality of votes, also
has a casting vote.

12. The Commission shall cause full and accurate minutes to be Minutes.
20 kept of its proceedings at meetings, and shall submit to the Minister a
copy of the minutes of each meeting within 14 days after the date
on which the meeting is held.

13. The procedure for the calling of, and for the conduct of General
25 business at, meetings of the Commission shall, subject to any pro- procedure.
cedure that is specified in this Act or prescribed, be as determined
by the Commission.

14. (1) No matter or thing done, and no contract entered into, Protection
by the Commission, and no matter or thing done by a commissioner from
or by any other person acting under the direction or as delegate of liability.
30 the Commission shall, if the matter or thing was done, or the contract
was entered into, in good faith for the purposes of executing this
Act, subject the commissioner or person personally to any action,
liability, claim or demand.

(2) Nothing in subclause (1) exempts any commissioner or
35 other person from liability to be surcharged with the amount of any
payment which is disallowed by the Auditor-General in the accounts
of or relating to the Commission, and which the commissioner or
other person authorised or joined in authorising.

Land Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

15. (1) In this clause—
- 5 “servant” means an officer or employee of the Commission;
- “statutory body” means any body declared under clause 17 to be a statutory body for the purposes of this Schedule;
- 10 “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 Chairman or a servant was, immediately before his appointment as the Chairman or a servant—
- (a) an officer of the Public Service;
- 15 (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 as an officer or employee,
- 20 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 the Chairman or a servant; and
- 25 (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 the Chairman or a servant, and—
- 30 (h) his service as the Chairman or a servant 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
- 35 (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.

Preservation of rights of Chairman and certain servants previously public servants, etc.

Land Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

5 clause, be entitled under subclause (2) to contribute to a superannua-
tion scheme or to receive any payment, pension or gratuity under
that scheme he shall not be so entitled upon his becoming (whether
upon his appointment as the Chairman or a servant or at any later
time while he holds office as the Chairman or a servant) a contributor
10 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.

15 (4) Subclause (3) does not prevent the payment to the Chair-
man or a servant upon his ceasing to be a contributor to a superan-
nuation 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 that scheme.

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

16. (1) In this clause—

“retiring age” means—

- 25 (a) in relation to a person who was, immediately before
his appointment as Chairman, an officer of the Public
Service—the age of 60 years; and
- 30 (b) in relation to a person who was, immediately before
his appointment as Chairman, an officer or employee
of a statutory body—the age at which officers or em-
ployees (being officers or employees of the class to
which that person belonged immediately before his
appointment as Chairman), as the case may be, of
that statutory body are entitled to retire;

Chairman
entitled to
re-appoint-
ment in
former
employment
in certain
cases.

35 “statutory body” means any body declared under clause 17 to
be a statutory body for the purposes of this Schedule.

(2) A person who ceases to be the Chairman, otherwise than
pursuant to clause 8 (1) (paragraph (h) excepted), shall, if he has
not attained the retiring age, be entitled to be appointed, where,
immediately before his appointment as Chairman, he was—

- 40 (a) an officer of the Public Service—to some office in the Public
Service; or

Land Commission.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

- 5 (b) an officer or employee of a statutory body—to some office
in the service of that body,
not lower in classification and salary than that which he held
immediately before his appointment as Chairman.
- 10 17. 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. Declaration
of statu-
tory bodies.
- 15 18. In proceedings by or against the Commission no proof shall be required (until evidence is given to the contrary) of— Presump-
tions.
- (a) the constitution of the Commission;
- (b) any resolution of the Commission;
- (c) the appointment of any commissioner; or
- (d) the presence of a quorum at any meeting of the Commission.

SCHEDULE 2.

Sec. 12.

MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

- 20 The Public Works Act, 1912, shall, for the purposes referred to in section 12, be deemed to be amended—
- (a) (i) by omitting from section 53 the words “so seised, possessed or entitled as aforesaid”;
- 25 (ii) by omitting from section 53 the words “as in the preceding section mentioned” and by inserting instead the words “and may claim compensation in respect of the land resumed and agree to, settle and determine with the Constructing Authority the amount of such compensation”;
- 30 (iii) by inserting in section 53 (3) after the word “release” the words “and to claim, agree to, settle and determine with the Constructing Authority the amount of compensation”;
- (iv) by omitting section 53 (5);

SCHEDULE

Land Commission.

SCHEDULE 2—*continued.*MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

- 5 (b) (i) by inserting in section 102 after the word “time” where secondly occurring the words “as the Constructing Authority allows or, in default of any such allowance of further time, within such time”;
- (ii) by omitting from section 102 the words “and upon the Crown Solicitor”;
- 10 (iii) by inserting at the end of section 102 the following subsection:—
- (2) Upon receipt of such notice of claim, the Constructing Authority shall obtain from its solicitor, the Crown Solicitor, or the solicitor to any body corporate acting as agent for the Constructing Authority or a solicitor retained by such a body corporate, a report on the title of the land in respect of which the claim has been served by the claimant.
- 15
- 20 (c) by omitting from section 103 the words “Crown Solicitor he shall forward the same, together with his report thereon to the Constructing Authority, who” and by inserting instead the words “Constructing Authority it”;
- (d) by omitting section 124 and by inserting instead the following section:—
- 25 124. (1) For the purpose of ascertaining the compensation to be paid, regard shall in every case be had by the Court not only to the value of the land taken but also to the damage (if any) caused by the severing of the lands taken from other lands of the owner or by the exercise of any statutory powers by the Constructing Authority otherwise injuriously affecting such other lands and the Court shall assess the compensation according to what it finds to have been the value of such lands, estate or interest at the time the notification was published in the Gazette and without being bound in any way by the amount of the valuation notified to such claimant and without reference to any alteration in such value arising from the construction of any works on the lands taken.
- 30
- 35 (2) Notwithstanding subsection (1), the Court in ascertaining such compensation shall take into consideration and give effect to, by way of set-off or abatement, any enhancement in the value of the interest of any such owner in any land adjoining the land taken or severed therefrom
- 40

*Land Commission.*SCHEDULE 2—*continued.*MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

5 by the construction of any works on the land taken, but in no case does this subsection operate so as to require any payment to be made by such owner to the Constructing Authority in consideration of such enhancement in value as aforesaid.

10 (3) Notwithstanding subsection (1), in the case of land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel no compensation shall be allowed or awarded unless—

- 15 (a) the surface of the overlying soil is disturbed;
 (b) the support of such surface is destroyed or injuriously affected by the construction of such tunnel; or
 (c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.

20 (e) by omitting section 126 (3);

(f) (i) by omitting from section 135 (1) the words "such conveyances" and by inserting instead the words "conveyances or assurances of lands taken";

25 (ii) by omitting from section 135 (2) the words "incurred on the part as well of the vendor as of the purchaser,".

SCHEDULE 3.

Sec. 25.

PROVISIONS RELATING TO LOANS.

1. (1) The Commission shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Commission. Reserves for repayments.
- 30 (2) The Commission shall, during each year, transfer from the revenue of the Commission to each such fund a sum not less than the sum that the Commission, in its application for approval of the loan, specified that it proposed to transfer to that fund.

SCHEDULE

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

- (3) Money held as a reserve for loan repayment may be invested in Government securities of the Commonwealth or the State of New South Wales or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Commission or in any securities guaranteed by the Government of that State or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.
- 10 (4) Any interest or profits realised on any such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.
- (5) All money paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards 15 repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.
- (6) Where the Commission decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the 20 reserve for repayment of the loan for which they were issued, the Commission shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of four 25 and a half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.
- (7) If, after a loan has been repaid, there remains in the reserve for repayment of that loan any balance, that balance shall form part 30 of the general funds of the Commission.
- (8) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.
- (9) This clause shall not apply to any loan to be repaid by 35 instalments at intervals of one year or less.
2. (1) For securing repayment of the principal and interest on any Debentures, money borrowed, the Commission may, as provided by the regulations, etc. issue debentures, bonds, inscribed stock or other prescribed securities.
- (2) Every such debenture or bond and every coupon originally 40 annexed to the debenture or bond, and whether separated therefrom or not, may be transferred by simple delivery.

*Land Commission.*SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

(3) Inscribed stock shall be transferable in the books of the Commission in accordance with the regulations.

5 (4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall, as regards both the issue and transfer thereof for full consideration or money or money's worth, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule
10 to that Act.

3. (1) The holder of a coupon originally annexed to a debenture
or bond, and whether separated therefrom or not, shall be entitled
to receive payment from the Commission of the interest specified in
the coupon on its presentation on or after the date when, and at the
15 place where, the interest is payable. Payment of
debentures
and coupons.

(2) The due repayment of any loan in respect of which debentures, bonds, stock or any other prescribed securities have been issued by the Commission and the interest thereon, shall be a charge upon the income and revenue of the Commission from whatever source
20 arising and is hereby guaranteed by the Government.

(3) Any liability arising under the guarantee given by subclause (2) shall be discharged out of money provided by Parliament.

(4) The charge created by subclause (2) shall not prejudice or
affect any power of the Commission to sell, convey, lease or other-
25 wise deal with, free of the charge, any property vested in it.

4. (1) Notwithstanding any other provision of this Act, any money
which the Commission is authorised to borrow may be borrowed by
a loan raised, wholly or in part, in such places outside New South
Wales as the Governor on the recommendation of the Treasurer may
30 approve, and may be negotiated and raised in any currency. Raising
loans
in any
country.

(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and contain any term, condition or provision permitted under the law of the place where the loan is raised and the Commission may establish and
35 conduct in that place registries relating to the securities issued in respect of that loan.

(3) The Commission may, in respect of any such loan, agree that a sinking fund shall be established and controlled at such place and in such manner as may be found necessary or expedient in the

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

circumstances of the case and, where any sinking fund is so established, the provisions of clause 1 shall apply with regard to that loan
5 only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

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

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

(6) The Governor may, upon the recommendation of the
25 Commission, by notification published in the Gazette, appoint two or more persons to enter into for and on behalf of the Commission all such agreements as the Commission is by this clause authorised to enter into and to sign, execute or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by
30 this clause provided for and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Act and may, upon the like recommendation and by a like notification, revoke or vary any such appointment and make any fresh appointment.

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

(8) All debentures, bonds, stock or other securities, bearing
40 the signatures of the persons so appointed in that behalf, shall be deemed to be securities lawfully issued under the seal of the Commission and the principal money and interest secured thereby shall be a charge upon the income and revenue of the Commission from whatever source arising, and the due repayment of that principal

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

- money and that interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or
5 issued under the authority of this clause and bearing the signatures of those persons shall be deemed to have been lawfully made or issued by the Commission and, if they purport to have been sealed by those persons, to have been lawfully executed by the Commission under seal.
- 10 (9) A holder of any such debenture, bond, stock or other security shall not be bound to inquire whether the issue of the debenture, bond, stock or security was, in fact, duly authorised.
- (10) Subject to this clause and the law in force in the place where any loan is raised under this clause and applicable to that
15 loan and the securities issued in connection therewith, the provisions of this Schedule, other than clauses 2 (1), 6 (3) and 6 (4), shall apply to and in respect of that loan and those securities in the same way as they apply to and in respect of any other loan and any other securities.
- 20 5. (1) Any trustee, unless expressly forbidden by any instrument **Trustees.** creating the trust, may invest any trust money in his hands in stock inscribed by the Commission or in any debentures, bonds or other securities issued in accordance with this Act, and the investment shall be deemed to be an investment authorised by the Trustee Act,
25 1925.
- (2) Any debenture or bond issued, stock inscribed, or other security issued, in pursuance of this Act, shall be a lawful investment for any money which any company, council or body corporate, incorporated by any Act, is authorised or directed to invest in addition to any other investment authorised for the investment of that
30 money.
- (3) No notice of any express, implied or constructive trust shall be received by the Commission or by any officer or employee of the Commission in relation to any debenture or coupon issued or
35 stock inscribed by the Commission.
6. (1) If any debenture or bond issued by the Commission is lost, **Lost** destroyed or defaced before it has been redeemed the Commission **debentures.** may, subject to the provisions of this clause, issue a new debenture or bond in its place.

SCHEDULE

Land Commission.

SCHEDULE 3—*continued.*

PROVISIONS RELATING TO LOANS—*continued.*

(2) A new debenture or bond, issued under subclause (1) with interest coupon annexed, shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) Where a debenture or bond is lost or destroyed, a new debenture or bond shall not be issued unless—

10 (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before redemption;

(b) such advertisements as the Court may direct have been published;

15 (c) 6 months have elapsed since the publication of the last of those advertisements; and

(d) sufficient security has been given to the Commission to indemnify it against any double payment if the missing debenture or bond is at any time thereafter presented for redemption.

20 (4) Where a debenture or bond is defaced, a new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Commission for cancellation.

(5) The provisions of this clause shall apply to and in respect of the case of a lost, destroyed or defaced coupon in the same way as they apply to and in respect of a lost, destroyed or defaced debenture or bond.

30 (6) Notwithstanding any other provision of this clause, in the case of loss, theft, destruction, mutilation or defacement of any debenture or bond issued under clause 4, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Commission of the loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Commission receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond is at any time thereafter presented for payment.

35 7. (1) A person advancing money to the Commission shall not be bound to inquire into the application of the money advanced or in any way responsible for its non-application or misapplication. Protection of investors.

40 (2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Commission shall, in favour of a lender and of any holder of any security given by the

SCHEDULE

Land Commission.

SCHEDULE 3—*continued.*

PROVISIONS RELATING TO LOANS—*continued.*

- 5 Commission, be conclusive evidence that all conditions precedent to the borrowing have been complied with and, where the approval notified is to a borrowing by the Commission in a place outside New South Wales and in a particular currency, shall also be conclusive evidence in favour of those persons of the approval of the Governor to the borrowing in the place and in the currency specified in the notification.
- 10 8. All debentures, bonds, stock or other securities which are Securities secured upon the income and revenue of the Commission shall rank pari passu without any preference one above another by reason of priority of date or otherwise.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1976

1976 No. 62

Land Commission

Part I

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 62, 1976.

An Act to constitute the Land Commission of New South Wales; to confer and impose on the Commission responsibilities, powers, authorities, duties and functions with respect to the acquisition, development and disposal of land for urban and public purposes; and to amend the Statutory and Other Offices Remuneration Act, 1975. [Assented to, 2nd November, 1976.]

BE

Land Commission.

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

PART I.

PRELIMINARY.

Short title. 1. This Act may be cited as the "Land Commission 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.

Division of Act. 3. This Act is divided as follows:—

PART I.—PRELIMINARY—*ss.* 1–4.

PART II.—CONSTITUTION OF THE COMMISSION—*ss.* 5–8.

PART III.—FUNCTIONS OF THE COMMISSION—*ss.* 9–19.

PART IV.—FINANCE—*ss.* 20–25.

PART V.—GENERAL—*ss.* 26–36.

SCHEDULE 1.—PROVISIONS RELATING TO CONSTITUTION AND PROCEDURE OF THE COMMISSION.

SCHEDULE 2.—MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

SCHEDULE 3.—PROVISIONS RELATING TO LOANS.

Interpretation. 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;

“Chairman”

Land Commission.

“Chairman” means the Chairman of the Commission appointed under section 6;

“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;

“Commission” means the Land Commission of New South Wales constituted under this Act;

“commissioner” means the Chairman or a part-time commissioner;

“council” has the meaning ascribed thereto in the Local Government Act, 1919;

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

“part-time commissioner” means a part-time commissioner appointed under section 6;

“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.

Land Commission.

PART II.

CONSTITUTION OF THE COMMISSION.

Constitution of Commission.

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

(2) The Commission shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown.

(3) In the exercise or performance of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), the Commission shall be subject in all respects to the control and direction of the Minister.

Provisions relating to constitution and procedure of Commission.

6. (1) The Commission shall consist of three commissioners appointed by the Governor.

(2) Of the commissioners—

- (a) one shall be appointed as Chairman of the Commission; and
- (b) two shall be appointed as part-time commissioners.

(3) Schedule 1 has effect.

Officers and employees of Commission.

7. Except as provided in section 8 (2), such officers and employees as may be necessary to enable the Commission to exercise and perform its functions shall be appointed and employed under and subject to the Public Service Act, 1902.

Land Commission.

8. (1) For the purposes of exercising and performing its functions, the Commission may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or servants, of any Department of the Government or public authority. Commission may make use of facilities and employees of Crown, etc.

(2) The Commission may appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Commission any person, body or organisation considered capable of providing services, information or advice required by the Commission in exercising and performing its functions.

PART III.

FUNCTIONS OF THE COMMISSION.

9. (1) In this section—

Functions of Commission.

“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 Commission 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 Commission 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)

Land Commission.

- (d) to make such reports or recommendations to the Minister or any other person or body in relation to urban development as the Commission considers necessary or appropriate;
- (e) to exercise and perform such other functions as are conferred or imposed on the Commission by or under this or any other Act; 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 Commission shall—

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

General
powers of
Commis-
sion.

10. (1) Subject to this Act, the Commission may, for the purposes of this Act—

- (a) control and manage land vested in the Commission;
- (b) by notification published in the Gazette and with the approval of the Minister, close or realign any public road, or part thereof, within or adjoining or in the vicinity of land vested in the Commission;
- (c) demolish any building on land vested in the Commission 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 Commission;
- (e) subdivide and re-subdivide land, and consolidate subdivided or re-subdivided land, vested in the Commission;

(f)

Land Commission.

- (f) set out and construct roads on land vested in the Commission;
- (g) erect, alter, repair and renovate buildings on and make other improvements to land vested in the Commission; and
- (h) cause any other work to be done on or in relation to land vested in the Commission for the purpose of rendering it fit to be used for any purpose for which it may be used under any interim development order, or prescribed scheme, made under Part XIIA of the Local Government Act, 1919, and 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 Commission, 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.

11. (1) The Commission may, for the purposes of this Act, acquire land (including land previously appropriated or resumed for any purpose) by lease, purchase or exchange or by resumption or appropriation in accordance with this Act. **Acquisition of land.**

(2) Notwithstanding anything contained in subsection (1), the Commission shall not acquire land which is designated land within the meaning of the Growth Centres (Land Acquisition) Act, 1974, unless the acquisition is made with the concurrence of the Minister for Decentralisation and Development.

(3) Notwithstanding anything contained in subsections (1) and (2) the Commission shall not acquire by compulsory process—

- (a) any dwellinghouse that is occupied by the owner as his principal place of residence;

(b)

Land Commission.

- (b) any factory, workshop, warehouse, shop or other premises used for industrial or commercial purposes; or
- (c) any premises used as an office or rooms for the conduct of any business or profession.

(4) Where a notice of intention to acquire land is served by or on behalf of the Commission on the proprietor of land constituting a planning unit, and no such notice has previously been served in relation to that land, the proprietor may, within three months after the date of the service of that notice, serve personally or by post upon the Commission prescribed particulars of the commercial development proposed by him in relation to the planning unit, and in that event, land comprised in the planning unit shall not be acquired by compulsory process within a period of two years after the date of service of those particulars, and if a substantial commencement of the commercial development has been made during that period, the land shall not be acquired by compulsory process after the expiration of that period.

(5) Where the acquisition of any land has been delayed or postponed for any period by reason of the provisions of subsection (4) of this section, but the land is subsequently acquired by the Commission by compulsory process, within three years after service of the first notice of intention to acquire the land served by or on behalf of the Commission, the compensation to which the proprietor of the land is entitled shall be assessed in all respects as if the acquisition had been effected as soon as practicable after service of that first notice of intention to acquire the land.

Resumption.

12. (1) Resumption or appropriation for the purposes of this Act shall be effected by the Governor under the Public Works Act, 1912, and, without affecting the generality of the foregoing, appropriation under that Act may be effected in respect of any land vested in Her Majesty or any person in trust for Her Majesty.

(2) A resumption or appropriation for the purposes of this Act shall be deemed to be for an authorised work and the Commission shall be deemed to be the Constructing Authority.

Land Commission.

(3) Notwithstanding subsection (1), sections 34, 35, 36 and 37 of the Public Works Act, 1912, do not apply in respect of the expenditure on any works constructed in pursuance of this Act, but section 38 of that Act applies in respect of that expenditure.

(4) For the purposes of this section and not otherwise, Schedule 2 has effect.

(5) Notwithstanding anything contained in this section and Schedule 2, the Growth Centres (Land Acquisition) Act, 1974, applies to and in respect of the acquisition by resumption of any land referred to in section 11 (2).

13. (1) The Commission may acquire by gift, bequest or devise any property for any of the purposes of this Act and may agree to and carry out the conditions of the gift, bequest or devise. Power to accept gifts, etc., of property.

(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 Commission 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 Commission.

14. (1) The Commission 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 Commission and grant easements or rights-of-way over that land or any part thereof. Disposal of and dealings with land vested in Commission.

(2)

Land Commission.

(2) Without affecting the generality of subsection (1), the Commission may in any contract for the sale of land vested in the Commission 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 Commission 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 Commission 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 Commission a sum determined in a specified manner where the Commission does not exercise that option or right; or
- (d) the determination of the repurchase price payable by the Commission 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 Commission 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)

Land Commission.

(5) The Commission 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 Commission 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 Commission to the transfer has been endorsed thereon.

15. (1) The Commission may, by order published in the Gazette, declare that it proposes to surrender to Her Majesty land that is vested in the Commission 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. Dedication
of land.

(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 Commission may, by notification published in the Gazette, dedicate as a public reserve or drainage reserve land that is vested in the Commission and described or referred to in the notification and that is situated in a local government area within the meaning of the Local Government Act, 1919.

(4)

Land Commission.

(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 local government area in which the land is situated and shall be subject to the provisions of the Local Government Act, 1919, 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 Commission shall be deemed to be a Constructing Authority.

Commission may enter contracts.

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

(3) Without affecting the generality of subsection (1), the Commission may make and enter into a contract under that subsection with any person for the construction on land vested in the Commission or that person, or in the Commission 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)

Land Commission.

(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.

17. (1) The Commission may enter into an arrangement or agreement with any public authority that—

- (a) the public authority shall act as agent of the Commission for the purposes of this Act; or
- (b) the Commission shall act as agent of the public authority for the purposes of this Act,

Commission may enter into arrangements with other public authorities.

on such terms and conditions as are agreed upon between the Commission 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.

18. (1) In the exercise or performance of its functions the Commission shall, as far as practicable—

Consultation and negotiation.

- (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 Commission.

(2) Without affecting the generality of subsection (1), any research or investigation under section 9 (2) (c) that is of the same or of a similar nature as that which may be undertaken by the New South Wales Planning and Environment Commission or any other public authority shall, unless otherwise agreed, be carried out or promoted in conjunction with that Commission or public authority.

19.

Land Commission.

Exercise of
council's
powers by
Commis-
sion.

19. (1) The Minister for Local Government may, by order published in the Gazette, transfer to the Commission such of the functions conferred or imposed on a council by or under the Local Government Act, 1919, as are specified or described in the order.

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

(3) The provisions of the Local Government Act, 1919, 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 Commission were a council and the land in respect of which those functions may be exercised or performed formed part of that council's local government area within the meaning of that Act.

(4) A function conferred or imposed on the Commission 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 Commission by an order under this section shall be exercised or performed by the Commission only in or in relation to land vested in the Commission and specified or described in the order.

Land Commission.

PART IV.

FINANCE.

20. (1) The Commission shall cause to be kept proper **Accounts.** accounts and records in relation to all of its operations and shall, as soon as practicable after 30th June in each year, prepare and submit to the Minister for presentation to Parliament a statement of accounts in a form approved by the Auditor-General, exhibiting a true and correct view of the financial position and transactions of the Commission.

(2) The Minister shall lay the statement of accounts, or cause it to be laid, before each House of Parliament as soon as practicable after the receipt by him of the statement.

21. The accounts of the Commission shall be audited by **Audit.** the Auditor-General, who shall have in respect thereof all the powers conferred on him by any law for the time being in force relating to the audit of public accounts.

22. (1) The Audit Act, 1902, shall apply to commission- **Application of Audit Act, 1902.** ers and officers and employees of the Commission in the same way as it applies to accounting officers of public departments.

(2) The Auditor-General shall report to the Commission and the Minister—

(a) whether in his opinion—

- (i) due provision has been made for the repayment of loans;
- (ii) the value of assets has (so far as he can judge) been in all cases fairly stated;

(iii)

Land Commission.

- (iii) due diligence and care have been shown in the collection and banking of income;
- (iv) expenditure incurred has been duly authorised, vouched and supervised;
- (v) proper account has been kept of plant, stores and materials; and
- (vi) any of the money or other property of the Commission or over which it has control has been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of any audit under section 21, the Commission shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

Investment.

23. The Commission may invest money held by it in Government securities of the Commonwealth or of the State of New South Wales or in any securities guaranteed by the Government of that State, or on call or on fixed deposit, or partly on call and partly on fixed deposit, with the Treasurer or with any bank or in such other securities as the Governor approves or as are prescribed.

Temporary accommodation.

24. (1) For the temporary accommodation of the Commission, it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Commission's funds to such extent as may, from time to time, be approved by the Governor.

Land Commission.

(2) The Treasurer may advance such money to the Commission, on such terms and conditions as to repayment and interest, as may be agreed upon.

25. (1) The Commission may from time to time, with **Borrowing.** the concurrence of the Treasurer and the approval of the Governor, borrow money for—

- (a) the purpose of exercising or performing any of its functions;
- (b) the renewal of loans;
- (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer or to any bank;
or
- (d) any other purpose of this Act.

(2) Schedule 3 has effect.

PART V.

GENERAL.

26. (1) Where, through his association with the Commission, a person has knowledge of specific information relating to proposals made, or to be made, by the Commission in respect of the acquisition, use, development or disposal of land and that information is not generally known but, if generally known, might reasonably be expected to affect materially the market price of that land, he contravenes this subsection if he—

**Misuse
of infor-
mation.**

- (a) deals, directly or indirectly, in that or in any other land for the purpose of gaining an advantage for himself by the use of that information; or

(b)

Land Commission.

- (b) divulges that information for the purpose of enabling another person to gain an advantage by using that information to deal, directly or indirectly, in that or in any other land.

Penalty : \$2,000.

(2) Where, through his association with the Commission, a person is in a position to influence proposals made, or to be made, by the Commission in respect of the acquisition, use, development or disposal of land and does influence the proposals by securing the inclusion or alteration of any matter in, or the exclusion or omission of any matter from, the proposals, he contravenes this subsection if—

- (a) he does so for the purpose of gaining an advantage for himself; or
- (b) he does so for the purpose of enabling another person to gain an advantage.

Penalty : \$2,000.

(3) Where—

- (a) a contravention of subsection (1) occurs and an advantage, referred to in that subsection, is gained from any dealing in land to which the contravention relates; or
- (b) a contravention of subsection (2) occurs and an advantage, referred to in that subsection, is gained from any dealing in land which would not have been gained if the proposals concerned had not been influenced,

any person who gained that advantage is, whether or not any person has been prosecuted for or convicted of an offence in respect of a contravention of subsection (1) or (2), as the case may be, liable to another person for the amount of any loss incurred by that other person by reason of the gaining of that advantage.

(4)

Land Commission.

(4) Where a loss referred to in subsection (3) is incurred by reason of an advantage gained from a dealing in land, the amount of the loss is the difference between the price at which the dealing was effected and—

- (a) in the case of any dealing to which subsection (1) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the specific information used to gain that advantage had been generally known at that time; or
- (b) in any case to which subsection (2) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the proposals concerned had not been influenced.

(5) An action to recover a loss, referred to in subsection (3), may not be brought after the expiration of 5 years next succeeding the dealing in land in relation to which the loss was incurred.

(6) For the purposes of this section a person is associated with the Commission—

- (a) if he is a commissioner or an officer or employee of the Commission;
- (b) if he is a commissioner or an officer or employee of the New South Wales Planning and Environment Commission or a person appointed to a committee or sub-committee established under section 15 of the State Planning Authority Act, 1963, or to a regional planning committee appointed under Part IV of that Act;
- (c) if he is an officer or a servant of a council;

(d)

Land Commission.

- (d) if he acts or has acted as banker, solicitor, auditor or professional adviser or in any other capacity for the Commission, the Minister, the New South Planning and Environment Commission or a council; or
- (e) where the person, so associated by virtue of paragraph (d), is a body corporate, if he is a director, manager or secretary of that body corporate.

**Disclosure
of interest.**

27. (1) If a commissioner has an interest, direct or indirect, in land, proposals in respect of the acquisition, use, development or disposal of which are to be considered by the Commission, or has a pecuniary interest, direct or indirect, in a contract or proposed contract with the Commission or in any other matter in which the Commission is concerned and is present at a meeting of the Commission at which the proposals are or the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting, as soon as practicable after the commencement thereof, disclose his interest and shall not take part in the consideration or discussion of or vote on any question with respect to the proposals or the contract, proposed contract or other matter.

(2) For the purposes of this section, a person shall be treated as having an indirect interest in land or a contract, proposed contract or other matter if—

- (a) he or any nominee of his is a member of a company or other body which has an interest in the land, or with which the contract is made or is proposed to be made or which has a direct or indirect pecuniary interest in the other matter under consideration; or
- (b) he is a partner, or is in the employment, of a person who has an interest in the land, or with whom the contract is made or is proposed to be made or who has a direct or indirect pecuniary interest in the other matter under consideration.

(3)

Land Commission.

(3) Notwithstanding subsection (2)—

- (a) that subsection does not apply to membership of or employment under any council or statutory body within the meaning of the Local Government Act, 1919;
- (b) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body; and
- (c) a member of a company having not less than 25 members shall not be treated as having an interest in land or in any contract or proposed contract with the Commission or in any other matter in which the Commission is concerned by reason only that the company has an interest in the land or the contract or proposed contract is with or the other matter concerns the company.

(4) In the case of a man and his wife who are living together, the interest of one spouse shall, if known to the other, be deemed, for the purposes of this section, to be also an interest of the other spouse.

(5) A general notice in writing to the secretary or the prescribed officer of the Commission by a commissioner to the effect that he or his spouse is a member, or is in the employment, of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any land in which that company or other body has an interest or in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

Land Commission.

(6) The secretary or officer referred to in subsection (5) shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) and of any notice given under subsection (5) and the 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.

(7) Subject to subsection (8), a commissioner contravenes this subsection if he fails to comply with the provisions of subsection (1), unless he proves that he did not know that proposals in respect of the acquisition, use, development or disposal of the land in which he had an interest were, or that he did not know that a contract, proposed contract or other matter in which he had a pecuniary interest was, the subject of consideration at the meeting.

Penalty : \$400.

(8) The Minister may, subject to such conditions as he thinks fit to impose, remove any disability imposed by subsection (1) in any case in which the number of commissioners referred to in subsection (1) so disabled at any one time would be so great a proportion of the whole of the commissioners as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability should be removed.

(9) The Commission may, by resolution, provide for the exclusion of any commissioner from a meeting of the Commission while any proposal, in respect of any land or any contract, proposed contract or other matter in which that commissioner has an interest as referred to in this section, is under consideration.

(10) In this section, "shares" includes stock.

Land Commission.

28. A commissioner or another person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made—

Disclosure
of informa-
tion.

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) with other lawful excuse.

Penalty : \$2,000.

29. (1) The Commission may, by resolution, delegate to a commissioner or an officer or employee of the Commission the exercise or performance of such of the Commission's functions (other than this power of delegation) as are specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

Delegation.

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

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise or performance of any of the functions delegated, or as to time or circumstance.

(4) Notwithstanding any delegation under this section, the Commission may continue to exercise or perform all or any of the functions delegated.

(5)

Land Commission.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Commission and shall be deemed to have been done or suffered by the Commission.

(6) An instrument purporting to be signed by a delegate of the Commission in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Commission under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Commission under this section.

**Annual
report.**

30. (1) The Commission shall, as soon as practicable after 30th June in each year, prepare and forward to the Minister a report of its work and activities for the 12 months preceding that date.

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

**Service
of process.**

31. Any notice, summons, writ or other proceeding to be served on the Commission may be served—

(a) by being left; or

(b) in the case of a notice, by posting it addressed to the Commission,

at its office or, if it has more than one office, at one of its offices.

**Authenti-
cation of
process.**

32. 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 Chairman.

Land Commission.

33. Any penalty imposed by this Act or the regulations ^{Penalties.} may be recovered in a summary manner before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

34. Any charge, fee or money due to the Commission ^{Recovery of money.} may be recovered as a debt or liquidated demand in a court of competent jurisdiction.

35. (1) The Governor may make regulations, ^{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 \$100 for any contravention thereof.

36. The Statutory and Other Offices Remuneration Act, ^{Amendment of Act No. 4, 1976.} 1975, is amended by inserting at the end of Part 1 of Schedule 2 the following matter :—

Chairman of the Land Commission of New South Wales.

Land Commission.

Sec. 6.

SCHEDULE 1.

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION.

Age of
commis-
sioners.

1. A person who is of or above the age of 65 years shall not be appointed as a commissioner or to act in the office of a commissioner under clause 7.

Terms of
office.

2. (1) The Chairman shall, subject to this Act, be appointed for such term, not exceeding 7 years, as is specified in the instrument of his appointment.

(2) A part-time commissioner shall, subject to this Act, be appointed for such term, not exceeding 5 years, as is specified in the instrument of his appointment.

(3) The Chairman or a part-time commissioner shall, if otherwise qualified, be eligible for re-appointment from time to time for such term, in accordance with subclause (1) or (2), as the case may be, as is specified in the instrument of his re-appointment.

Chairman
to devote
whole of
his time
to the
duties of
his office.

3. The Chairman shall devote the whole of his time to the duties of his office.

Provisions
relating to
part-time
commis-
sioners.

4. (1) Where, by or under any 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, that provision shall not operate to disqualify him from holding that office and also the office of a part-time commissioner or from accepting and retaining any remuneration payable to a part-time commissioner under clause 5.

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

Remunera-
tion
of commis-
sioners.

5. (1) The Chairman 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.

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

(2) Each part-time commissioner 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.

6. The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a commissioner and a commissioner shall not, in his capacity as a commissioner, be subject to the provisions of that Act during his term of office. Public Service Act, 1902, not to apply.

7. (1) The Minister may appoint any person (including a part-time commissioner) to act in the office of the Chairman or appoint any person to act in the office of a part-time commissioner while the Chairman or that part-time commissioner, as the case may be, is absent from his office through illness or any other cause, and that person while so acting— Appointment of substitutes to act during absence of Chairman or part-time commissioner.

(a) shall have and may exercise and perform the functions of the commissioner in whose office he is appointed to act; and

(b) shall be deemed to be the Chairman or a part-time commissioner, according to whether he is appointed to act in the office of the Chairman or of a part-time commissioner.

(2) A part-time commissioner is, for the purposes of subclause (1), deemed to be absent from his office if he is acting in the office of the Chairman pursuant to subclause (1).

(3) A commissioner is, for the purposes of subclause (1), deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with clause 9.

(4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a commissioner, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by that commissioner.

8. (1) A commissioner shall be deemed to have vacated his office— Vacation of office.

(a) if he dies;

(b) if, being the Chairman, he engages in New South Wales or elsewhere during his term of office in any paid employment outside the duties of his office without the approval of the Minister;

SCHEDULE

Land Commission.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

- (c) if 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, allowances or estate for their benefit;
- (d) if, being the Chairman, he absents himself from duty for a period exceeding 14 consecutive days, except on leave granted by the Minister, which leave the Minister is hereby authorised to grant, or unless the absence is occasioned by illness or unavoidable cause;
- (e) if, being a part-time commissioner, he is absent from 4 consecutive ordinary meetings of the Commission of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister 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;
- (f) if 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;
- (g) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if he declines office;
- (j) if he is removed from office by the Governor under subclause (2); or
- (k) upon his attaining the age of 65 years.

(2) The Governor may remove a commissioner from office for misbehaviour or incompetence.

Filling of
casual
vacancies.

9. On the occurrence of a vacancy in the office of a commissioner, the Governor may appoint a person to the vacant office for the balance of his predecessor's term of office.

Quorum.

10. The number of commissioners which shall constitute a quorum at any meeting of the Commission shall be 2.

SCHEDULE

Land Commission.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

11. (1) Any duly convened meeting of the Commission at which **Meetings.**
a quorum is present shall be competent to transact any business of
the Commission.

(2) Questions arising at a meeting of the Commission shall
be determined by a majority of votes of the members present and
voting.

(3) The Chairman shall preside at all meetings of the Com-
mission at which he is present.

(4) If the Chairman is not present at a meeting of the Com-
mission, a commissioner elected by the commissioners present shall
preside at that meeting.

(5) The person presiding at a meeting of the Commission
has a deliberative vote and, in the event of an equality of votes, also
has a casting vote.

12. The Commission shall cause full and accurate minutes to be **Minutes.**
kept of its proceedings at meetings, and shall submit to the Minister a
copy of the minutes of each meeting within 14 days after the date
on which the meeting is held.

13. The procedure for the calling of, and for the conduct of **General**
business at, meetings of the Commission shall, subject to any pro-
cedure that is specified in this Act or prescribed, be as determined
by the Commission.

14. (1) No matter or thing done, and no contract entered into, **Protection**
by the Commission, and no matter or thing done by a commissioner **from**
or by any other person acting under the direction or as delegate of **liability.**
the Commission shall, if the matter or thing was done, or the contract
was entered into, in good faith for the purposes of executing this
Act, subject the commissioner or person personally to any action,
liability, claim or demand.

(2) Nothing in subclause (1) exempts any commissioner or
other person from liability to be surcharged with the amount of any
payment which is disallowed by the Auditor-General in the accounts
of or relating to the Commission, and which the commissioner or
other person authorised or joined in authorising.

Land Commission.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

Preservation
of
rights of
Chairman
and
certain
servants
previously
public
servants,
etc.

15. (1) In this clause—

“servant” means an officer or employee of the Commission;

“statutory body” means any body declared under clause 17 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 Chairman or a servant was, immediately before his appointment as the Chairman or a servant—

- (a) an officer of the Public Service;
- (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 as 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 the Chairman or a servant; 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 the Chairman or a servant, and—

- (h) his service as the Chairman or a servant 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.

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

(3) If the Chairman or a servant 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 that scheme he shall not be so entitled upon his becoming (whether upon his appointment as the Chairman or a servant or at any later time while he holds office as the Chairman or a servant) 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 Chairman or a servant 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 that scheme.

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

16. (1) In this clause—

“retiring age” means—

- (a) in relation to a person who was, immediately before his appointment as Chairman, an officer of the Public Service—the age of 60 years; and
- (b) in relation to a person who was, immediately before his appointment as Chairman, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which that person belonged immediately before his appointment as Chairman), as the case may be, of that statutory body are entitled to retire;

Chairman
entitled to
re-appoint-
ment in
former
employment
in certain
cases.

“statutory body” means any body declared under clause 17 to be a statutory body for the purposes of this Schedule.

(2) A person who ceases to be the Chairman, otherwise than pursuant to clause 8 (1) (paragraph (h) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as Chairman, he was—

- (a) an officer of the Public Service—to some office in the Public Service; or

Land Commission.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

(b) an officer or employee of a statutory body—to some office in the service of that body,
not lower in classification and salary than that which he held immediately before his appointment as Chairman.

Declaration
of statu-
tory bodies.

17. 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.

Presump-
tions.

18. In proceedings by or against the Commission 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;
- (c) the appointment of any commissioner; or
- (d) the presence of a quorum at any meeting of the Commission.

Sec. 12.

SCHEDULE 2.

MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

The Public Works Act, 1912, shall, for the purposes referred to in section 12, be deemed to be amended—

- (a) (i) by omitting from section 53 the words “so seised, possessed or entitled as aforesaid”;
- (ii) by omitting from section 53 the words “as in the preceding section mentioned” and by inserting instead the words “and may claim compensation in respect of the land resumed and agree to, settle and determine with the Constructing Authority the amount of such compensation”;
- (iii) by inserting in section 53 (3) after the word “release” the words “and to claim, agree to, settle and determine with the Constructing Authority the amount of compensation”;
- (iv) by omitting section 53 (5);

Land Commission.

SCHEDULE 2—*continued.*MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

(b) (i) by inserting in section 102 after the word “time” where secondly occurring the words “as the Constructing Authority allows or, in default of any such allowance of further time, within such time”;

(ii) by omitting from section 102 the words “and upon the Crown Solicitor”;

(iii) by inserting at the end of section 102 the following subsection:—

(2) Upon receipt of such notice of claim, the Constructing Authority shall obtain from its solicitor, the Crown Solicitor, or the solicitor to any body corporate acting as agent for the Constructing Authority or a solicitor retained by such a body corporate, a report on the title of the land in respect of which the claim has been served by the claimant.

(c) by omitting from section 103 the words “Crown Solicitor he shall forward the same, together with his report thereon to the Constructing Authority, who” and by inserting instead the words “Constructing Authority it”;

(d) by omitting section 124 and by inserting instead the following section:—

124. (1) For the purpose of ascertaining the compensation to be paid, regard shall in every case be had by the Court not only to the value of the land taken but also to the damage (if any) caused by the severing of the lands taken from other lands of the owner or by the exercise of any statutory powers by the Constructing Authority otherwise injuriously affecting such other lands and the Court shall assess the compensation according to what it finds to have been the value of such lands, estate or interest at the time the notification was published in the Gazette and without being bound in any way by the amount of the valuation notified to such claimant and without reference to any alteration in such value arising from the construction of any works on the lands taken.

(2) Notwithstanding subsection (1), the Court in ascertaining such compensation shall take into consideration and give effect to, by way of set-off or abatement, any enhancement in the value of the interest of any such owner in any land adjoining the land taken or severed therefrom

Land Commission.

SCHEDULE 2—continued.
MODIFICATION OF THE PUBLIC WORKS ACT, 1912—continued.

by the construction of any works on the land taken, but in no case does this subsection operate so as to require any payment to be made by such owner to the Constructing Authority in consideration of such enhancement in value as aforesaid.

(3) Notwithstanding subsection (1), in the case of land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel no compensation shall be allowed or awarded unless—

- (a) the surface of the overlying soil is disturbed;
 - (b) the support of such surface is destroyed or injuriously affected by the construction of such tunnel; or
 - (c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.
- (e) by omitting section 126 (3);
- (f) (i) by omitting from section 135 (1) the words “such conveyances” and by inserting instead the words “conveyances or assurances of lands taken”;
- (ii) by omitting from section 135 (2) the words “incurred on the part as well of the vendor as of the purchaser.”

 Sec. 25.

SCHEDULE 3.
PROVISIONS RELATING TO LOANS.

Reserves for repayments. 1. (1) The Commission shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Commission.

(2) The Commission shall, during each year, transfer from the revenue of the Commission to each such fund a sum not less than the sum that the Commission, in its application for approval of the loan, specified that it proposed to transfer to that fund.

SCHEDULE

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

(3) Money held as a reserve for loan repayment may be invested in Government securities of the Commonwealth or the State of New South Wales or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Commission or in any securities guaranteed by the Government of that State or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(4) Any interest or profits realised on any such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(5) All money paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(6) Where the Commission decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, the Commission shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of four and a half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(7) If, after a loan has been repaid, there remains in the reserve for repayment of that loan any balance, that balance shall form part of the general funds of the Commission.

(8) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.

(9) This clause shall not apply to any loan to be repaid by instalments at intervals of one year or less.

2. (1) For securing repayment of the principal and interest on any money borrowed, the Commission may, as provided by the regulations, issue debentures, bonds, inscribed stock or other prescribed securities.

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond, and whether separated therefrom or not, may be transferred by simple delivery.

SCHEDULE

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

(3) Inscribed stock shall be transferable in the books of the Commission in accordance with the regulations.

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall, as regards both the issue and transfer thereof for full consideration or money or money's worth, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule to that Act.

Payment of
debentures
and coupons.

3. (1) The holder of a coupon originally annexed to a debenture or bond, and whether separated therefrom or not, shall be entitled to receive payment from the Commission of the interest specified in the coupon on its presentation on or after the date when, and at the place where, the interest is payable.

(2) The due repayment of any loan in respect of which debentures, bonds, stock or any other prescribed securities have been issued by the Commission and the interest thereon, shall be a charge upon the income and revenue of the Commission from whatever source arising and is hereby guaranteed by the Government.

(3) Any liability arising under the guarantee given by subclause (2) shall be discharged out of money provided by Parliament.

(4) The charge created by subclause (2) shall not prejudice or affect any power of the Commission to sell, convey, lease or otherwise deal with, free of the charge, any property vested in it.

Raising
loans
in any
country.

4. (1) Notwithstanding any other provision of this Act, any money which the Commission is authorised to borrow may be borrowed by a loan raised, wholly or in part, in such places outside New South Wales as the Governor on the recommendation of the Treasurer may approve, and may be negotiated and raised in any currency.

(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and contain any term, condition or provision permitted under the law of the place where the loan is raised and the Commission may establish and conduct in that place registries relating to the securities issued in respect of that loan.

(3) The Commission may, in respect of any such loan, agree that a sinking fund shall be established and controlled at such place and in such manner as may be found necessary or expedient in the

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

circumstances of the case and, where any sinking fund is so established, the provisions of clause 1 shall apply with regard to that loan only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

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

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

(6) The Governor may, upon the recommendation of the Commission, by notification published in the Gazette, appoint two or more persons to enter into for and on behalf of the Commission all such agreements as the Commission is by this clause authorised to enter into and to sign, execute or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this clause provided for and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Act and may, upon the like recommendation and by a like notification, revoke or vary any such appointment and make any fresh appointment.

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

(8) All debentures, bonds, stock or other securities, bearing the signatures of the persons so appointed in that behalf, shall be deemed to be securities lawfully issued under the seal of the Commission and the principal money and interest secured thereby shall be a charge upon the income and revenue of the Commission from whatever source arising, and the due repayment of that principal

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

money and that interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or issued under the authority of this clause and bearing the signatures of those persons shall be deemed to have been lawfully made or issued by the Commission and, if they purport to have been sealed by those persons, to have been lawfully executed by the Commission under seal.

(9) A holder of any such debenture, bond, stock or other security shall not be bound to inquire whether the issue of the debenture, bond, stock or security was, in fact, duly authorised.

(10) Subject to this clause and the law in force in the place where any loan is raised under this clause and applicable to that loan and the securities issued in connection therewith, the provisions of this Schedule, other than clauses 2 (1), 6 (3) and 6 (4), shall apply to and in respect of that loan and those securities in the same way as they apply to and in respect of any other loan and any other securities.

Trustees.

5. (1) Any trustee, unless expressly forbidden by any instrument creating the trust, may invest any trust money in his hands in stock inscribed by the Commission or in any debentures, bonds or other securities issued in accordance with this Act, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925.

(2) Any debenture or bond issued, stock inscribed, or other security issued, in pursuance of this Act, shall be a lawful investment for any money which any company, council or body corporate, incorporated by any Act, is authorised or directed to invest in addition to any other investment authorised for the investment of that money.

(3) No notice of any express, implied or constructive trust shall be received by the Commission or by any officer or employee of the Commission in relation to any debenture or coupon issued or stock inscribed by the Commission.

Lost debentures.

6. (1) If any debenture or bond issued by the Commission is lost, destroyed or defaced before it has been redeemed the Commission may, subject to the provisions of this clause, issue a new debenture or bond in its place.

Land Commission.

SCHEDULE 3—*continued.*

PROVISIONS RELATING TO LOANS—*continued.*

(2) A new debenture or bond, issued under subclause (1) with interest coupon annexed, shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) Where a debenture or bond is lost or destroyed, a new debenture or bond shall not be issued unless—

- (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before redemption;
- (b) such advertisements as the Court may direct have been published;
- (c) 6 months have elapsed since the publication of the last of those advertisements; and
- (d) sufficient security has been given to the Commission to indemnify it against any double payment if the missing debenture or bond is at any time thereafter presented for redemption.

(4) Where a debenture or bond is defaced, a new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Commission for cancellation.

(5) The provisions of this clause shall apply to and in respect of the case of a lost, destroyed or defaced coupon in the same way as they apply to and in respect of a lost, destroyed or defaced debenture or bond.

(6) Notwithstanding any other provision of this clause, in the case of loss, theft, destruction, mutilation or defacement of any debenture or bond issued under clause 4, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Commission of the loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Commission receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond is at any time thereafter presented for payment.

7. (1) A person advancing money to the Commission shall not be bound to inquire into the application of the money advanced or be in any way responsible for its non-application or misapplication. **Protection of investors.**

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Commission shall, in favour of a lender and of any holder of any security given by the

Land Commission.

SCHEDULE 3—*continued.*

PROVISIONS RELATING TO LOANS—*continued.*

Commission, be conclusive evidence that all conditions precedent to the borrowing have been complied with and, where the approval notified is to a borrowing by the Commission in a place outside New South Wales and in a particular currency, shall also be conclusive evidence in favour of those persons of the approval of the Governor to the borrowing in the place and in the currency specified in the notification.

Securities
rank
equally.

8. All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Commission shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1976

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 21 November, 1976.*

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 62, 1976.

An Act to constitute the Land Commission of New South Wales; to confer and impose on the Commission responsibilities, powers, authorities, duties and functions with respect to the acquisition, development and disposal of land for urban and public purposes; and to amend the Statutory and Other Offices Remuneration Act, 1975. [Assented to, 2nd November, 1976.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

T. J. CAHILL,
Chairman of Committees of the Legislative Assembly.

Land Commission.

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

PART I.

PRELIMINARY.

- Short title.** **1.** This Act may be cited as the "Land Commission Act, 1976".
- Commence-
ment.** **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.
- Division
of Act.** **3.** This Act is divided as follows :—
- PART I.—PRELIMINARY—*ss.* 1–4.
PART II.—CONSTITUTION OF THE COMMISSION—*ss.* 5–8.
PART III.—FUNCTIONS OF THE COMMISSION—*ss.* 9–19.
PART IV.—FINANCE—*ss.* 20–25.
PART V.—GENERAL—*ss.* 26–36.
- SCHEDULE 1.—PROVISIONS RELATING TO CONSTITUTION AND PROCEDURE OF THE COMMISSION.
SCHEDULE 2.—MODIFICATION OF THE PUBLIC WORKS ACT, 1912.
SCHEDULE 3.—PROVISIONS RELATING TO LOANS.
- Interpreta-
tion.** **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;
"Chairman"

Land Commission.

- “Chairman” means the Chairman of the Commission appointed under section 6;
- “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;
- “Commission” means the Land Commission of New South Wales constituted under this Act;
- “commissioner” means the Chairman or a part-time commissioner;
- “council” has the meaning ascribed thereto in the Local Government Act, 1919;
- “functions” includes responsibilities, powers, authorities and duties;
- “part-time commissioner” means a part-time commissioner appointed under section 6;
- “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

Land Commission.

PART II.

CONSTITUTION OF THE COMMISSION.

Constitu-
tion of
Commis-
sion.

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

(2) The Commission shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown.

(3) In the exercise or performance of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), the Commission shall be subject in all respects to the control and direction of the Minister.

Provisions
relating to
constitu-
tion and
procedure
of Com-
mission.

6. (1) The Commission shall consist of three commissioners appointed by the Governor.

(2) Of the commissioners—

(a) one shall be appointed as Chairman of the Commission; and

(b) two shall be appointed as part-time commissioners.

(3) Schedule 1 has effect.

Officers
and
employees
of
Commission.

7. Except as provided in section 8 (2), such officers and employees as may be necessary to enable the Commission to exercise and perform its functions shall be appointed and employed under and subject to the Public Service Act, 1902.

Land Commission.

8. (1) For the purposes of exercising and performing its functions, the Commission may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or servants, of any Department of the Government or public authority.

Commission
may make
use of
facilities and
employees
of Crown,
etc.

(2) The Commission may appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Commission any person, body or organisation considered capable of providing services, information or advice required by the Commission in exercising and performing its functions.

PART III.

FUNCTIONS OF THE COMMISSION.

9. (1) In this section—

Functions of
Commission.

“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 Commission 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 Commission 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)

Land Commission.

- (d) to make such reports or recommendations to the Minister or any other person or body in relation to urban development as the Commission considers necessary or appropriate;
- (e) to exercise and perform such other functions as are conferred or imposed on the Commission by or under this or any other Act; 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 Commission shall—

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

General
powers of
Commis-
sion.

10. (1) Subject to this Act, the Commission may, for the purposes of this Act—

- (a) control and manage land vested in the Commission;
- (b) by notification published in the Gazette and with the approval of the Minister, close or realign any public road, or part thereof, within or adjoining or in the vicinity of land vested in the Commission;
- (c) demolish any building on land vested in the Commission 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 Commission;
- (e) subdivide and re-subdivide land, and consolidate subdivided or re-subdivided land, vested in the Commission;

(f)

Land Commission.

- (f) set out and construct roads on land vested in the Commission;
- (g) erect, alter, repair and renovate buildings on and make other improvements to land vested in the Commission; and
- (h) cause any other work to be done on or in relation to land vested in the Commission for the purpose of rendering it fit to be used for any purpose for which it may be used under any interim development order, or prescribed scheme, made under Part XIIA of the Local Government Act, 1919, and 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 Commission, 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.

11. (1) The Commission may, for the purposes of this Act, acquire land (including land previously appropriated or resumed for any purpose) by lease, purchase or exchange or by resumption or appropriation in accordance with this Act. Acquisition of land.

(2) Notwithstanding anything contained in subsection (1), the Commission shall not acquire land which is designated land within the meaning of the Growth Centres (Land Acquisition) Act, 1974, unless the acquisition is made with the concurrence of the Minister for Decentralisation and Development.

(3) Notwithstanding anything contained in subsections (1) and (2) the Commission shall not acquire by compulsory process—

- (a) any dwellinghouse that is occupied by the owner as his principal place of residence;

(b)

Land Commission.

(b) any factory, workshop, warehouse, shop or other premises used for industrial or commercial purposes; or

(c) any premises used as an office or rooms for the conduct of any business or profession.

(4) Where a notice of intention to acquire land is served by or on behalf of the Commission on the proprietor of land constituting a planning unit, and no such notice has previously been served in relation to that land, the proprietor may, within three months after the date of the service of that notice, serve personally or by post upon the Commission prescribed particulars of the commercial development proposed by him in relation to the planning unit, and in that event, land comprised in the planning unit shall not be acquired by compulsory process within a period of two years after the date of service of those particulars, and if a substantial commencement of the commercial development has been made during that period, the land shall not be acquired by compulsory process after the expiration of that period.

(5) Where the acquisition of any land has been delayed or postponed for any period by reason of the provisions of subsection (4) of this section, but the land is subsequently acquired by the Commission by compulsory process, within three years after service of the first notice of intention to acquire the land served by or on behalf of the Commission, the compensation to which the proprietor of the land is entitled shall be assessed in all respects as if the acquisition had been effected as soon as practicable after service of that first notice of intention to acquire the land.

Resumption.

12. (1) Resumption or appropriation for the purposes of this Act shall be effected by the Governor under the Public Works Act, 1912, and, without affecting the generality of the foregoing, appropriation under that Act may be effected in respect of any land vested in Her Majesty or any person in trust for Her Majesty.

(2) A resumption or appropriation for the purposes of this Act shall be deemed to be for an authorised work and the Commission shall be deemed to be the Constructing Authority.

(3)

Land Commission.

(3) Notwithstanding subsection (1), sections 34, 35, 36 and 37 of the Public Works Act, 1912, do not apply in respect of the expenditure on any works constructed in pursuance of this Act, but section 38 of that Act applies in respect of that expenditure.

(4) For the purposes of this section and not otherwise, Schedule 2 has effect.

(5) Notwithstanding anything contained in this section and Schedule 2, the Growth Centres (Land Acquisition) Act, 1974, applies to and in respect of the acquisition by resumption of any land referred to in section 11 (2).

13. (1) The Commission may acquire by gift, bequest or devise any property for any of the purposes of this Act and may agree to and carry out the conditions of the gift, bequest or devise. Power to accept gifts, etc., of property.

(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 Commission 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 Commission.

14. (1) The Commission 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 Commission and grant easements or rights-of-way over that land or any part thereof. Disposal of and dealings with land vested in Commission.

(2)

Land Commission.

(2) Without affecting the generality of subsection (1), the Commission may in any contract for the sale of land vested in the Commission 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 Commission 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 Commission 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 Commission a sum determined in a specified manner where the Commission does not exercise that option or right; or
- (d) the determination of the repurchase price payable by the Commission 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 Commission 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)

Land Commission.

(5) The Commission 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 Commission 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 Commission to the transfer has been endorsed thereon.

15. (1) The Commission may, by order published in the Gazette, declare that it proposes to surrender to Her Majesty land that is vested in the Commission 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. **Dedication of land.**

(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 Commission may, by notification published in the Gazette, dedicate as a public reserve or drainage reserve land that is vested in the Commission and described or referred to in the notification and that is situated in a local government area within the meaning of the Local Government Act, 1919.

(4)

Land Commission.

(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 local government area in which the land is situated and shall be subject to the provisions of the Local Government Act, 1919, 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 Commission shall be deemed to be a Constructing Authority.

Commis-
sion may
enter
contracts.

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

(3) Without affecting the generality of subsection (1), the Commission may make and enter into a contract under that subsection with any person for the construction on land vested in the Commission or that person, or in the Commission 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)

(4)

Land Commission.

(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.

17. (1) The Commission may enter into an arrangement or agreement with any public authority that—

- (a) the public authority shall act as agent of the Commission for the purposes of this Act; or
- (b) the Commission shall act as agent of the public authority for the purposes of this Act,

Commission may enter into arrangements with other public authorities.

on such terms and conditions as are agreed upon between the Commission 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.

18. (1) In the exercise or performance of its functions the Commission shall, as far as practicable—

Consultation and negotiation.

- (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 Commission.

(2) Without affecting the generality of subsection (1), any research or investigation under section 9 (2) (c) that is of the same or of a similar nature as that which may be undertaken by the New South Wales Planning and Environment Commission or any other public authority shall, unless otherwise agreed, be carried out or promoted in conjunction with that Commission or public authority.

19.

Land Commission.

Exercise of
council's
powers by
Commis-
sion.

19. (1) The Minister for Local Government may, by order published in the Gazette, transfer to the Commission such of the functions conferred or imposed on a council by or under the Local Government Act, 1919, as are specified or described in the order.

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

(3) The provisions of the Local Government Act, 1919, 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 Commission were a council and the land in respect of which those functions may be exercised or performed formed part of that council's local government area within the meaning of that Act.

(4) A function conferred or imposed on the Commission 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 Commission by an order under this section shall be exercised or performed by the Commission only in or in relation to land vested in the Commission and specified or described in the order.

PART

Land Commission.

PART IV.

FINANCE.

20. (1) The Commission shall cause to be kept proper **Accounts.** accounts and records in relation to all of its operations and shall, as soon as practicable after 30th June in each year, prepare and submit to the Minister for presentation to Parliament a statement of accounts in a form approved by the Auditor-General, exhibiting a true and correct view of the financial position and transactions of the Commission.

(2) The Minister shall lay the statement of accounts, or cause it to be laid, before each House of Parliament as soon as practicable after the receipt by him of the statement.

21. The accounts of the Commission shall be audited by **Audit.** the Auditor-General, who shall have in respect thereof all the powers conferred on him by any law for the time being in force relating to the audit of public accounts.

22. (1) The Audit Act, 1902, shall apply to commission- **Application**
ers and officers and employees of the Commission in the same **of Audit**
way as it applies to accounting officers of public departments. **Act, 1902.**

(2) The Auditor-General shall report to the Commission and the Minister—

(a) whether in his opinion—

- (i) due provision has been made for the repayment of loans;
- (ii) the value of assets has (so far as he can judge) been in all cases fairly stated;

(iii)

Land Commission.

- (iii) due diligence and care have been shown in the collection and banking of income;
- (iv) expenditure incurred has been duly authorised, vouched and supervised;
- (v) proper account has been kept of plant, stores and materials; and
- (vi) any of the money or other property of the Commission or over which it has control has been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of any audit under section 21, the Commission shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

Investment. 23. The Commission may invest money held by it in Government securities of the Commonwealth or of the State of New South Wales or in any securities guaranteed by the Government of that State, or on call or on fixed deposit, or partly on call and partly on fixed deposit, with the Treasurer or with any bank or in such other securities as the Governor approves or as are prescribed.

Temporary accommodation. 24. (1) For the temporary accommodation of the Commission, it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Commission's funds to such extent as may, from time to time, be approved by the Governor.

(2)

Land Commission.

(2) The Treasurer may advance such money to the Commission, on such terms and conditions as to repayment and interest, as may be agreed upon.

25. (1) The Commission may from time to time, with **Borrowing.** the concurrence of the Treasurer and the approval of the Governor, borrow money for—

- (a) the purpose of exercising or performing any of its functions;
- (b) the renewal of loans;
- (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer or to any bank;
or
- (d) any other purpose of this Act.

(2) Schedule 3 has effect.

PART V.

GENERAL.

26. (1) Where, through his association with the Commission, a person has knowledge of specific information relating to proposals made, or to be made, by the Commission in respect of the acquisition, use, development or disposal of land and that information is not generally known but, if generally known, might reasonably be expected to affect materially the market price of that land, he contravenes this subsection if he—

**Misuse
of infor-
mation.**

- (a) deals, directly or indirectly, in that or in any other land for the purpose of gaining an advantage for himself by the use of that information; or

(b)

Land Commission.

- (b) divulges that information for the purpose of enabling another person to gain an advantage by using that information to deal, directly or indirectly, in that or in any other land.

Penalty : \$2,000.

(2) Where, through his association with the Commission, a person is in a position to influence proposals made, or to be made, by the Commission in respect of the acquisition, use, development or disposal of land and does influence the proposals by securing the inclusion or alteration of any matter in, or the exclusion or omission of any matter from, the proposals, he contravenes this subsection if—

- (a) he does so for the purpose of gaining an advantage for himself; or
- (b) he does so for the purpose of enabling another person to gain an advantage.

Penalty : \$2,000.

(3) Where—

- (a) a contravention of subsection (1) occurs and an advantage, referred to in that subsection, is gained from any dealing in land to which the contravention relates; or
- (b) a contravention of subsection (2) occurs and an advantage, referred to in that subsection, is gained from any dealing in land which would not have been gained if the proposals concerned had not been influenced,

any person who gained that advantage is, whether or not any person has been prosecuted for or convicted of an offence in respect of a contravention of subsection (1) or (2), as the case may be, liable to another person for the amount of any loss incurred by that other person by reason of the gaining of that advantage.

(4)

Land Commission.

(4) Where a loss referred to in subsection (3) is incurred by reason of an advantage gained from a dealing in land, the amount of the loss is the difference between the price at which the dealing was effected and—

- (a) in the case of any dealing to which subsection (1) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the specific information used to gain that advantage had been generally known at that time; or
- (b) in any case to which subsection (2) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the proposals concerned had not been influenced.

(5) An action to recover a loss, referred to in subsection (3), may not be brought after the expiration of 5 years next succeeding the dealing in land in relation to which the loss was incurred.

(6) For the purposes of this section a person is associated with the Commission—

- (a) if he is a commissioner or an officer or employee of the Commission;
- (b) if he is a commissioner or an officer or employee of the New South Wales Planning and Environment Commission or a person appointed to a committee or sub-committee established under section 15 of the State Planning Authority Act, 1963, or to a regional planning committee appointed under Part IV of that Act;
- (c) if he is an officer or a servant of a council;

(d)

Land Commission.

- (d) if he acts or has acted as banker, solicitor, auditor or professional adviser or in any other capacity for the Commission, the Minister, the New South Planning and Environment Commission or a council; or
- (e) where the person, so associated by virtue of paragraph (d), is a body corporate, if he is a director, manager or secretary of that body corporate.

**Disclosure
of interest.**

27. (1) If a commissioner has an interest, direct or indirect, in land, proposals in respect of the acquisition, use, development or disposal of which are to be considered by the Commission, or has a pecuniary interest, direct or indirect, in a contract or proposed contract with the Commission or in any other matter in which the Commission is concerned and is present at a meeting of the Commission at which the proposals are or the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting, as soon as practicable after the commencement thereof, disclose his interest and shall not take part in the consideration or discussion of or vote on any question with respect to the proposals or the contract, proposed contract or other matter.

(2) For the purposes of this section, a person shall be treated as having an indirect interest in land or a contract, proposed contract or other matter if—

- (a) he or any nominee of his is a member of a company or other body which has an interest in the land, or with which the contract is made or is proposed to be made or which has a direct or indirect pecuniary interest in the other matter under consideration; or
- (b) he is a partner, or is in the employment, of a person who has an interest in the land, or with whom the contract is made or is proposed to be made or who has a direct or indirect pecuniary interest in the other matter under consideration.

(3)

Land Commission.

- (3) Notwithstanding subsection (2)—
- (a) that subsection does not apply to membership of or employment under any council or statutory body within the meaning of the Local Government Act, 1919;
 - (b) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body; and
 - (c) a member of a company having not less than 25 members shall not be treated as having an interest in land or in any contract or proposed contract with the Commission or in any other matter in which the Commission is concerned by reason only that the company has an interest in the land or the contract or proposed contract is with or the other matter concerns the company.
- (4) In the case of a man and his wife who are living together, the interest of one spouse shall, if known to the other, be deemed, for the purposes of this section, to be also an interest of the other spouse.
- (5) A general notice in writing to the secretary or the prescribed officer of the Commission by a commissioner to the effect that he or his spouse is a member, or is in the employment, of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any land in which that company or other body has an interest or in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(6)

Land Commission.

(6) The secretary or officer referred to in subsection (5) shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) and of any notice given under subsection (5) and the 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.

(7) Subject to subsection (8), a commissioner contravenes this subsection if he fails to comply with the provisions of subsection (1), unless he proves that he did not know that proposals in respect of the acquisition, use, development or disposal of the land in which he had an interest were, or that he did not know that a contract, proposed contract or other matter in which he had a pecuniary interest was, the subject of consideration at the meeting.

Penalty : \$400.

(8) The Minister may, subject to such conditions as he thinks fit to impose, remove any disability imposed by subsection (1) in any case in which the number of commissioners referred to in subsection (1) so disabled at any one time would be so great a proportion of the whole of the commissioners as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability should be removed.

(9) The Commission may, by resolution, provide for the exclusion of any commissioner from a meeting of the Commission while any proposal, in respect of any land or any contract, proposed contract or other matter in which that commissioner has an interest as referred to in this section, is under consideration.

(10) In this section, "shares" includes stock.

Land Commission.

28. A commissioner or another person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made—

Disclosure
of informa-
tion.

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) with other lawful excuse.

Penalty : \$2,000.

29. (1) The Commission may, by resolution, delegate to a commissioner or an officer or employee of the Commission the exercise or performance of such of the Commission's functions (other than this power of delegation) as are specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

Delegation.

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

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise or performance of any of the functions delegated, or as to time or circumstance.

(4) Notwithstanding any delegation under this section, the Commission may continue to exercise or perform all or any of the functions delegated.

(5)

Land Commission.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Commission and shall be deemed to have been done or suffered by the Commission.

(6) An instrument purporting to be signed by a delegate of the Commission in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Commission under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Commission under this section.

**Annual
report.**

30. (1) The Commission shall, as soon as practicable after 30th June in each year, prepare and forward to the Minister a report of its work and activities for the 12 months preceding that date.

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

**Service
of process.**

31. Any notice, summons, writ or other proceeding to be served on the Commission may be served—

(a) by being left; or

(b) in the case of a notice, by posting it addressed to the Commission,

at its office or, if it has more than one office, at one of its offices.

**Authenti-
cation of
process.**

32. 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 Chairman.

Land Commission.

33. Any penalty imposed by this Act or the regulations ^{Penalties.} may be recovered in a summary manner before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

34. Any charge, fee or money due to the Commission ^{Recovery} may be recovered as a debt or liquidated demand in a court ^{of money.} of competent jurisdiction.

35. (1) The Governor may make regulations, not ^{Regulations.} 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 \$100 for any contravention thereof.

36. The Statutory and Other Offices Remuneration Act, ^{Amendment} 1975, is amended by inserting at the end of Part 1 of Schedule ^{of Act No.} 2 the following matter :— ^{4, 1976.}

Chairman of the Land Commission of New South Wales.

Land Commission.

Sec. 6.

SCHEDULE 1.

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION.

Age of
commis-
sioners.

1. A person who is of or above the age of 65 years shall not be appointed as a commissioner or to act in the office of a commissioner under clause 7.

Terms of
office.

2. (1) The Chairman shall, subject to this Act, be appointed for such term, not exceeding 7 years, as is specified in the instrument of his appointment.

(2) A part-time commissioner shall, subject to this Act, be appointed for such term, not exceeding 5 years, as is specified in the instrument of his appointment.

(3) The Chairman or a part-time commissioner shall, if otherwise qualified, be eligible for re-appointment from time to time for such term, in accordance with subclause (1) or (2), as the case may be, as is specified in the instrument of his re-appointment.

Chairman
to devote
whole of
his time
to the
duties of
his office.

3. The Chairman shall devote the whole of his time to the duties of his office.

Provisions
relating to
part-time
commis-
sioners.

4. (1) Where, by or under any 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, that provision shall not operate to disqualify him from holding that office and also the office of a part-time commissioner or from accepting and retaining any remuneration payable to a part-time commissioner under clause 5.

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

Remunera-
tion
of commis-
sioners.

5. (1) The Chairman 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.

SCHEDULE

Land Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

(2) Each part-time commissioner 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.

6. The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a commissioner and a commissioner shall not, in his capacity as a commissioner, be subject to the provisions of that Act during his term of office.

Public Service Act, 1902, not to apply.

7. (1) The Minister may appoint any person (including a part-time commissioner) to act in the office of the Chairman or appoint any person to act in the office of a part-time commissioner while the Chairman or that part-time commissioner, as the case may be, is absent from his office through illness or any other cause, and that person while so acting—

Appointment of substitutes to act during absence of Chairman or part-time commissioner.

- (a) shall have and may exercise and perform the functions of the commissioner in whose office he is appointed to act; and
- (b) shall be deemed to be the Chairman or a part-time commissioner, according to whether he is appointed to act in the office of the Chairman or of a part-time commissioner.

(2) A part-time commissioner is, for the purposes of subclause (1), deemed to be absent from his office if he is acting in the office of the Chairman pursuant to subclause (1).

(3) A commissioner is, for the purposes of subclause (1), deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with clause 9.

(4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a commissioner, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by that commissioner.

8. (1) A commissioner shall be deemed to have vacated his office—

Vacation of office.

- (a) if he dies;
- (b) if, being the Chairman, he engages in New South Wales or elsewhere during his term of office in any paid employment outside the duties of his office without the approval of the Minister;

SCHEDULE

*Land Commission.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

- (c) if 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, allowances or estate for their benefit;
- (d) if, being the Chairman, he absents himself from duty for a period exceeding 14 consecutive days, except on leave granted by the Minister, which leave the Minister is hereby authorised to grant, or unless the absence is occasioned by illness or unavoidable cause;
- (e) if, being a part-time commissioner, he is absent from 4 consecutive ordinary meetings of the Commission of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister 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;
- (f) if 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;
- (g) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if he declines office;
- (j) if he is removed from office by the Governor under subclause (2); or
- (k) upon his attaining the age of 65 years.

(2) The Governor may remove a commissioner from office for misbehaviour or incompetence.

Filling of
casual
vacancies.

9. On the occurrence of a vacancy in the office of a commissioner, the Governor may appoint a person to the vacant office for the balance of his predecessor's term of office.

Quorum.

10. The number of commissioners which shall constitute a quorum at any meeting of the Commission shall be 2.

SCHEDULE

Land Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

11. (1) Any duly convened meeting of the Commission at which a quorum is present shall be competent to transact any business of the Commission. Meetings.

(2) Questions arising at a meeting of the Commission shall be determined by a majority of votes of the members present and voting.

(3) The Chairman shall preside at all meetings of the Commission at which he is present.

(4) If the Chairman is not present at a meeting of the Commission, a commissioner elected by the commissioners present shall preside at that meeting.

(5) The person presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

12. The Commission shall cause full and accurate minutes to be kept of its proceedings at meetings, and shall submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held. Minutes.

13. The procedure for the calling of, and for the conduct of business at, meetings of the Commission shall, subject to any procedure that is specified in this Act or prescribed, be as determined by the Commission. General procedure.

14. (1) No matter or thing done, and no contract entered into, by the Commission, and no matter or thing done by a commissioner or by any other person acting under the direction or as delegate of the Commission shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject the commissioner or person personally to any action, liability, claim or demand. Protection from liability.

(2) Nothing in subclause (1) exempts any commissioner or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Commission, and which the commissioner or other person authorised or joined in authorising.

SCHEDULE

Land Commission.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

Preserva-
tion of
rights of
Chairman
and
certain
servants
previously
public
servants,
etc.

15. (1) In this clause—

“servant” means an officer or employee of the Commission;

“statutory body” means any body declared under clause 17 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 Chairman or a servant was, immediately before his appointment as the Chairman or a servant—

- (a) an officer of the Public Service;
- (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 as 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 the Chairman or a servant; 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 the Chairman or a servant, and—

- (h) his service as the Chairman or a servant 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.

SCHEDULE

Land Commission.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

(3) If the Chairman or a servant 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 that scheme he shall not be so entitled upon his becoming (whether upon his appointment as the Chairman or a servant or at any later time while he holds office as the Chairman or a servant) 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 Chairman or a servant 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 that scheme.

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

16. (1) In this clause—

“retiring age” means—

- (a) in relation to a person who was, immediately before his appointment as Chairman, an officer of the Public Service—the age of 60 years; and
- (b) in relation to a person who was, immediately before his appointment as Chairman, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which that person belonged immediately before his appointment as Chairman), as the case may be, of that statutory body are entitled to retire;

Chairman
entitled to
re-appoint-
ment in
former
employment
in certain
cases.

“statutory body” means any body declared under clause 17 to be a statutory body for the purposes of this Schedule.

(2) A person who ceases to be the Chairman, otherwise than pursuant to clause 8 (1) (paragraph (h) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as Chairman, he was—

- (a) an officer of the Public Service—to some office in the Public Service; or

Land Commission.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE COMMISSION—*continued.*

- (b) an officer or employee of a statutory body—to some office in the service of that body,
not lower in classification and salary than that which he held immediately before his appointment as Chairman.
- Declaration of statutory bodies. 17. 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.
- Presumptions. 18. In proceedings by or against the Commission 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;
 - (c) the appointment of any commissioner; or
 - (d) the presence of a quorum at any meeting of the Commission.

SCHEDULE 2.

Sec. 12.

MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

The Public Works Act, 1912, shall, for the purposes referred to in section 12, be deemed to be amended—

- (a) (i) by omitting from section 53 the words “so seised, possessed or entitled as aforesaid”;
- (ii) by omitting from section 53 the words “as in the preceding section mentioned” and by inserting instead the words “and may claim compensation in respect of the land resumed and agree to, settle and determine with the Constructing Authority the amount of such compensation”;
- (iii) by inserting in section 53 (3) after the word “release” the words “and to claim, agree to, settle and determine with the Constructing Authority the amount of compensation”;
- (iv) by omitting section 53 (5);

SCHEDULE

Land Commission.

SCHEDULE 2—*continued.*

MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

- (b) (i) by inserting in section 102 after the word “time” where secondly occurring the words “as the Constructing Authority allows or, in default of any such allowance of further time, within such time”;
- (ii) by omitting from section 102 the words “and upon the Crown Solicitor”;
- (iii) by inserting at the end of section 102 the following subsection:—

(2) Upon receipt of such notice of claim, the Constructing Authority shall obtain from its solicitor, the Crown Solicitor, or the solicitor to any body corporate acting as agent for the Constructing Authority or a solicitor retained by such a body corporate, a report on the title of the land in respect of which the claim has been served by the claimant.

- (c) by omitting from section 103 the words “Crown Solicitor he shall forward the same, together with his report thereon to the Constructing Authority, who” and by inserting instead the words “Constructing Authority it”;

- (d) by omitting section 124 and by inserting instead the following section:—

124. (1) For the purpose of ascertaining the compensation to be paid, regard shall in every case be had by the Court not only to the value of the land taken but also to the damage (if any) caused by the severing of the lands taken from other lands of the owner or by the exercise of any statutory powers by the Constructing Authority otherwise injuriously affecting such other lands and the Court shall assess the compensation according to what it finds to have been the value of such lands, estate or interest at the time the notification was published in the Gazette and without being bound in any way by the amount of the valuation notified to such claimant and without reference to any alteration in such value arising from the construction of any works on the lands taken.

(2) Notwithstanding subsection (1), the Court in ascertaining such compensation shall take into consideration and give effect to, by way of set-off or abatement, any enhancement in the value of the interest of any such owner in any land adjoining the land taken or severed therefrom

SCHEDULE

Land Commission.

SCHEDULE 2—*continued.*MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

by the construction of any works on the land taken, but in no case does this subsection operate so as to require any payment to be made by such owner to the Constructing Authority in consideration of such enhancement in value as aforesaid.

(3) Notwithstanding subsection (1), in the case of land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel no compensation shall be allowed or awarded unless—

- (a) the surface of the overlying soil is disturbed;
 - (b) the support of such surface is destroyed or injuriously affected by the construction of such tunnel; or
 - (c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.
- (e) by omitting section 126 (3);
- (f) (i) by omitting from section 135 (1) the words “such conveyances” and by inserting instead the words “conveyances or assurances of lands taken”;
- (ii) by omitting from section 135 (2) the words “incurred on the part as well of the vendor as of the purchaser,”.

Sec. 25.

SCHEDULE 3.

PROVISIONS RELATING TO LOANS.

Reserves for repayments. 1. (1) The Commission shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Commission.

(2) The Commission shall, during each year, transfer from the revenue of the Commission to each such fund a sum not less than the sum that the Commission, in its application for approval of the loan, specified that it proposed to transfer to that fund.

SCHEDULE

Land Commission.

SCHEDULE 3—*continued.*

PROVISIONS RELATING TO LOANS—*continued.*

(3) Money held as a reserve for loan repayment may be invested in Government securities of the Commonwealth or the State of New South Wales or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Commission or in any securities guaranteed by the Government of that State or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(4) Any interest or profits realised on any such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(5) All money paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(6) Where the Commission decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, the Commission shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of four and a half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(7) If, after a loan has been repaid, there remains in the reserve for repayment of that loan any balance, that balance shall form part of the general funds of the Commission.

(8) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.

(9) This clause shall not apply to any loan to be repaid by instalments at intervals of one year or less.

2. (1) For securing repayment of the principal and interest on any Debentures, money borrowed, the Commission may, as provided by the regulations, etc. issue debentures, bonds, inscribed stock or other prescribed securities.

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond, and whether separated therefrom or not, may be transferred by simple delivery.

SCHEDULE

Land Commission.

SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

(3) Inscribed stock shall be transferable in the books of the Commission in accordance with the regulations.

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall, as regards both the issue and transfer thereof for full consideration or money or money's worth, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule to that Act.

**Payment of
debentures
and coupons.**

3. (1) The holder of a coupon originally annexed to a debenture or bond, and whether separated therefrom or not, shall be entitled to receive payment from the Commission of the interest specified in the coupon on its presentation on or after the date when, and at the place where, the interest is payable.

(2) The due repayment of any loan in respect of which debentures, bonds, stock or any other prescribed securities have been issued by the Commission and the interest thereon, shall be a charge upon the income and revenue of the Commission from whatever source arising and is hereby guaranteed by the Government.

(3) Any liability arising under the guarantee given by subclause (2) shall be discharged out of money provided by Parliament.

(4) The charge created by subclause (2) shall not prejudice or affect any power of the Commission to sell, convey, lease or otherwise deal with, free of the charge, any property vested in it.

**Raising
loans
in any
country.**

4. (1) Notwithstanding any other provision of this Act, any money which the Commission is authorised to borrow may be borrowed by a loan raised, wholly or in part, in such places outside New South Wales as the Governor on the recommendation of the Treasurer may approve, and may be negotiated and raised in any currency.

(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and contain any term, condition or provision permitted under the law of the place where the loan is raised and the Commission may establish and conduct in that place registries relating to the securities issued in respect of that loan.

(3) The Commission may, in respect of any such loan, agree that a sinking fund shall be established and controlled at such place and in such manner as may be found necessary or expedient in the

Land Commission.

SCHEDULE 3—*continued.*

PROVISIONS RELATING TO LOANS—*continued.*

circumstances of the case and, where any sinking fund is so established, the provisions of clause 1 shall apply with regard to that loan only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

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

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

(6) The Governor may, upon the recommendation of the Commission, by notification published in the Gazette, appoint two or more persons to enter into for and on behalf of the Commission all such agreements as the Commission is by this clause authorised to enter into and to sign, execute or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this clause provided for and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Act and may, upon the like recommendation and by a like notification, revoke or vary any such appointment and make any fresh appointment.

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

(8) All debentures, bonds, stock or other securities, bearing the signatures of the persons so appointed in that behalf, shall be deemed to be securities lawfully issued under the seal of the Commission and the principal money and interest secured thereby shall be a charge upon the income and revenue of the Commission from whatever source arising, and the due repayment of that principal

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SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

money and that interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or issued under the authority of this clause and bearing the signatures of those persons shall be deemed to have been lawfully made or issued by the Commission and, if they purport to have been sealed by those persons, to have been lawfully executed by the Commission under seal.

(9) A holder of any such debenture, bond, stock or other security shall not be bound to inquire whether the issue of the debenture, bond, stock or security was, in fact, duly authorised.

(10) Subject to this clause and the law in force in the place where any loan is raised under this clause and applicable to that loan and the securities issued in connection therewith, the provisions of this Schedule, other than clauses 2 (1), 6 (3) and 6 (4), shall apply to and in respect of that loan and those securities in the same way as they apply to and in respect of any other loan and any other securities.

Trustees.

5. (1) Any trustee, unless expressly forbidden by any instrument creating the trust, may invest any trust money in his hands in stock inscribed by the Commission or in any debentures, bonds or other securities issued in accordance with this Act, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925.

(2) Any debenture or bond issued, stock inscribed, or other security issued, in pursuance of this Act, shall be a lawful investment for any money which any company, council or body corporate, incorporated by any Act, is authorised or directed to invest in addition to any other investment authorised for the investment of that money.

(3) No notice of any express, implied or constructive trust shall be received by the Commission or by any officer or employee of the Commission in relation to any debenture or coupon issued or stock inscribed by the Commission.

Lost debentures.

6. (1) If any debenture or bond issued by the Commission is lost, destroyed or defaced before it has been redeemed the Commission may, subject to the provisions of this clause, issue a new debenture or bond in its place.

SCHEDULE

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SCHEDULE 3—*continued.*

PROVISIONS RELATING TO LOANS—*continued.*

(2) A new debenture or bond, issued under subclause (1) with interest coupon annexed, shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) Where a debenture or bond is lost or destroyed, a new debenture or bond shall not be issued unless—

- (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before redemption;
- (b) such advertisements as the Court may direct have been published;
- (c) 6 months have elapsed since the publication of the last of those advertisements; and
- (d) sufficient security has been given to the Commission to indemnify it against any double payment if the missing debenture or bond is at any time thereafter presented for redemption.

(4) Where a debenture or bond is defaced, a new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Commission for cancellation.

(5) The provisions of this clause shall apply to and in respect of the case of a lost, destroyed or defaced coupon in the same way as they apply to and in respect of a lost, destroyed or defaced debenture or bond.

(6) Notwithstanding any other provision of this clause, in the case of loss, theft, destruction, mutilation or defacement of any debenture or bond issued under clause 4, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Commission of the loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Commission receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond is at any time thereafter presented for payment.

7. (1) A person advancing money to the Commission shall not be bound to inquire into the application of the money advanced or be in any way responsible for its non-application or misapplication. Protection
of inves-
tors.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Commission shall, in favour of a lender and of any holder of any security given by the

SCHEDULE

*Land Commission.*SCHEDULE 3—*continued.*PROVISIONS RELATING TO LOANS—*continued.*

Commission, be conclusive evidence that all conditions precedent to the borrowing have been complied with and, where the approval notified is to a borrowing by the Commission in a place outside New South Wales and in a particular currency, shall also be conclusive evidence in favour of those persons of the approval of the Governor to the borrowing in the place and in the currency specified in the notification.

Securities
rank
equally.

8. All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Commission shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 2nd November, 1976*