

HERITAGE (AMENDMENT) BILL, 1979 (No. 2)

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Environmental Planning and Assessment Bill, 1979, and the Land and Environment Court Bill, 1979.

The objects of this Bill are—

- (a) to make amendments to the Heritage Act, 1977, consequent on the enactment of the proposed Environmental Planning and Assessment Act, 1979, and the proposed Land and Environment Court Act, 1979;
- (b) to enable the Heritage Council to request the Director of Environment and Planning or councils to prepare draft environmental planning instruments in respect of land within heritage precincts in accordance with proposals submitted by the Heritage Council (Schedule 1 (20)—proposed section 82);
- (c) to enable the Heritage Council in certain cases to prepare draft environmental planning instruments referred to in paragraph (b) above (Schedule 1 (20)—proposed section 82);
- (d) to provide that a draft environmental planning instrument may not make a provision applicable to land to which an interim conservation order or permanent conservation order applies unless the Heritage Council has been consulted (Schedule 1 (20)—proposed section 83 (1));
- (e) to require the Minister to consult the Heritage Council in respect of a provision referred to in paragraph (d) above before making the environmental planning instrument (Schedule 1 (20)—proposed section 83 (2));
- (f) to repeal provisions relating to conservation schemes (Schedule 1);
- (g) to bring the provisions respecting loans to the corporation sole constituted by the Heritage Act, 1977, into line with those set out in Schedule 6 to the Environmental Planning and Assessment Bill, 1979, applicable to loans to the corporation sole to be constituted by that Bill (Schedule 2); and
- (h) to make other provisions of a minor, consequential or ancillary nature.

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HERITAGE (AMENDMENT) BILL, 1979 (No. 2)

No. , 1979.

A BILL FOR

An Act to amend the Heritage Act, 1977, consequent on the enactment of the Environmental Planning and Assessment Act, 1979, and the Land and Environment Court Act, 1979, and to make provisions with respect to the making of certain environmental planning instruments and the borrowing of money under the Heritage Act, 1977.

[MR HAIGH—13 *November*, 1979.]

Heritage (Amendment).

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 :—

- 5 **1.** This Act may be cited as the "Heritage (Amendment) Act, Short
1979". title.
- 2.** (1) Except as provided in this section, this Act shall Com-
commence on the date of assent to this Act. mencement.
- (2) Section 5 shall, in its application to a provision of
10 Schedule 1 or 2, commence on the day on which that provision
commences.
- (3) Schedule 1 shall commence on the day appointed and
notified under section 2 (2) of the Environmental Planning and
Assessment Act, 1979.
- 15 **3.** The Heritage Act, 1977, is referred to in this Act as the Principal
Act.
- 4.** This Act contains the following Schedules :— Schedules.
- SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT,
 RELATING TO ENVIRONMENTAL PLANNING.**
- 20 **SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT,
 RELATING TO LOANS.**
- 5.** The Principal Act is amended in the manner set forth in Amend-
ment of
Act No.
136, 1977.
Schedules 1 and 2.
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Heritage (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING.

- (1) (a) Section 3—
5 From the matter relating to Part IV, Division 3, Subdivision 2, omit "*local government*".
- (b) Section 3—
10 From the matter relating to Part IV, Division 4, Subdivisions 1 and 2, omit "*local government*" wherever occurring.
- (c) Section 3—
15 Omit the matter relating to Part V, insert instead :—
PART V.—ENVIRONMENTAL PLANNING INSTRUMENTS AFFECTING CERTAIN LAND—ss. 80–83.
- (d) Section 3—
From the matter relating to Part VII, Division 2, omit "*Supreme*".
- (2) (a) Section 4 (1), definition of "Commission"—
20 Omit the definition.
- (b) Section 4 (1), definition of "consent authority"—
25 (i) After "under that Act," insert "the Environmental Planning and Assessment Act, 1979, or an environmental planning instrument in force thereunder,".
- (ii) From paragraph (a), omit "or" where lastly occurring.
- (iii) Omit paragraph (b).

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

5 (c) Section 4 (1), definition of “conservation instrument”—

Omit “, a permanent conservation order or a conservation scheme”, insert instead “or a permanent conservation order”.

(d) Section 4 (1), definition of “conservation scheme”—

10 Omit the definition.

(e) Section 4 (1), definitions of “Court”, “Department”—

After the definition of “council”, insert :—

“Court” means the Land and Environment Court;

15 “Department” means the Department of Environment and Planning;

(f) Section 4 (1), definition of “Director”—

After the definition of “development”, insert :—

20 “Director” means the Director of Environment and Planning appointed under the Environmental Planning and Assessment Act, 1979;

(g) Section 4 (1), definitions of “Supreme Court”, “Tribunal”—

Omit the definitions.

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

(3) Section 8 (2) (d)—

5 Omit the paragraph, insert instead :—

- (d) a person nominated by the Director who shall be an officer of the Department within the meaning of the Environmental Planning and Assessment Act, 1979;

10 (4) Section 24—

Omit “or a conservation scheme with respect to that item or a conservation scheme with respect to that precinct”, insert instead “with respect to that item or an environmental planning instrument referred to in section 82 with respect to the land in that precinct”.

(5) Section 29 (1) (d)—

Omit “Commission”, insert instead “Director”.

(6) Section 30 (2) (b)—

Omit the paragraph, insert instead :—

- 20 (b) a heritage precinct if an environmental planning instrument referred to in section 82 takes effect under the Environmental Planning and Assessment Act, 1979, in respect of the land within that heritage precinct; or

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

(7) Section 31—

- 5 Omit “or a conservation scheme with respect to that item or a conservation scheme with respect to that precinct”, insert instead “with respect to that item or an environmental planning instrument referred to in section 82 with respect to the land in that precinct”.

10 (8) Section 39 (1) (c) (iii)—

Omit “Commission”, insert instead “Director”.

(9) Section 46 (1) (d)—

Omit “Commission”, insert instead “Director”.

(10) Section 47—

- 15 Omit the section.

(11) Section 50 (1) (c) (iii)—

Omit “Commission”, insert instead “Director”.

(12) (a) Section 56—

Omit “local government”.

- 20 (b) Section 56 (c), (d), (e)—

Omit the paragraphs, insert instead :—

(c) the Environmental Planning and Assessment Act, 1979;

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

- (13) Part IV, Division 3, Subdivision 2, heading—
5 Omit "*local government*".
- (14) Section 66—
After "that Act," insert "the Environmental Planning and Assessment Act, 1979, any environmental planning instrument in force thereunder,".
- 10 (15) Sections 67, 68, 69—
Omit "*local government*" wherever occurring.
- (16) (a) Part IV, Division 4, Subdivision 1, heading—
Omit "*local government*".
- (b) Part IV, Division 4, Subdivision 2, heading—
15 Omit "*local government*".
- (17) (a) Section 76—
After "that Act," insert "the Environmental Planning and Assessment Act, 1979, any environmental planning instrument in force thereunder,".
- 20 (b) Section 76—
Omit "*local government*".
- (c) Section 76—
Omit "*instrument*", insert instead "*instruments*".

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

(18) Section 77 (1) (b)—

5 Omit “Tribunal”, insert instead “Court”.

(19) Section 79—

Omit the section.

(20) Part V—

Omit the Part, insert instead :—

10

PART V.

ENVIRONMENTAL PLANNING INSTRUMENTS AFFECTING
CERTAIN LAND.

15

80. In this Part, “environmental planning instrument” has the meaning ascribed thereto by the Environmental Planning and Assessment Act, 1979. Interpretation: Pt. V.

81. To the extent of any inconsistency between this Part and the Environmental Planning and Assessment Act, 1979, this Part shall prevail. Application of Part.

20

82. (1) The Heritage Council may, with the approval of the Minister, request the Director or a council to prepare a draft environmental planning instrument in respect of land within a heritage precinct in accordance with proposals submitted by the Heritage Council with its request. Heritage Council may request the preparation of an environmental planning instrument.

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

5 (2) Upon receipt of a request referred to in subsection (1), the Director or the council, as the case may be, shall consider the request and inform the Heritage Council within 60 days whether he or it is willing and able to comply with the request.

10 (3) Where the Director or the council informs the Heritage Council that he or it is so willing and able, the Heritage Council shall assist the Director or the council, as the case may be, to prepare the draft environmental planning instrument.

15 (4) Where the Director or council does not so inform the Heritage Council or informs the Heritage Council that he or it is not so willing and able, the Heritage Council may, with the approval of the Minister, prepare or cause to be prepared the draft environmental planning instrument as if it were the Director or the council, as the case may be, causing the instrument to be prepared.

20 (5) A draft environmental planning instrument prepared in accordance with subsection (3) or (4) shall be deemed for the purposes of the Environmental Planning and Assessment Act, 1979, to be a draft environmental planning instrument to which the provisions of section 47 or 66, as the case may be, of that Act apply.

25 (6) The draft environmental planning instrument referred to in subsection (5) may be dealt with in accordance with the relevant provisions of Part III of the Environmental Planning and Assessment Act, 1979, succeeding the sections mentioned in subsection (5) and where an environmental planning instrument in respect of that draft is made by the Minister under the Environmental Planning and Assessment Act, 1979, that instrument shall, for the purposes of that Act, be deemed to be made in accordance with that Act.

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

- 5 83. (1) A draft environmental planning instrument shall not make a provision in respect of or affecting land to which a conservation instrument applies unless the Heritage Council has proposed or been first consulted in respect of the provision. Heritage Council to be consulted in the preparation of certain environmental planning instruments.
- 10 (2) In considering whether to make an environmental planning instrument containing a provision referred to in subsection (1), the Minister shall seek and have regard to the opinion of the Heritage Council as to whether that provision should be made, and may make the instrument with that provision included.
- 15 (3) Subsection (2) does not apply to an environmental planning instrument referred to in section 82.
- (21) (a) Section 120 (1), (2), (3)—
 Omit “District” wherever occurring.
- 20 (b) Section 120 (1)—
 Omit “of New South Wales”.
- (c) Section 120 (4)—
 Omit the subsection.
- (22) Section 121 (5) (c)—
- 25 Omit “Commission”, insert instead “Director”.
- (23) (a) Section 124 (1)—
 Omit “or a conservation scheme”.

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

- (b) Section 124 (1) (a)—
5 Omit “or that conservation scheme”.
- (c) Section 124 (2)—
Omit “or conservation scheme”.
- (24) Section 125—
Omit “or a conservation scheme”.
- 10 (25) (a) Section 127 (1)—
Omit “or a conservation scheme”.
- (b) Section 127 (3)—
Omit “or a conservation scheme”.
- (c) Section 127 (3)—
15 Omit “or that conservation scheme”.
- (26) Section 128—
Omit “or a conservation scheme” wherever occurring.
- (27) Section 131 (a) (iii)—
Omit “Commission”, insert instead “Director”.
- 20 (28) Section 147 (2)—
Omit the subsection.

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

- (29) Section 151 (2), (3)—
5 Omit “Commission” wherever occurring, insert instead “Department”.
- (30) Part VII, Division 2, heading—
Omit “Supreme”.
- (31) Section 153 (1)—
10 Omit “Supreme”.
- (32) (a) Section 154 (1), (2)—
Omit “Supreme” wherever occurring.
(b) Section 154 (3)—
Omit the subsection.
- 15 (33) (a) Section 155—
Omit “Supreme”.
(b) Section 155—
Omit “that”, insert instead “the”.
- (34) Section 156 (3)—
20 Omit “or the Commission”.
- (35) Section 158—
Omit “Supreme” wherever occurring.

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

- (36) Section 167 (2) (a) (i)—
- 5 Omit “and, in the case of a conservation instrument being a conservation scheme, in such manner as is specified in the certificate.”.

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS.

- 10 (1) Section 3—

Omit “SCHEDULE.”, insert instead :—

SCHEDULE 1.—ELIZABETH FARM.

SCHEDULE 2.—LOANS.

- (2) Section 101—

- 15 After “Part”, insert “and in Schedule 2”.

- (3) Section 111—

Omit the section, insert instead :—

111. Schedule 2 has effect.

Provisions
relating
to loans.

Heritage (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

(4) Schedule 2—

5 After Schedule 1, insert :—

SCHEDULE 2.

Sec. 111.

LOANS.

10 1. (1) The corporation shall establish a reserve for loan repay- Reserves
ment fund in respect of each loan or renewal loan raised by the for repay-
corporation. corporation. ments.

15 (2) There shall, during each year, be transferred from the
Fund to each fund referred to in subclause (1) of this clause a sum
not less than the sum that the corporation, in its application for
approval of the loan, specified that it proposed to transfer to that
fund.

20 (3) Where any land or property of any kind which has been
provided out of loan money is sold before the loan has been wholly
repaid, the net proceeds of the sale shall be added to the reserve for
loan repayment in the appropriate fund or paid directly to the
lender.

25 (4) Money held as a reserve for loan repayment may be
invested as a common fund in Government securities of the Com-
monwealth or the State of New South Wales or in debentures, bonds,
inscribed stock or other prescribed securities, in any loan of the
corporation 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.

30 (5) 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.

35 (6) 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.

Heritage (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

- 5 (7) Where the corporation 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 corporation 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 4.5 per cent per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.
- 10
- 15 (8) If, after a loan has been repaid, there remains in the reserve for loan repayment of that loan any balance, that balance shall form part of the general funds of the corporation.
- (9) 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.
- 20 (10) This clause shall not apply to any loan to be repaid by instalments at intervals of one year or less.
- 25 2. (1) For securing repayment of the principal and interest on Debentures, any money borrowed, the corporation may, as provided by the etc. 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.
- 30 (3) Inscribed stock shall be transferable in the books of the corporation in accordance with the regulations.
- 35 (4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall, as regards both the issue and transfer thereof for full consideration for money or money's worth, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule to that Act.

*Heritage (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

5 3. (1) The holder of a coupon originally annexed to a debenture Payment of
or bond, and whether separated therefrom or not, shall be entitled to debentures
receive payment from the corporation of the interest specified in the and coupons.
coupon on its presentation on or after the date when, and at the
place where, the interest is payable.

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

15 (3) Any liability arising under the guarantee given by sub-
clause (2) of this clause shall be discharged out of money provided
by Parliament.

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

25 4. (1) This clause applies to and in respect of a loan, wherever Raising
raised, where the Governor, with the concurrence of the Minister loans
and the Treasurer, approves (as referred to in section 142) of in any
the loan in and by an instrument which specifies that it is a loan country.
to which this clause applies.

(2) Except as provided in this clause, the provisions of this
Schedule do not apply to or in respect of a loan to which this
clause applies.

30 (3) A loan to which this clause applies may be—

(a) raised in such amounts and in such currencies;

(b) raised in such manner and on such terms and conditions;
and

(c) secured by such securities, if any,

35 as the Governor, with the concurrence of the Minister and the
Treasurer, approves in and by the instrument referred to in subclause
(1) of this clause or in that instrument by reference to another
instrument.

Heritage (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

- 5 (4) Any security or other instrument issued or executed by the corporation or the Government in respect of a loan to which this clause applies shall, both as regards its issue or execution and its transfer or assignment 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.
- 10 (5) The Governor may, upon the recommendation of the corporation, appoint 2 or more persons for and on behalf of the corporation to enter into any securities or other instruments in respect of a loan to which this clause applies and to sign, execute, or otherwise perfect all such securities or other instruments and to do all such things as may be necessary or convenient to be done for the purpose of raising the loan under this Act, and may upon 15 the like recommendation revoke or vary any such appointment and make any fresh appointment.
- 20 (6) The production of a copy of the Gazette containing a notification of any appointment or revocation under subclause (5) of this clause shall in favour of a lender, of the holder of any security or of a person to whom the benefit under any such instrument is assigned be conclusive evidence of the appointment or revocation.
- 25 (7) The due payment of any amounts payable by the corporation to the lender in respect of any loan to which this clause applies is a charge on the income and revenue of the corporation, from whatever source arising, and is hereby guaranteed by the Government, and, where any agreement to which the Government 30 is a party specifies any terms or conditions upon or subject to which the due payment of those amounts is so guaranteed, the due payment of those amounts is so guaranteed upon or subject to those terms and conditions.
- 35 (8) An agreement with respect to a loan to which this clause applies and to which the Government and the corporation are parties may require the Government to make any payment for which the corporation would, under the agreement, be liable but for its being precluded from making the payment by any law in force in New South Wales.

Heritage (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

5 (9) The Consolidated Revenue Fund is hereby appropriated for the purpose of meeting any liability in respect of any guarantee referred to in subclause (7) of this clause and any liability of the Government arising under any agreement referred to in subclause (8) of this clause.

(10) The provisions of—

- 10 (a) clauses 7, 8, 9 and 10 apply to and in respect of the appointment of a receiver by reason of any default being made by the corporation in making any payment in respect of a loan to which this clause applies and to and in respect of a receiver appointed by virtue of the application of clause 7 by this subclause in the same way as those clauses apply to and in respect of the appointment of a receiver by reason of any default being made by the corporation in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued, or stock inscribed, by the corporation and to and in respect of a receiver appointed under clause 7;
- 15
- 20
- 25 (b) clause 11 (1) apply to and in respect of a person advancing money to the corporation by way of a loan to which this clause applies in the same way as they apply to and in respect of a person advancing money to the corporation as referred to in clause 11 (1);
- 30 (c) clause 11 (2) apply to and in respect of a notification in the Gazette of the approval of the Governor having been given to a loan to which this clause applies in the same way as they apply to and in respect of a notification in the Gazette of the approval of the Governor having been given to a borrowing referred to in clause 11 (2);
- 35 (d) clause 12 apply to and in respect of a loan to which this clause applies as if the reference in that clause to other securities which are secured upon the income and revenue of the corporation included a reference to such a loan; and
- 40 (e) any other clause of this Schedule (being a clause that, in an agreement between the corporation and the lender with respect to a loan to which this clause applies, is specified as being a clause that applies to and in respect

*Heritage (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

- 5 of the loan or as being a clause that, with such modifications or additions as are so specified, applies to and in respect of the loan) apply or apply with those modifications or additions, as the case may be, to and in respect of the loan.
- 10 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 corporation 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.
- 15 (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.
- 20 (3) No notice of any express, implied or constructive trust shall be received by the corporation or by any officer or employee of the Department in relation to any debenture or coupon issued or stock inscribed by the corporation.
- 25 6. (1) If any debenture or bond issued by the corporation is lost, Lost destroyed or defaced before it has been redeemed the corporation debentures. may, subject to the provisions of this clause, issue a new debenture or bond in its place.
- 30 (2) A new debenture or bond, issued under subclause (1) of this clause 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.
- 35 (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;

Heritage (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

- 5 (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
- 10 (d) sufficient security has been given to the corporation 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 corporation for cancellation.

- 15 (5) The provisions of this clause shall apply to and in respect 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.

- 20 (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 corporation 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 corporation receiving security or indemnity satisfactory to
- 25 it against double payment if the missing debenture or bond is at any time thereafter presented for payment.

7. (1) If for 6 months default is made by the corporation in **Receivers.** making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the corporation the holder thereof may apply to the Supreme Court for the appointment of a receiver of the income of the corporation.
- 30

(2) A receiver may be appointed in respect of the income of the corporation either generally or as regards specified income.

- 35 (3) The Supreme Court may make such orders and give such directions as it may deem proper for and with respect to all or any of the following matters:—

(a) the appointment of a receiver;

Heritage (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

- (b) the removal of a receiver;
- 5 (c) the appointment of a receiver in place of a receiver previously appointed.
- (4) The receiver shall be deemed to be an officer of the Supreme Court, and shall act under its directions.
- 10 8. (1) A receiver shall have power to collect all income payable to the corporation which he has by order of the Supreme Court been so authorised to collect and for the purposes of this subclause the receiver shall be deemed to be the corporation and may exercise all the powers of the corporation. Powers and duties of receivers.
- 15 (2) The receiver shall discharge such duties of the corporation or of any officers of the Department (as defined in the Environmental Planning and Assessment Act, 1979) as may be prescribed.
- 20 9. The receiver shall be entitled to such commission or remuneration for his services as the Supreme Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver. Commission to receiver.
- 25 10. The receiver shall, subject to any order of the Supreme Court, pay and apply all money received by him in the following order, that is to say— Application of money received.
- (a) firstly, in payment of the costs, charges, and expenses of collection, and of his commission or remuneration;
- (b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be; and
- 30 (c) thirdly, in payment of all the residue of the money to the corporation.

Heritage (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.**

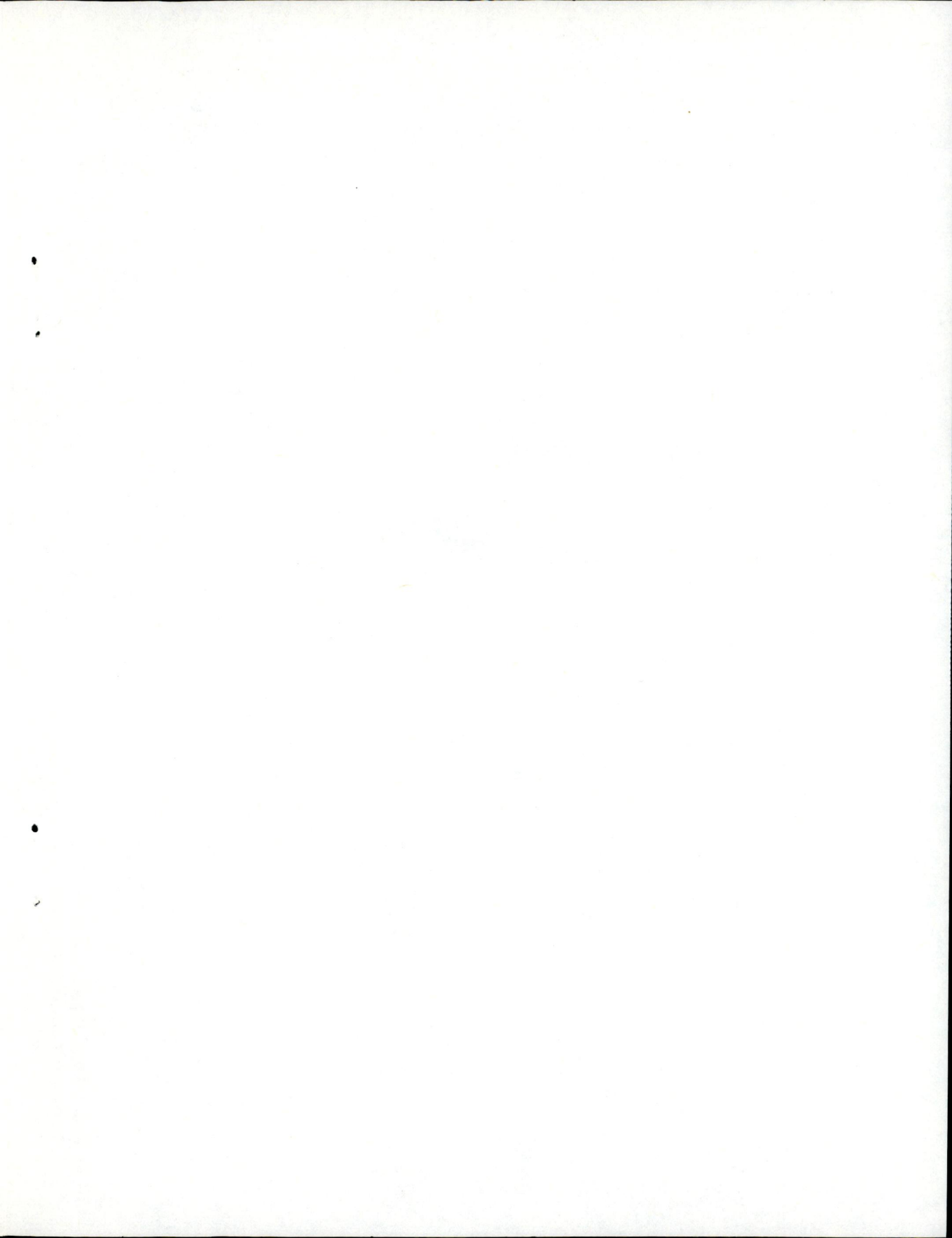
5 11. (1) A person advancing money to the corporation shall not be bound to inquire into the application of the money advanced or be in any way responsible for its non-application or misapplication. Protection
of investors.

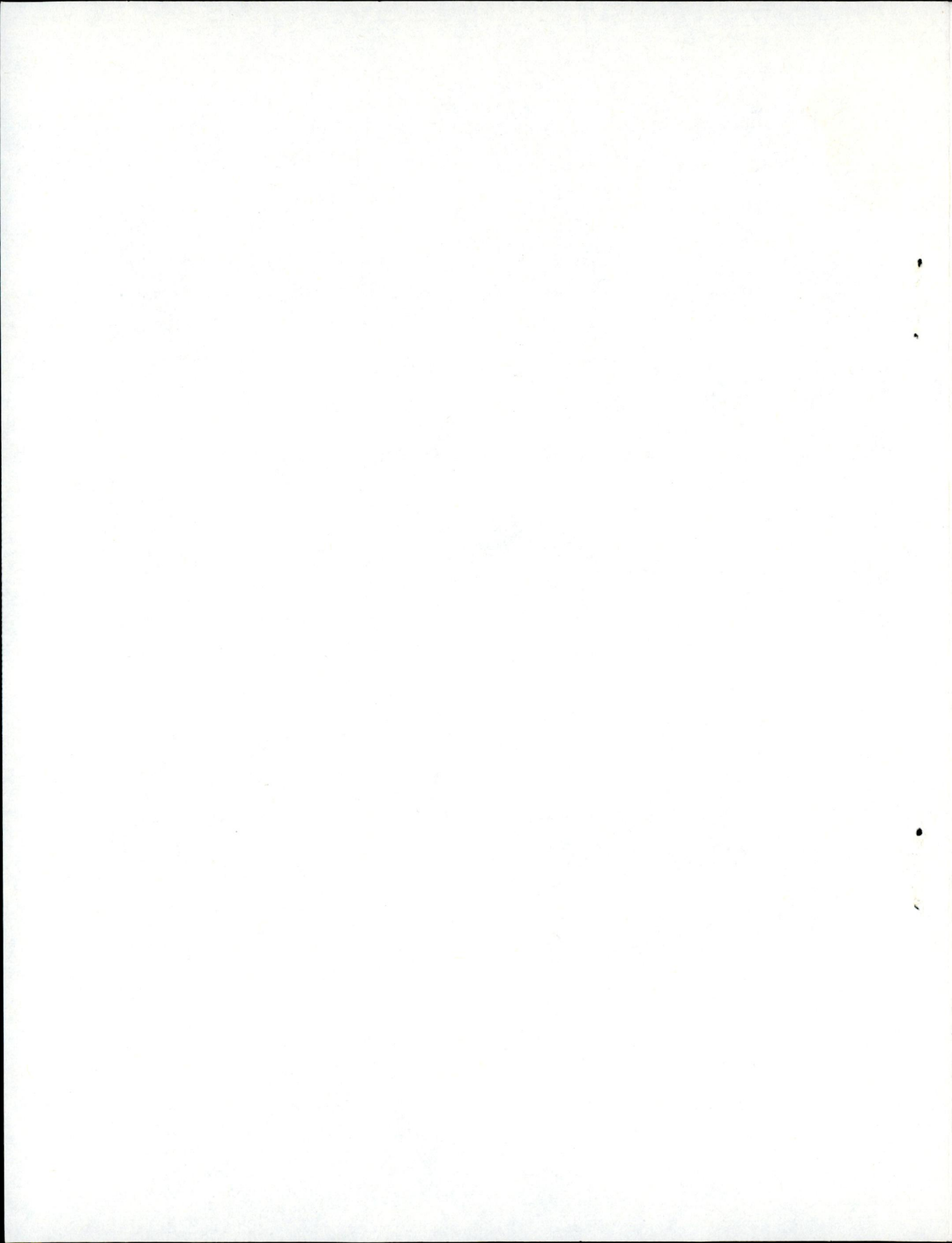
10 (2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the corporation shall, in favour of a lender and of any holder of any security given by the corporation, be conclusive evidence that all conditions precedent to the borrowing have been complied with and, where the approval notified is to a borrowing by the corporation in a place outside New South Wales and in a particular currency, shall also be conclusive
15 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.

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

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1979





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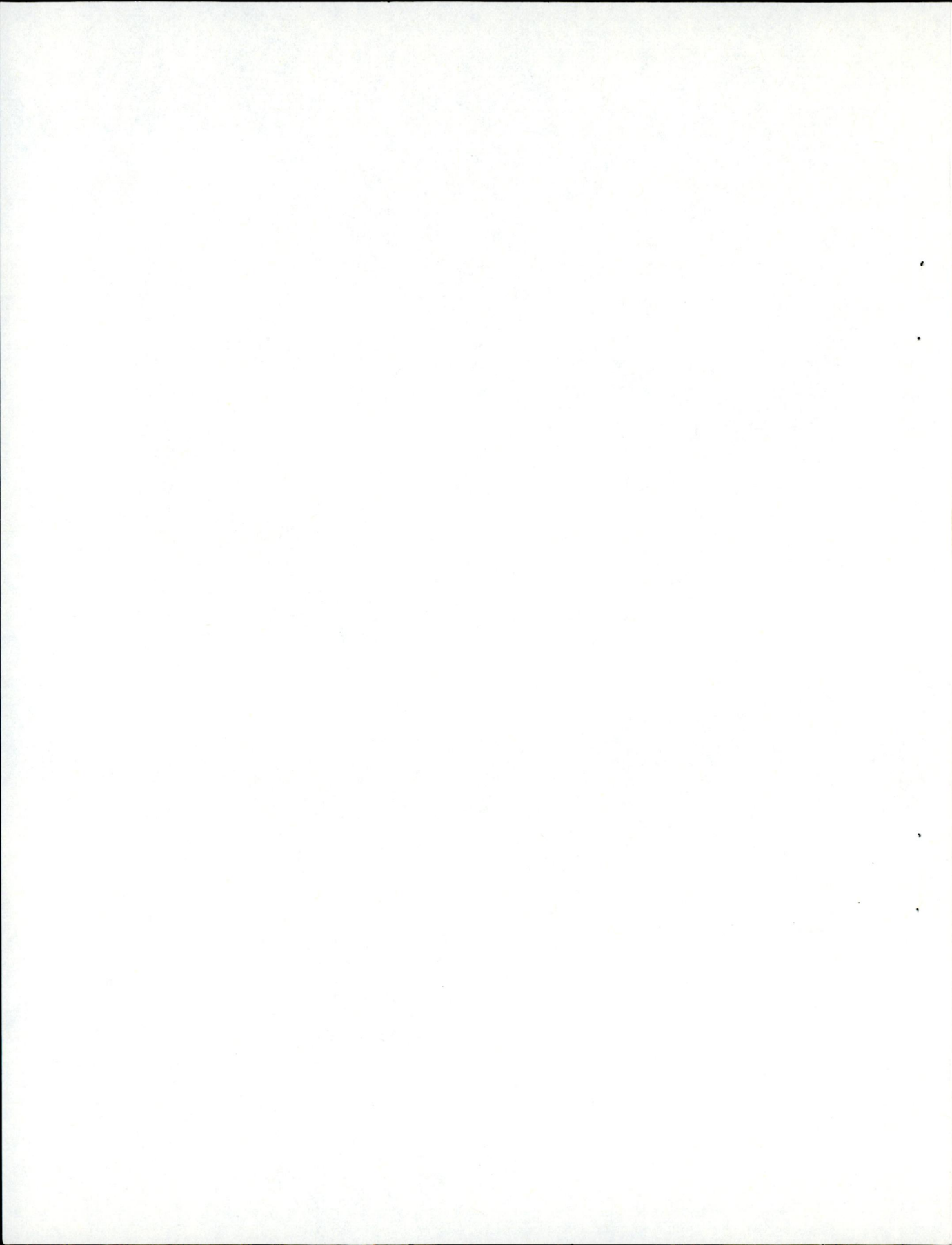
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HERITAGE (AMENDMENT) ACT, 1979, No. 206

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 206, 1979.

An Act to amend the Heritage Act, 1977, consequent on the enactment of the Environmental Planning and Assessment Act, 1979, and the Land and Environment Court Act, 1979, and to make provisions with respect to the making of certain environmental planning instruments and the borrowing of money under the Heritage Act, 1977. [Assented to, 21st December, 1979.]

Heritage (Amendment).

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

Short
title.

1. This Act may be cited as the "Heritage (Amendment) Act, 1979".

Com-
mencement.

2. (1) Except as provided in this section, this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedule 1 or 2, commence on the day on which that provision commences.

(3) Schedule 1 shall commence on the day appointed and notified under section 2 (2) of the Environmental Planning and Assessment Act, 1979.

Principal
Act.

3. The Heritage Act, 1977, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT,
RELATING TO ENVIRONMENTAL PLANNING.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT,
RELATING TO LOANS.

Amend-
ment of
Act No.
136, 1977.

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

Heritage (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING.

(1) (a) Section 3—

From the matter relating to Part IV, Division 3, Subdivision 2, omit "*local government*".

(b) Section 3—

From the matter relating to Part IV, Division 4, Subdivisions 1 and 2, omit "*local government*" wherever occurring.

(c) Section 3—

Omit the matter relating to Part V, insert instead :—

PART V.—ENVIRONMENTAL PLANNING INSTRUMENTS AFFECTING CERTAIN LAND—ss. 80–83.

(d) Section 3—

From the matter relating to Part VII, Division 2, omit "*Supreme*".

(2) (a) Section 4 (1), definition of "Commission"—

Omit the definition.

(b) Section 4 (1), definition of "consent authority"—

(i) After "under that Act," insert "the Environmental Planning and Assessment Act, 1979, or an environmental planning instrument in force thereunder,".

(ii) From paragraph (a), omit "or" where lastly occurring.

(iii) Omit paragraph (b).

Heritage (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—continued.**

- (c) Section 4 (1), definition of “conservation instrument”—

Omit “, a permanent conservation order or a conservation scheme”, insert instead “or a permanent conservation order”.

- (d) Section 4 (1), definition of “conservation scheme”—

Omit the definition.

- (e) Section 4 (1), definitions of “Court”, “Department”—

After the definition of “council”, insert :—

“Court” means the Land and Environment Court;

“Department” means the Department of Environment and Planning;

- (f) Section 4 (1), definition of “Director”—

After the definition of “development”, insert :—

“Director” means the Director of Environment and Planning appointed under the Environmental Planning and Assessment Act, 1979;

- (g) Section 4 (1), definitions of “Supreme Court”, “Tribunal”—

Omit the definitions.

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

(3) Section 8 (2) (d)—

Omit the paragraph, insert instead :—

- (d) a person nominated by the Director who shall be an officer of the Department within the meaning of the Environmental Planning and Assessment Act, 1979;

(4) Section 24—

Omit “or a conservation scheme with respect to that item or a conservation scheme with respect to that precinct”, insert instead “with respect to that item or an environmental planning instrument referred to in section 82 with respect to the land in that precinct”.

(5) Section 29 (1) (d)—

Omit “Commission”, insert instead “Director”.

(6) Section 30 (2) (b)—

Omit the paragraph, insert instead :—

- (b) a heritage precinct if an environmental planning instrument referred to in section 82 takes effect under the Environmental Planning and Assessment Act, 1979, in respect of the land within that heritage precinct; or

Heritage (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

(7) Section 31—

Omit “or a conservation scheme with respect to that item or a conservation scheme with respect to that precinct”, insert instead “with respect to that item or an environmental planning instrument referred to in section 82 with respect to the land in that precinct”.

(8) Section 39 (1) (c) (iii)—

Omit “Commission”, insert instead “Director”.

(9) Section 46 (1) (d)—

Omit “Commission”, insert instead “Director”.

(10) Section 47—

Omit the section.

(11) Section 50 (1) (c) (iii)—

Omit “Commission”, insert instead “Director”.

(12) (a) Section 56—

Omit “local government”.

(b) Section 56 (c), (d), (e)—

Omit the paragraphs, insert instead :—

(c) the Environmental Planning and Assessment Act, 1979;

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

- (13) Part IV, Division 3, Subdivision 2, heading—
Omit “*local government*”.
- (14) Section 66—
After “that Act,”, insert “the Environmental Planning and Assessment Act, 1979, any environmental planning instrument in force thereunder.”
- (15) Sections 67, 68, 69—
Omit “*local government*” wherever occurring.
- (16) (a) Part IV, Division 4, Subdivision 1, heading—
Omit “*local government*”.
- (b) Part IV, Division 4, Subdivision 2, heading—
Omit “*local government*”.
- (17) (a) Section 76—
After “that Act,”, insert “the Environmental Planning and Assessment Act, 1979, any environmental planning instrument in force thereunder.”
- (b) Section 76—
Omit “*local government*”.
- (c) Section 76—
Omit “*instrument*”, insert instead “*instruments*”.

Heritage (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

(18) Section 77 (1) (b)—

Omit “Tribunal”, insert instead “Court”.

(19) Section 79—

Omit the section.

(20) Part V—

Omit the Part, insert instead :—

PART V.

ENVIRONMENTAL PLANNING INSTRUMENTS AFFECTING
CERTAIN LAND.Interpre-
tation:
Pt. V.

80. In this Part, “environmental planning instrument” has the meaning ascribed thereto by the Environmental Planning and Assessment Act, 1979.

Applica-
tion of
Part.

81. To the extent of any inconsistency between this Part and the Environmental Planning and Assessment Act, 1979, this Part shall prevail.

Heritage
Council
may re-
quest the
preparation
of an en-
vironmental
planning
instrument.

82. (1) The Heritage Council may, with the approval of the Minister, request the Director or a council to prepare a draft environmental planning instrument in respect of land within a heritage precinct in accordance with proposals submitted by the Heritage Council with its request.

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

(2) Upon receipt of a request referred to in subsection (1), the Director or the council, as the case may be, shall consider the request and inform the Heritage Council within 60 days whether he or it is willing and able to comply with the request.

(3) Where the Director or the council informs the Heritage Council that he or it is so willing and able, the Heritage Council shall assist the Director or the council, as the case may be, to prepare the draft environmental planning instrument.

(4) Where the Director or council does not so inform the Heritage Council or informs the Heritage Council that he or it is not so willing and able, the Heritage Council may, with the approval of the Minister, prepare or cause to be prepared the draft environmental planning instrument as if it were the Director or the council, as the case may be, causing the instrument to be prepared.

(5) A draft environmental planning instrument prepared in accordance with subsection (3) or (4) shall be deemed for the purposes of the Environmental Planning and Assessment Act, 1979, to be a draft environmental planning instrument to which the provisions of section 47 or 66, as the case may be, of that Act apply.

(6) The draft environmental planning instrument referred to in subsection (5) may be dealt with in accordance with the relevant provisions of Part III of the Environmental Planning and Assessment Act, 1979, succeeding the sections mentioned in subsection (5) and where an environmental planning instrument in respect of that draft is made by the Minister under the Environmental Planning and Assessment Act, 1979, that instrument shall, for the purposes of that Act, be deemed to be made in accordance with that Act.

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

Heritage Council to be consulted in the preparation of certain environmental planning instruments.

83. (1) A draft environmental planning instrument shall not make a provision in respect of or affecting land to which a conservation instrument applies unless the Heritage Council has proposed or been first consulted in respect of the provision.

(2) In considering whether to make an environmental planning instrument containing a provision referred to in subsection (1), the Minister shall seek and have regard to the opinion of the Heritage Council as to whether that provision should be made, and may make the instrument with that provision included.

(3) Subsection (2) does not apply to an environmental planning instrument referred to in section 82.

(21) (a) Section 120 (1), (2), (3)—

Omit "District" wherever occurring.

(b) Section 120 (1)—

Omit "of New South Wales".

(c) Section 120 (4)—

Omit the subsection.

(22) Section 121 (5) (c)—

Omit "Commission", insert instead "Director".

(23) (a) Section 124 (1)—

Omit "or a conservation scheme".

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

- (b) Section 124 (1) (a)—
Omit “or that conservation scheme”.
- (c) Section 124 (2)—
Omit “or conservation scheme”.
- (24) Section 125—
Omit “or a conservation scheme”.
- (25) (a) Section 127 (1)—
Omit “or a conservation scheme”.
- (b) Section 127 (3)—
Omit “or a conservation scheme”.
- (c) Section 127 (3)—
Omit “or that conservation scheme”.
- (26) Section 128—
Omit “or a conservation scheme” wherever occurring.
- (27) Section 131 (a) (iii)—
Omit “Commission”, insert instead “Director”.
- (28) Section 147 (2)—
Omit the subsection.

Heritage (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

- (29) Section 151 (2), (3)—
Omit “Commission” wherever occurring, insert instead “Department”.
- (30) Part VII, Division 2, heading—
Omit “Supreme”.
- (31) Section 153 (1)—
Omit “Supreme”.
- (32) (a) Section 154 (1), (2)—
Omit “Supreme” wherever occurring.
- (b) Section 154 (3)—
Omit the subsection.
- (33) (a) Section 155—
Omit “Supreme”.
- (b) Section 155—
Omit “that”, insert instead “the”.
- (34) Section 156 (3)—
Omit “or the Commission”.
- (35) Section 158—
Omit “Supreme” wherever occurring.

Heritage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO ENVIRONMENTAL PLANNING—*continued.*

(36) Section 167 (2) (a) (i)—

Omit “and, in the case of a conservation instrument being a conservation scheme, in such manner as is specified in the certificate,”.

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS.

(1) Section 3—

Omit “SCHEDULE.”, insert instead :—

SCHEDULE 1.—ELIZABETH FARM.

SCHEDULE 2.—LOANS.

(2) Section 101—

After “Part”, insert “and in Schedule 2”.

(3) Section 111—

Omit the section, insert instead :—

111. Schedule 2 has effect.

Provisions
relating
to loans.

Heritage (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

(4) Schedule 2—

After Schedule 1, insert :—

Sec. 111.

SCHEDULE 2.

LOANS.

Reserves
for repay-
ments.

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

(2) There shall, during each year, be transferred from the Fund to each fund referred to in subclause (1) of this clause a sum not less than the sum that the corporation, in its application for approval of the loan, specified that it proposed to transfer to that fund.

(3) Where any land or property of any kind which has been provided out of loan money is sold before the loan has been wholly repaid, the net proceeds of the sale shall be added to the reserve for loan repayment in the appropriate fund or paid directly to the lender.

(4) Money held as a reserve for loan repayment may be invested as a common fund 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 corporation 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.

(5) 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.

(6) 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.

Heritage (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

(7) Where the corporation 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 corporation 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 4.5 per cent per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(8) If, after a loan has been repaid, there remains in the reserve for loan repayment of that loan any balance, that balance shall form part of the general funds of the corporation.

(9) 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.

(10) 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 Debentures, any money borrowed, the corporation may, as provided by the etc. 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.

(3) Inscribed stock shall be transferable in the books of the corporation 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 for money or money's worth, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule to that Act.

*Heritage (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
*continued.***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 corporation 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 corporation and the interest thereon, shall be a charge upon the income and revenue of the corporation from whatever source arising and is hereby guaranteed by the Government.

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

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

**Raising
loans
in any
country.**

4. (1) This clause applies to and in respect of a loan, wherever raised, where the Governor, with the concurrence of the Minister and the Treasurer, approves (as referred to in section 142) of the loan in and by an instrument which specifies that it is a loan to which this clause applies.

(2) Except as provided in this clause, the provisions of this Schedule do not apply to or in respect of a loan to which this clause applies.

(3) A loan to which this clause applies may be—

- (a) raised in such amounts and in such currencies;
- (b) raised in such manner and on such terms and conditions;
and
- (c) secured by such securities, if any,

as the Governor, with the concurrence of the Minister and the Treasurer, approves in and by the instrument referred to in subclause (1) of this clause or in that instrument by reference to another instrument.

Heritage (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

(4) Any security or other instrument issued or executed by the corporation or the Government in respect of a loan to which this clause applies shall, both as regards its issue or execution and its transfer or assignment 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.

(5) The Governor may, upon the recommendation of the corporation, appoint 2 or more persons for and on behalf of the corporation to enter into any securities or other instruments in respect of a loan to which this clause applies and to sign, execute, or otherwise perfect all such securities or other instruments and to do all such things as may be necessary or convenient to be done for the purpose of raising the loan under this Act, and may upon the like recommendation revoke or vary any such appointment and make any fresh appointment.

(6) The production of a copy of the Gazette containing a notification of any appointment or revocation under subclause (5) of this clause shall in favour of a lender, of the holder of any security or of a person to whom the benefit under any such instrument is assigned be conclusive evidence of the appointment or revocation.

(7) The due payment of any amounts payable by the corporation to the lender in respect of any loan to which this clause applies is a charge on the income and revenue of the corporation, from whatever source arising, and is hereby guaranteed by the Government, and, where any agreement to which the Government is a party specifies any terms or conditions upon or subject to which the due payment of those amounts is so guaranteed, the due payment of those amounts is so guaranteed upon or subject to those terms and conditions.

(8) An agreement with respect to a loan to which this clause applies and to which the Government and the corporation are parties may require the Government to make any payment for which the corporation would, under the agreement, be liable but for its being precluded from making the payment by any law in force in New South Wales.

Heritage (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

(9) The Consolidated Revenue Fund is hereby appropriated for the purpose of meeting any liability in respect of any guarantee referred to in subclause (7) of this clause and any liability of the Government arising under any agreement referred to in subclause (8) of this clause.

(10) The provisions of—

- (a) clauses 7, 8, 9 and 10 apply to and in respect of the appointment of a receiver by reason of any default being made by the corporation in making any payment in respect of a loan to which this clause applies and to and in respect of a receiver appointed by virtue of the application of clause 7 by this subclause in the same way as those clauses apply to and in respect of the appointment of a receiver by reason of any default being made by the corporation in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued, or stock inscribed, by the corporation and to and in respect of a receiver appointed under clause 7;
- (b) clause 11 (1) apply to and in respect of a person advancing money to the corporation by way of a loan to which this clause applies in the same way as they apply to and in respect of a person advancing money to the corporation as referred to in clause 11 (1);
- (c) clause 11 (2) apply to and in respect of a notification in the Gazette of the approval of the Governor having been given to a loan to which this clause applies in the same way as they apply to and in respect of a notification in the Gazette of the approval of the Governor having been given to a borrowing referred to in clause 11 (2);
- (d) clause 12 apply to and in respect of a loan to which this clause applies as if the reference in that clause to other securities which are secured upon the income and revenue of the corporation included a reference to such a loan; and
- (e) any other clause of this Schedule (being a clause that, in an agreement between the corporation and the lender with respect to a loan to which this clause applies, is specified as being a clause that applies to and in respect

Heritage (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

of the loan or as being a clause that, with such modifications or additions as are so specified, applies to and in respect of the loan) apply or apply with those modifications or additions, as the case may be, to and in respect of the loan.

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 corporation 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 corporation or by any officer or employee of the Department in relation to any debenture or coupon issued or stock inscribed by the corporation.

6. (1) If any debenture or bond issued by the corporation is lost, ^{Lost} destroyed or defaced before it has been redeemed the corporation ^{debentures.} may, subject to the provisions of this clause, issue a new debenture or bond in its place.

(2) A new debenture or bond, issued under subclause (1) of this clause 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;

Heritage (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

- (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 corporation 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 corporation for cancellation.

(5) The provisions of this clause shall apply to and in respect 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 corporation 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 corporation receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond is at any time thereafter presented for payment.

Receivers.

7. (1) If for 6 months default is made by the corporation in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the corporation the holder thereof may apply to the Supreme Court for the appointment of a receiver of the income of the corporation.

(2) A receiver may be appointed in respect of the income of the corporation either generally or as regards specified income.

(3) The Supreme Court may make such orders and give such directions as it may deem proper for and with respect to all or any of the following matters:—

- (a) the appointment of a receiver;

Heritage (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
continued.

- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a receiver previously appointed.

(4) The receiver shall be deemed to be an officer of the Supreme Court, and shall act under its directions.

8. (1) A receiver shall have power to collect all income payable to the corporation which he has by order of the Supreme Court been so authorised to collect and for the purposes of this subclause the receiver shall be deemed to be the corporation and may exercise all the powers of the corporation. **Powers and duties of receivers.**

(2) The receiver shall discharge such duties of the corporation or of any officers of the Department (as defined in the Environmental Planning and Assessment Act, 1979) as may be prescribed.

9. The receiver shall be entitled to such commission or remuneration for his services as the Supreme Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver. **Commission to receiver.**

10. The receiver shall, subject to any order of the Supreme Court, pay and apply all money received by him in the following order, that is to say— **Application of money received.**

- (a) firstly, in payment of the costs, charges, and expenses of collection, and of his commission or remuneration;
- (b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be; and
- (c) thirdly, in payment of all the residue of the money to the corporation.

Heritage (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT, RELATING TO LOANS—
*continued.*Protection
of investors.

11. (1) A person advancing money to the corporation 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.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the corporation shall, in favour of a lender and of any holder of any security given by the corporation, 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 corporation 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.

12. All debentures, bonds, stock or other securities, which are secured upon the income and revenue of the corporation 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, 21st December, 1979.*



