

SECOND PRINT

**HOMEFUND SELECT COMMITTEE (SPECIAL PROVISIONS)
BILL 1993**

NEW SOUTH WALES



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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.

Legislative Assembly

Clerk of the Legislative Assembly.

NEW SOUTH WALES



Act No. , 1993

An Act to make provision with respect to the exercise by the Ombudsman and the Auditor-General of their respective functions in connection with a resolution of the Legislative Assembly appointing a Select Committee upon HomeFund and FANMAC.

HomeFund Select Committee (Special Provisions) 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the HomeFund Select Committee (Special Provisions) Act 1993.

5 Commencement

2. This Act commences on the date of assent.

Definitions

3. In this Act:

10 “**Auditor-General’s functions**” means the functions conferred on the Auditor-General by or under this Act, the Public Finance and Audit Act 1983 or any other Act;

“**function**” includes power, authority and duty; “**exercise a function**” includes perform a duty; “**confer a function**” includes impose a duty;

15 “**Ombudsman’s functions**” means the functions conferred on the Ombudsman by or under this Act, the Ombudsman Act 1974 or any other Act;

20 “**Select Committee**” means the Select Committee upon HomeFund and FANMAC appointed in accordance with clause (1) of the Special Resolution;

25 “**Special Resolution**” means the resolution of the Legislative Assembly with respect to the appointment of a Select Committee “to inquire into and report upon all matters concerning HomeFund and FANMAC”, being the resolution in the form in which it was passed by the Legislative Assembly on 21 April 1993, during the continuation of its proceedings of the previous day.

Extension of functions of Ombudsman to investigate and report on certain matters

30 4. (1) The Ombudsman is authorised to exercise the Ombudsman’s functions (at the request of the Select Committee) in connection with any matter that is within the Select Committee’s terms of reference under the Special Resolution as if that matter were the subject of a complaint under the Ombudsman Act 1974 and as if the Select Committee were the complainant.

HomeFund Select Committee (Special Provisions) 1993

(2) For the purpose of exercising the Ombudsman's functions under this section, the Ombudsman is further authorised to furnish information, documents and reports to the Select Committee and to the Auditor-General in connection with any such matter.

(3) For the purposes of this Act: 5

(a) conduct of a public authority with respect to the investment of the funds of the Home Purchase Assistance Fund; and

(b) conduct of the Treasury Corporation with respect to the HomeFund scheme,

are taken not to be conduct of a class described in clause 14 of Schedule 1 to the Ombudsman Act 1974, and that clause is taken to be amended accordingly. 10

(4) Nothing in this section is taken:

(a) to limit the Ombudsman's functions under the Ombudsman Act 1974 in connection with any matter that is within the Select Committee's terms of reference under the Special Resolution; or 15

(b) to authorise the Ombudsman to investigate the conduct of any person who is not a public authority within the meaning of that Act.

(5) Nothing in the Ombudsman Act 1974, section 34 (**Disclosure by Ombudsman or officer**) in particular, is taken to limit the power of the Ombudsman to furnish any information, document or report under this section. 20

(6) This section is to be read as if it formed part of the Ombudsman Act 1974, so that the functions and immunities conferred by that Act and the Defamation Act 1974 with respect to matters arising under the Ombudsman Act 1974 are taken to apply equally to any matter with respect to which the Ombudsman exercises the Ombudsman's functions under this section. 25

Extension of functions of Auditor-General to investigate and report on certain matters 30

5. (1) The Auditor-General is authorised to exercise the Auditor-General's functions (at the request of the Select Committee) in connection with any matter that is within the Select Committee's terms of reference under the Special Resolution.

HomeFund Select Committee (Special Provisions) 1993

(2) For the purpose of exercising the Auditor-General's functions under this section, the Auditor-General is further authorised:

- 5 (a) to conduct a special audit of all or any particular activities of an authority, under Division 2A of Part 3 of the Public Finance and Audit Act 1983, for the purpose of investigating any such matter; and
- (b) to furnish information, documents and reports to the Select Committee and to the Ombudsman in connection with any such matter.

10 (3) Nothing in this section is taken to limit the Auditor-General's functions under the Public Finance and Audit Act 1983 in connection with any matter that is within the Select Committee's terms of reference under the Special Resolution.

15 (4) Nothing in the Public Finance and Audit Act 1983, section 38 (Secrecy) in particular, is taken to limit the power of the Auditor-General to furnish any information, document or report under this section.

20 (5) This section is to be read as if it formed part of the Public Finance and Audit Act 1983, so that the functions and immunities conferred by that Act and the Defamation Act 1974 with respect to matters arising under the Public Finance and Audit Act 1983 are taken to apply equally to any matter with respect to which the Auditor-General exercises the Auditor-General's functions under this section.

Independence not affected

25 6. Nothing in this Act affects in any way the independence or any independent discretion of the Ombudsman or the Auditor-General or requires either of them to exercise any functions or to undertake any additional functions.

Expiry of Act

7. This Act expires on 31 December 1993.

FIRST PRINT

**HOMEFUND SELECT COMMITTEE (SPECIAL PROVISIONS)
BILL 1993**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Legislative Assembly has passed a resolution establishing a Select Committee to inquire into and report upon all matters concerning the Home Purchase Assistance Fund ("HPAF") and First Australian National Mortgage Acceptance Corporation Limited ("FANMAC"). Clause (3) of the resolution is in the following terms:

"That the Auditor General and the Ombudsman separately and in co-operation inquire into and report upon—

- (a) the rationale for the establishment of HPAF
- (b) the rationale for the growth of HPAF's activities
- (c) the likely exposure of the Government flowing from these activities."

The object of this Bill is to make provision with respect to the exercise by the Ombudsman and the Auditor-General of their respective functions in connection with the Select Committee's terms of reference under the resolution.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 defines certain expressions (in particular, "Auditor-General's functions", "Ombudsman's functions", "Select Committee" and "Special Resolution") for the purposes of the proposed Act.

Clause 4 extends the functions of the Ombudsman with respect to matters within the Select Committee's terms of reference under the Special Resolution. The clause empowers the Ombudsman to furnish information, documents and reports to the Select Committee and to the Auditor-General (whose functions are being similarly extended as referred to in clause 5).

HomeFund Select Committee (Special Provisions) 1993

The clause provides that, for the purposes of the proposed Act, conduct of a public authority with respect to the investment of the funds of the Home Purchase Assistance Fund, and conduct of the Treasury Corporation with respect to the HomeFund scheme, are taken not to be conduct of a class described in clause 14 of Schedule 1 to the Ombudsman Act 1974, and that clause 14 of that Schedule is taken to be amended accordingly. This provision is intended to allow the Ombudsman to investigate conduct of a kind that would otherwise be excluded from investigation under that Act.

The clause provides that it is to be read as if it formed part of the Ombudsman Act 1974, so that the functions and immunities conferred by the Ombudsman Act 1974 and the Defamation Act 1974 with respect to matters arising under the Ombudsman Act 1974 apply equally to any matter with respect to which the Ombudsman exercises the Ombudsman's functions under the proposed section.

Clause 5 extends the functions of the Auditor-General with respect to matters within the Select Committee's terms of reference under the Special Resolution. The clause empowers the Auditor-General to conduct a special audit of all or any particular activities of an authority, under Division 2A of Part 3 of the Public Finance and Audit Act 1983, for the purpose of investigating any such matter and to furnish information, documents and reports to the Select Committee and to the Ombudsman (whose functions are being similarly extended as referred to in clause 4).

The clause also provides that it is to be read as if it formed part of the Public Finance and Audit Act 1983, so that the functions and immunities conferred by the Public Finance and Audit Act 1983 and the Defamation Act 1974 with respect to matters arising under the Public Finance and Audit Act 1983 apply equally to any matter with respect to which the Auditor-General exercises the Auditor-General's functions under the proposed section.

Clause 6 provides for the expiry of the proposed Act on 31 December 1993.

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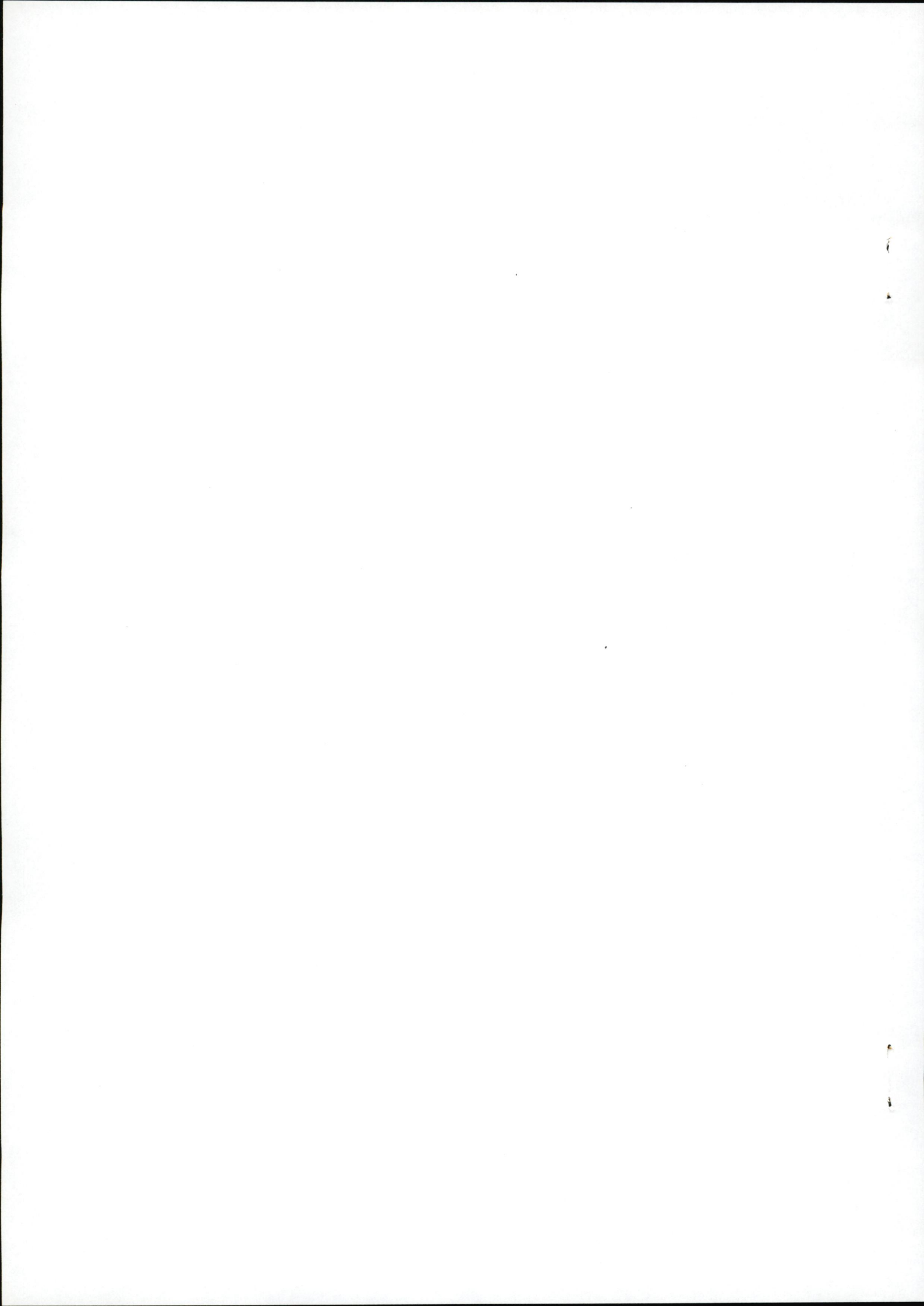
**HOMEFUND SELECT COMMITTEE (SPECIAL PROVISIONS)
BILL 1993**

NEW SOUTH WALES



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**HOMEFUND SELECT COMMITTEE (SPECIAL PROVISIONS)
BILL 1993**

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to make provision with respect to the exercise by the Ombudsman and the Auditor-General of their respective functions in connection with a resolution of the Legislative Assembly appointing a Select Committee upon HomeFund and FANMAC.

HomeFund Select Committee (Special Provisions) 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the HomeFund Select Committee (Special Provisions) Act 1993.

5 Commencement

2. This Act commences on the date of assent.

Definitions

3. In this Act:

10 “**Auditor-General’s functions**” means the functions conferred on the Auditor-General by or under this Act, the Public Finance and Audit Act 1983 or any other Act;

“**function**” includes power, authority and duty; “**exercise a function**” includes perform a duty; “**confer a function**” includes impose a duty;

15 “**Ombudsman’s functions**” means the functions conferred on the Ombudsman by or under this Act, the Ombudsman Act 1974 or any other Act;

20 “**Select Committee**” means the Select Committee upon HomeFund and FANMAC appointed in accordance with clause (1) of the Special Resolution;

25 “**Special Resolution**” means the resolution of the Legislative Assembly with respect to the appointment of a Select Committee “to inquire into and report upon all matters concerning HomeFund and FANMAC”, being the resolution in the form in which it was passed by the Legislative Assembly on 21 April 1993, during the continuation of its proceedings of the previous day.

Extension of functions of Ombudsman to investigate and report on certain matters

30 4. (1) The Ombudsman is authorised to exercise the Ombudsman’s functions (at the request of the Select Committee) in connection with any matter that is within the Select Committee’s terms of reference under the Special Resolution as if that matter were the subject of a complaint under the Ombudsman Act 1974 and as if the Select Committee were the complainant.

HomeFund Select Committee (Special Provisions) 1993

(2) For the purpose of exercising the Ombudsman's functions under this section, the Ombudsman is further authorised to furnish information, documents and reports to the Select Committee and to the Auditor-General in connection with any such matter.

(3) For the purposes of this Act: 5

(a) conduct of a public authority with respect to the investment of the funds of the Home Purchase Assistance Fund; and

(b) conduct of the Treasury Corporation with respect to the HomeFund scheme,

are taken not to be conduct of a class described in clause 14 of Schedule 1 to the Ombudsman Act 1974, and that clause is taken to be amended accordingly. 10

(4) Nothing in this section is taken:

(a) to limit the Ombudsman's functions under the Ombudsman Act 1974 in connection with any matter that is within the Select Committee's terms of reference under the Special Resolution; or 15

(b) to authorise the Ombudsman to investigate the conduct of any person who is not a public authority within the meaning of that Act.

(5) Nothing in the Ombudsman Act 1974, section 34 (**Disclosure by Ombudsman or officer**) in particular, is taken to limit the power of the Ombudsman to furnish any information, document or report under this section. 20

(6) This section is to be read as if it formed part of the Ombudsman Act 1974, so that the functions and immunities conferred by that Act and the Defamation Act 1974 with respect to matters arising under the Ombudsman Act 1974 are taken to apply equally to any matter with respect to which the Ombudsman exercises the Ombudsman's functions under this section. 25

Extension of functions of Auditor-General to investigate and report on certain matters 30

5. (1) The Auditor-General is authorised to exercise the Auditor-General's functions (at the request of the Select Committee) in connection with any matter that is within the Select Committee's terms of reference under the Special Resolution.

HomeFund Select Committee (Special Provisions) 1993

(2) For the purpose of exercising the Auditor-General's functions under this section, the Auditor-General is further authorised:

5 (a) to conduct a special audit of all or any particular activities of an authority, under Division 2A of Part 3 of the Public Finance and Audit Act 1983, for the purpose of investigating any such matter; and

(b) to furnish information, documents and reports to the Select Committee and to the Ombudsman in connection with any such matter.

10 (3) Nothing in this section is taken to limit the Auditor-General's functions under the Public Finance and Audit Act 1983 in connection with any matter that is within the Select Committee's terms of reference under the Special Resolution.

15 (4) Nothing in the Public Finance and Audit Act 1983, section 38 (Secrecy) in particular, is taken to limit the power of the Auditor-General to furnish any information, document or report under this section.

20 (5) This section is to be read as if it formed part of the Public Finance and Audit Act 1983, so that the functions and immunities conferred by that Act and the Defamation Act 1974 with respect to matters arising under the Public Finance and Audit Act 1983 are taken to apply equally to any matter with respect to which the Auditor-General exercises the Auditor-General's functions under this section.

Expiry of Act

6. This Act expires on 31 December 1993.

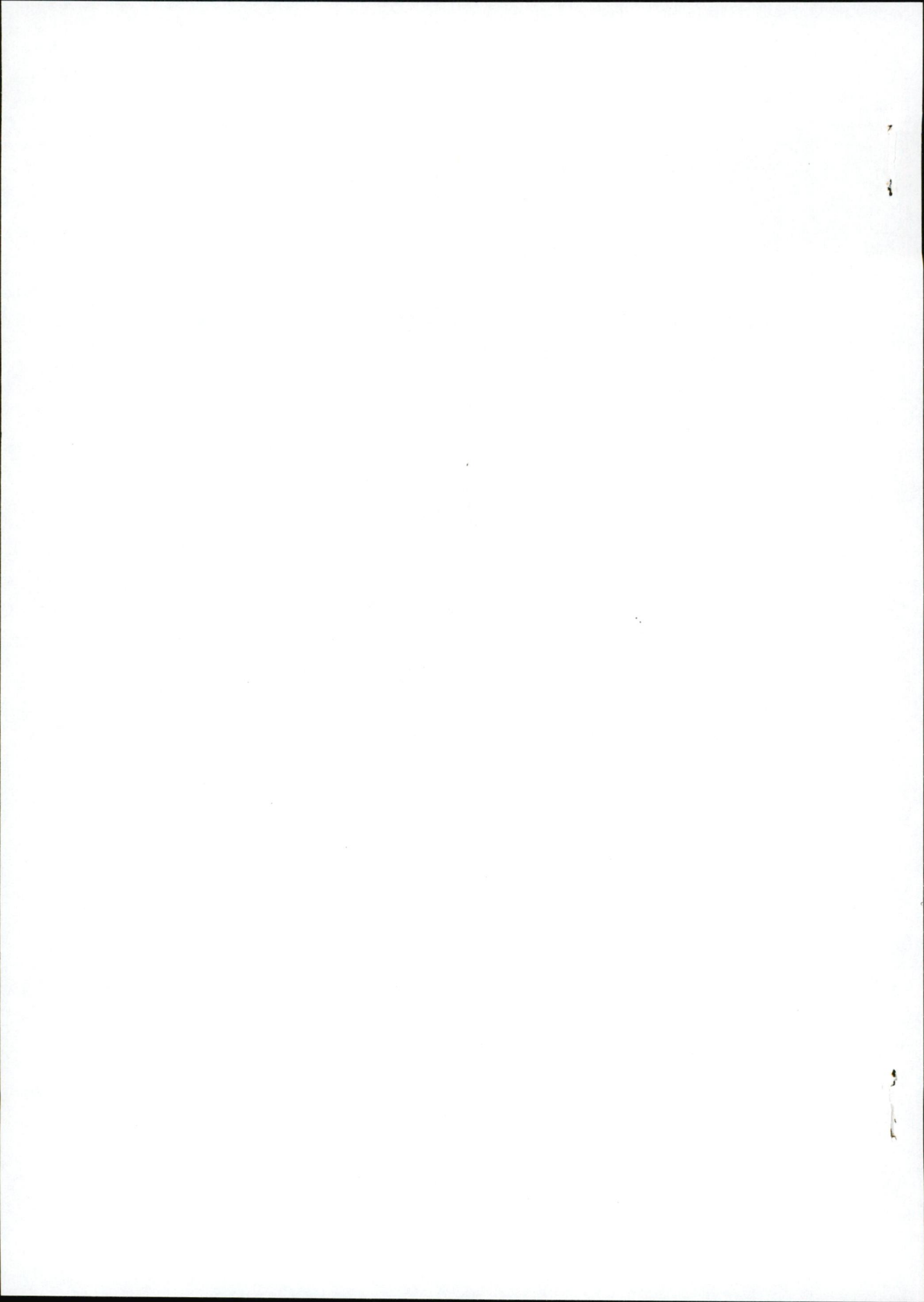
**HOMEFUND SELECT COMMITTEE (SPECIAL PROVISIONS)
ACT 1993 No. 27**

NEW SOUTH WALES



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 7. Expiry of Act
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**HOMEFUND SELECT COMMITTEE (SPECIAL PROVISIONS)
ACT 1993 No. 27**

NEW SOUTH WALES



Act No. 27, 1993

An Act to make provision with respect to the exercise by the Ombudsman and the Auditor-General of their respective functions in connection with a resolution of the Legislative Assembly appointing a Select Committee upon HomeFund and FANMAC. [Assented to 8 June 1993]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the HomeFund Select Committee (Special Provisions) Act 1993.

Commencement

2. This Act commences on the date of assent.

Definitions

3. In this Act:

“**Auditor-General’s functions**” means the functions conferred on the Auditor-General by or under this Act, the Public Finance and Audit Act 1983 or any other Act;

“**function**” includes power, authority and duty; “**exercise a function**” includes perform a duty; “**confer a function**” includes impose a duty;

“**Ombudsman’s functions**” means the functions conferred on the Ombudsman by or under this Act, the Ombudsman Act 1974 or any other Act;

“**Select Committee**” means the Select Committee upon HomeFund and FANMAC appointed in accordance with clause (1) of the Special Resolution;

“**Special Resolution**” means the resolution of the Legislative Assembly with respect to the appointment of a Select Committee “to inquire into and report upon all matters concerning HomeFund and FANMAC”, being the resolution in the form in which it was passed by the Legislative Assembly on 21 April 1993, during the continuation of its proceedings of the previous day.

Extension of functions of Ombudsman to investigate and report on certain matters

4. (1) The Ombudsman is authorised to exercise the Ombudsman’s functions (at the request of the Select Committee) in connection with any matter that is within the Select Committee’s terms of reference under the Special Resolution as if that matter were the subject of a complaint under the Ombudsman Act 1974 and as if the Select Committee were the complainant.

HomeFund Select Committee (Special Provisions) Act 1993 No. 27

(2) For the purpose of exercising the Ombudsman's functions under this section, the Ombudsman is further authorised to furnish information, documents and reports to the Select Committee and to the Auditor-General in connection with any such matter.

(3) For the purposes of this Act:

- (a) conduct of a public authority with respect to the investment of the funds of the Home Purchase Assistance Fund; and
- (b) conduct of the Treasury Corporation with respect to the HomeFund scheme,

are taken not to be conduct of a class described in clause 14 of Schedule 1 to the Ombudsman Act 1974, and that clause is taken to be amended accordingly.

(4) Nothing in this section is taken:

- (a) to limit the Ombudsman's functions under the Ombudsman Act 1974 in connection with any matter that is within the Select Committee's terms of reference under the Special Resolution; or
- (b) to authorise the Ombudsman to investigate the conduct of any person who is not a public authority within the meaning of that Act.

(5) Nothing in the Ombudsman Act 1974, section 34 (**Disclosure by Ombudsman or officer**) in particular, is taken to limit the power of the Ombudsman to furnish any information, document or report under this section.

(6) This section is to be read as if it formed part of the Ombudsman Act 1974, so that the functions and immunities conferred by that Act and the Defamation Act 1974 with respect to matters arising under the Ombudsman Act 1974 are taken to apply equally to any matter with respect to which the Ombudsman exercises the Ombudsman's functions under this section.

Extension of functions of Auditor-General to investigate and report on certain matters

5. (1) The Auditor-General is authorised to exercise the Auditor-General's functions (at the request of the Select Committee) in connection with any matter that is within the Select Committee's terms of reference under the Special Resolution.

HomeFund Select Committee (Special Provisions) Act 1993 No. 27

(2) For the purpose of exercising the Auditor-General's functions under this section, the Auditor-General is further authorised:

- (a) to conduct a special audit of all or any particular activities of an authority, under Division 2A of Part 3 of the Public Finance and Audit Act 1983, for the purpose of investigating any such matter; and
- (b) to furnish information, documents and reports to the Select Committee and to the Ombudsman in connection with any such matter.

(3) Nothing in this section is taken to limit the Auditor-General's functions under the Public Finance and Audit Act 1983 in connection with any matter that is within the Select Committee's terms of reference under the Special Resolution.

(4) Nothing in the Public Finance and Audit Act 1983, section 38 (**Secrecy**) in particular, is taken to limit the power of the Auditor-General to furnish any information, document or report under this section.

(5) This section is to be read as if it formed part of the Public Finance and Audit Act 1983, so that the functions and immunities conferred by that Act and the Defamation Act 1974 with respect to matters arising under the Public Finance and Audit Act 1983 are taken to apply equally to any matter with respect to which the Auditor-General exercises the Auditor-General's functions under this section.

Independence not affected

6. Nothing in this Act affects in any way the independence or any independent discretion of the Ombudsman or the Auditor-General or requires either of them to exercise any functions or to undertake any additional functions.

Expiry of Act

7. This Act expires on 31 December 1993.

*[Member's second reading speech made in—
Legislative Assembly on 21 May 1993]*

*[Minister's second reading speech made in—
Legislative Council on 21 May 1993]*