

HOUSING RESTRUCTURING BILL

EXPLANATORY NOTE

THIS Bill provides for the transfer to a company owned by the Crown of State housing land and assets and liabilities of the Housing Corporation, redefines the functions of the Housing Corporation, and transfers the functions of the Housing Corporation under the Residential Tenancies Act 1986 to the Ministry of Housing.

Clause 1 relates to the Short Title and commencement of the Bill. Except for clauses 42 and 50, the Bill comes into force on the date on which it receives the Royal assent.

Clause 2 defines terms used in the Bill.

Clause 3 provides that the Bill binds the Crown.

PART I PRINCIPLES

Clause 4 defines the principal objective of the company. The principal objective of the company is to operate as a successful business that will assist in meeting the Crown's social objectives by providing housing and related services in accordance with its statement of corporate intent or under agreements with the Crown under *clause 7* of the Bill and to that end to be—

- (a) As profitable and efficient as comparable businesses that are not owned by the Crown; and
- (b) A good employer; and
- (c) An organisation that exhibits a sense of social responsibility by having regard to the interests of the community in which it operates.

Clause 5 provides that the shareholding Ministers of the company are responsible to the House of Representatives for the performance of their functions under the Bill.

Clause 6 defines the role of the directors.

Clause 7 empowers the Crown to require the company to enter into agreements with the Crown for the provision of housing and related services.

Clause 8 requires the company to consult with the State Services Commissioner over the terms and conditions of collective employment contracts.

No. 162—1

PART II

ACQUISITION BY CROWN OF SHARES IN COMPANY

Clause 9 authorises the responsible Minister and the Minister of Finance to acquire shares in a company that is a subsidiary of the Housing Corporation.

Clause 10 relates to the application to the company of the Companies Act 1955.

Clause 11 relates to the acquisition by the shareholding Ministers of additional shares in, and equity bonds issued by, the company.

Clause 12 empowers the company to issue equity bonds.

Clause 13 relates to the Crown's shareholding in the company.

Clause 14 empowers the shareholding Ministers to give directions to the board regarding the statement of corporate intent for the company and the dividend payable by the company.

PART III

ACCOUNTABILITY

Clause 15 requires the company to have a statement of corporate intent and to include in that statement the objectives of the company including the objectives in relation to the provision of housing and related services that will assist the Crown in meeting its social objectives.

Clauses 16, 17, and 18 relate to the reporting obligations of the company.

Clause 19 empowers the shareholding Ministers to require the board to supply information.

Clause 20 appoints the Audit Office as the auditor of the company.

Clause 21 prevents information from having to be disclosed in the statement of corporate intent and the reports and financial statements of the company if disclosure of the information could be withheld under the Official Information Act 1982.

PART IV

VESTING OF STATE HOUSING ASSETS AND LIABILITIES AND CORPORATION ASSETS AND LIABILITIES IN COMPANY

Clause 22 empowers the shareholding Ministers and the company to enter into agreements relating to the vesting under the Bill of State housing land and assets and liabilities of the Corporation.

Clause 23 provides that assets that form part of any land may be dealt with separately from the land itself.

Clause 24 provides for the vesting of State housing land and assets and liabilities of the Housing Corporation in the company.

Clauses 25, 26, and 27 are consequential provisions relating to the vesting of State housing land and Corporation assets and liabilities in the company under the Bill.

Clauses 28, 29, and 30 relate to title to land that is vested in the company.

Clause 31 relates to the making of Orders in Council for the purpose of facilitating the vesting process.

Clause 32 provides for the continuing admissibility of documentary evidence.

Clause 33 continues the application of provisions of the Housing Act 1955 in relation to leases, licences, permits, agreements, or tenancies in respect of State housing land that is vested in the company.

Clause 34 relates to the application of the Finance Act 1957 to the company.

Clause 35 provides that land that has been vested in the company may continue to be acquired under the Public Works Act 1981 if, before the land was vested in the company, negotiations or action to acquire the land had already been commenced under that Act.

Clause 36 provides for the revesting of State housing land in the Crown.

Clauses 37 and 38 are consequential provisions applying where State housing land is revested under *clause 36* of the Bill.

Clause 39 alters the balance date of the Housing Corporation in relation to its reporting obligations under the Housing Act 1955.

Clause 40 amends the Maori Housing Act 1935.

Clause 41 relates to continued membership of the Government Superannuation Fund by persons who become employees of the company.

Clause 42 amends a number of other Acts.

PART V

AMENDMENTS TO HOUSING CORPORATION ACT 1974

Part V, which will become a separate Bill, amends the Housing Corporation Act 1974.

Clause 44 substitutes a new definition of the term “Minister”.

Clause 45 abolishes the Tenancy Board Division of the Housing Corporation. The functions of the Corporation under the Residential Tenancies Act 1986 are to be transferred to the Ministry of Housing.

Clause 46 abolishes the office of Director-General of the Housing Corporation.

Clause 47 empowers the Corporation to engage employees.

Clauses 48 and 49 relate to the execution of documents and delegation of powers by the Corporation.

Clause 50 redefines the functions of the Housing Corporation. On the coming into force of the clause the functions of the Corporation will be to make loans for housing purposes and any other purposes approved by the Minister, and to manage the existing business of the Corporation.

Clauses 51, 52, and 53 repeal sections of the Housing Act 1974 relating to loans and guarantees.

Clause 54 alters the balance date of the Corporation.

Clauses 55, 56, and 57 make consequential amendments to the principal Act.

PART VI

AMENDMENTS TO RESIDENTIAL TENANCIES ACT 1986

Part VI, which will become a separate Bill, amends the Residential Tenancies Act 1986.

Clauses 59 to 70 relate principally to the transfer of the functions of the Housing Corporation and the Director-General of the Corporation under the principal Act to the Ministry of Housing and the chief executive of that Ministry.

Clause 71 alters the date for reporting by the Ministry under the principal Act.

Clause 72 abolishes the Residential Tenancies Fund and provides that money paid by way of bonds is to be paid into a Residential Tenancies Trust Account under Part VII of the Public Finance Act 1989.

Clause 73 effects the consequential repeal of sections 128 to 131 of the principal Act.

Clause 74 substitutes a new section 132 in the principal Act and is also consequential.

Clause 75 empowers the making of regulations under the principal Act that prescribe different fees payable by landlords and tenants in respect of applications to the Tenancy Tribunal.

It also enables regulations to specify as a circumstance in which a fee may be waived or remitted the fact that a bond has been paid or an address for service has been given.

Clause 76 effects the consequential repeal of section 143 of the Housing Corporation Act 1974.

Clause 77 makes a number of further consequential amendments to the principal Act.

HOUSING RESTRUCTURING

ANALYSIS

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<p>45. Section relating to establishment of Tenancy Bond Division repealed</p> <p>46. Repeal of section relating to appointment of Director-General</p> <p>47. Employees</p> <p>48. Execution of documents on behalf of Corporation</p> <p>49. Delegation of functions or powers of Corporation</p> <p>50. Functions of Corporation</p> <p>51. Section empowering Corporation to make loans for industry and other purposes repealed</p> <p>52. Section empowering Corporation to give guarantees and indemnities repealed</p> <p>53. Section relating to guarantees and indemnities under Residential Tenancies Act 1986 repealed</p> <p>54. Financial year</p> <p>55. Audit of accounts</p> <p>56. Conveyancing</p> <p>57. Amendments to other enactments, repeals, and savings</p> <p style="text-align: center;">PART VI AMENDMENTS TO RESIDENTIAL TENANCIES ACT 1986</p> <p>58. Part to be read together with Residential Tenancies Act 1986</p> <p>59. Interpretation</p> <p>60. Duties of landlord on receipt of bond</p> <p>61. New sections substituted</p> <p style="padding-left: 2em;">20. Duties of chief executive in relation to bonds</p>	<p>21. Tenant may pay bond direct to chief executive with landlord's consent</p> <p>22. Claims against bonds</p> <p>62. Abandoned goods</p> <p>63. Offices and Tenancy Officers</p> <p>64. Orders as to costs</p> <p>65. Tenancy Mediator or Tribunal may require valuer's report in certain proceedings</p> <p>66. Enforcement of orders other than possession orders and work orders</p> <p>67. Enforcement of work orders</p> <p>68. Unlawful acts</p> <p>69. New heading and section substituted</p> <p style="text-align: center;"><i>Functions and Powers of Chief Executive</i></p> <p>121. Chief executive responsible for administration of Act</p> <p>70. Section relating to delegation by Director-General repealed</p> <p>71. Annual report</p> <p>72. New heading and section substituted</p> <p style="text-align: center;"><i>Residential Tenancies Trust Account</i></p> <p>127. Residential Tenancies Trust Account</p> <p>73. Sections relating to Residential Tenancies Fund repealed</p> <p>74. No execution</p> <p>75. Regulations relating to other matters</p> <p>76. Section amending Housing Corporation Act 1974 repealed</p> <p>77. Other amendments to principal Act Schedules</p>
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A BILL INTITULED

An Act to—

- (a) Provide for the acquisition by the Crown of shares in the capital of a company incorporated under the Companies Act 1955; and 5
- (b) Provide for the vesting in that company of State housing land held by the Crown under the Housing Act 1955 and assets and liabilities of the Housing Corporation of New Zealand; and
- (c) Amend the Housing Act 1955, the Housing Corporation Act 1974, the Residential Tenancies Act 1986, and certain other enactments; and 10
- (d) Provide for related matters

BE IT ENACTED by the Parliament of New Zealand as follows: 15

1. Short Title and commencement—(1) This Act may be cited as the Housing Restructuring Act 1992.

(2) Except as provided in **sections 42 and 50** of this Act, this Act shall come into force on the date on which it receives the Royal assent.

2. Interpretation—(1) In this Act, unless the context
5 otherwise requires,—

“Agreement” includes a deed, a contract, an agreement, an arrangement, and an understanding, whether oral or written, express or implied, and whether or not enforceable at law:

10 “Board” means the board of directors of the company:

“Company” means a company the shares in which are acquired by the responsible Minister and the Minister of Finance pursuant to **section 9** of this Act:

15 “Corporation” means the Housing Corporation of New Zealand established under section 3 of the Housing Corporation Act 1974:

“Corporation assets” means any real or personal property of any kind belonging to the Corporation, whether or not subject to rights; and, without limiting the
20 generality of the foregoing, includes—

(a) Any estate or interest in any land belonging to the Corporation, including all rights of occupation of land or buildings:

25 (b) All buildings, vehicles, plant, equipment, and machinery belonging to the Corporation, and any rights therein:

(c) All securities within the meaning of the Securities Act 1978 belonging to the Corporation:

30 (d) All rights of any kind belonging to the Corporation, including rights under Acts, deeds, agreements, or licences, and all applications, objections, submissions, and appeals in respect of such rights:

35 (e) All patents, trade marks, designs, copyright, plant variety rights, and other intellectual property rights whether enforceable by Act or rule of law belonging to the Corporation:

(f) Goodwill and any business undertaking of the Corporation:

40 “Corporation liabilities” means liabilities of the Corporation:

“Liabilities” includes—

(a) Liabilities and obligations under any Act or agreement; and

(b) Deposits and other debt securities within the meaning of the Securities Act 1978; and

(c) Contingent liabilities:

“Responsible Minister” means, subject to any enactment, the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act: 5

“Rights” includes powers, privileges, interests, licences, approvals, consents, benefits, and equities of any kind, whether actual, contingent, or prospective: 10

“Rules” means the memorandum of association and articles of association of the company:

“Security” means a mortgage, submortgage, charge (whether legal or equitable), bond, stock, debenture, bill of exchange, promissory note, guarantee, indemnity, defeasance, hypothecation, instrument by way of security, lien, pledge, or other security for the payment of money or for the discharge of any other obligation or liability, and in any case whether upon demand or otherwise, whether present or future and whether actual or contingent, and includes an acknowledgment of debt (whether or not otherwise secured) and an agreement or undertaking to give or execute whether upon demand or otherwise any of the foregoing: 15 20

“Shareholding Ministers” means the Minister of Finance and the responsible Minister:

“Sitting day” means a sitting day of the House of Representatives: 30

“State housing assets” means State housing land within the meaning of section 2 of the Housing Act 1955; and includes—

(a) All buildings, vehicles, plant, equipment, machinery, and chattels belonging to the Crown and relating to State housing land (as so defined) and any rights therein: 35

(b) All rights of the Crown of any kind relating to State housing land (as so defined) including rights under Acts, deeds, agreements, or licences, and all applications, objections, submissions, and appeals in respect of such rights; and 40

(c) All securities belonging to the Crown and relating to State housing land (as so defined):

“State housing liabilities” means all liabilities of the Crown relating to State housing land within the meaning of section 2 of the Housing Act 1955:

5 “Statement of corporate intent” means the current statement of corporate intent for the company prepared pursuant to **section 15** of this Act:

“Subsidiary” has the same meaning as in section 158 of the Companies Act 1955.

10 (2) In this Act, a reference to “transfer”, “authorise”, or “grant” includes entering into an agreement to transfer, authorise, or grant, as the case may be.

3. Act to bind the Crown—This Act binds the Crown.

PART I
PRINCIPLES

15 **4. Principal objective of company**—(1) The principal objective of the company shall be to operate as a successful business that will assist in meeting the Crown’s social objectives by providing housing and related services whether in accordance with its statement of corporate intent or pursuant
20 to any agreement made under **section 7** of this Act, and to this end to be—

(a) As profitable and efficient as comparable businesses that are not owned by the Crown; and

(b) A good employer; and

25 (c) An organisation that exhibits a sense of social responsibility by having regard to the interests of the community in which it operates.

(2) For the purposes of this section, a “good employer” is an employer who operates a personnel policy containing
30 provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

(a) Good and safe working conditions; and

(b) An equal employment opportunities programme; and

35 (c) The impartial selection of suitably qualified persons for appointment; and

(d) Opportunities for the enhancement of the abilities of individual employees.

5. Responsibility of Ministers—The shareholding
40 Ministers of the company shall be responsible to the House of Representatives for the performance of the functions given to them by this Act or the rules of the company.

6. Directors and their role—(1) The directors of the company shall be persons who, in the opinion of those appointing them, will assist the company to achieve its principal objective.

(2) All decisions relating to the operation of the company shall be made by or pursuant to the authority of the board of the company in accordance with its statement of corporate intent. 5

(3) The board of the company shall be accountable to the shareholding Ministers in the manner set out in Part III of this Act and in the rules. 10

7. Contracts for provision of services—The Crown may, from time to time, require the company to enter into agreements for the provision by the company of housing and related services to any persons in return for the payment by the Crown of the whole or part of the price thereof and, in any such case, the company shall enter into such agreements with the Crown. 15

8. Collective employment contracts—Before entering into any collective employment contract under the Employment Contracts Act 1991, the company shall consult with the State Services Commissioner over the conditions of employment to be included in the collective employment contract. 20 25

PART II

ACQUISITION BY CROWN OF SHARES IN COMPANY

9. Acquisition by Crown of shares in company—

(1) Notwithstanding anything in the Companies Act 1955 or any other enactment or rule of law, the responsible Minister and the Minister of Finance may, on behalf of the Crown, acquire shares in the capital of any public company incorporated under the Companies Act 1955 that is a wholly owned subsidiary of the Corporation. 30

(2) All the shares in the capital of the company acquired by the responsible Minister and the Minister of Finance pursuant to subsection (1) of this section shall be acquired by those Ministers on behalf of the Crown in equal proportions. 35

(3) Any money required to be paid by a shareholding Minister on acquiring shares in the company pursuant to this section shall be paid out of money appropriated by Parliament for the purpose. 40

(4) Notwithstanding section 32 (1) of the Companies Act 1955, the company may, by special resolution, change its name to Housing New Zealand Limited.

5 **10. Application of Companies Act 1955**—In the application of the Companies Act 1955 to the company, the following provisions shall, so long as the shareholding Ministers are the members of the company, be construed as if references therein to 7 members were references to 2 members:

- 10 (a) Section 41, as to carrying on business when the number of members is reduced below the legal minimum:
- 10 (b) Section 217 (d), as to winding up by the Court when the number of members is reduced below the legal minimum:
- 15 (c) Section 219 (a) (i), as to the presentation of a winding-up petition by a contributory when the number of members is reduced below the legal minimum.

11. Shareholding Ministers may subscribe for additional shares and equity bonds in company—(1) Each shareholding Minister may, from time to time, on behalf of the
20 Crown, subscribe for or otherwise acquire shares in the capital of the company in addition to the shares acquired under section 9 of this Act.

(2) Each shareholding Minister may, from time to time, on behalf of the Crown, subscribe for or otherwise acquire equity
25 bonds issued by the company.

(3) The number of shares, and the number of equity bonds, subscribed for or otherwise acquired by a shareholding Minister in the company pursuant to this section shall be the same as the number of shares or equity bonds, as the case may be, in the
30 company held by the other shareholding Minister.

(4) Any money required to be paid by a shareholding Minister on subscribing for or otherwise acquiring shares or equity bonds pursuant to this section shall be paid out of money appropriated by Parliament for the purpose.

35 **12. Equity bonds**—(1) Notwithstanding any other enactment or rule of law, the company may issue equity bonds to any person or persons in accordance with subsection (2) of this section, if authorised to do so at any time or times by resolution of the House of Representatives.

40 (2) The terms of issue of equity bonds shall be as follows:

- (a) The bonds shall not confer any rights to vote at general meetings of shareholders:

- (b) The bonds shall be transferable in the manner provided by the rules:
- (c) For the purposes of the Companies Act 1955 and the Securities Act 1978 the bonds shall be deemed to be ordinary shares, and the holder of any bonds shall be deemed to be a shareholder: 5
- (d) For the purposes of the Income Tax Act 1976—
- (i) The bonds shall be deemed to be ordinary shares and the holder of any bonds shall be deemed to be a shareholder: 10
- (ii) Every sum distributed by the company in any manner and under any name to a holder of bonds shall be deemed to be a “dividend” for the purposes of section 4 (1) of the Income Tax Act 1976:
- (iii) No deduction shall be allowed to the company for any such distribution: 15
- (e) Such other terms as are specified in the authorising resolution or as are determined by the shareholding Ministers.

Cf. 1986, No. 124, s. 12 20

13. Provisions relating to Ministers’ shareholding—

(1) Shares in the company held in the name of a person described as the Minister of Finance or the responsible Minister shall be held by the person for the time being holding the office of Minister of Finance or responsible Minister, as the case may be. 25

(2) Notwithstanding any other enactment or rule of law, it shall not be necessary to complete or register a transfer of shares of the kind referred to in **subsection (1)** of this section consequent upon a change in the person holding the office of Minister of Finance or responsible Minister, as the case may be. 30

(3) Each shareholding Minister may exercise all the rights and powers attaching to the shares in the company held by that Minister.

(4) A shareholding Minister may at any time or times, by written notice to the secretary of the company, authorise (on such terms and conditions as are specified in the notice) such person as the Minister thinks fit to act as the Minister’s representative at any or all of the meetings of shareholders of the company or of any class of such shareholders, and any person so authorised shall be entitled to exercise the same 35 40

powers on behalf of the Minister as the Minister could exercise if present in person at the meeting or meetings.

Cf. 1986, No. 124, s. 22

5 **14. Powers of shareholding Ministers in respect of company**—(1) Notwithstanding any other provision of this Act or the rules,—

10 (a) The shareholding Ministers may from time to time, by written notice to the board, direct the board to include in, or omit from, a statement of corporate intent for the company any provision or provisions of a kind referred to in paragraphs (a) to (i) of section 15 (3) of this Act; and

15 (b) The shareholding Ministers may, by written notice to the board, determine the amount of dividend payable by the company in respect of any financial year or years,—

and the board shall comply with the notice.

(2) Before giving any notice under this section, the shareholding Ministers shall—

20 (a) Have regard to Part I of this Act; and

(b) Consult the board as to the matters to be referred to in the notice.

25 (3) Within 12 sitting days after a notice is given to the board pursuant to this section, the responsible Minister shall lay a copy of the notice before the House of Representatives.

Cf. 1986, No. 124, s. 13

PART III

ACCOUNTABILITY

30 **15. Statement of corporate intent**—(1) The board shall deliver to the shareholding Ministers a draft statement of corporate intent not later than 1 month before the commencement of each financial year of the company.

35 (2) For the purposes of preparing the draft statement of corporate intent, the shareholding Ministers shall, not later than 2 months before the commencement of each financial year of the company, give written notice to the board of the Crown's social objectives in relation to the provision of housing and related services.

40 (3) Each statement of corporate intent shall specify for the group comprising the company and its subsidiaries (if any), in respect of that financial year and each of the immediately following 2 financial years, the following information:

- (a) The objectives of the group in relation to the provision of housing and related services that will assist the Crown in meeting its social objectives in relation to housing and related services:
 - (b) The nature and scope of the activities to be undertaken: 5
 - (c) The ratio of consolidated shareholders' funds to total assets, and definitions of those terms:
 - (d) The accounting policies:
 - (e) The performance targets and other measures by which the performance of the group may be judged in relation to its objectives: 10
 - (f) A statement of the principles adopted in determining the annual dividend together with an estimate of the amount or proportion of annual tax paid earnings (from both capital and revenue sources) that is intended to be distributed to the Crown: 15
 - (g) The kind of information to be provided to the shareholding Ministers by the company during the course of those financial years, including the information to be included in each half-yearly report: 20
 - (h) The procedures to be followed before any member of the group subscribes for, purchases, or otherwise acquires shares in any company or other organisation:
 - (i) A statement of the steps that the company proposes to take to assist the Crown in meeting its social objectives in relation to the provision of housing and related services: 25
 - (j) Any activities for which the board seeks compensation from the Crown (whether or not the Crown has agreed to provide such compensation): 30
 - (k) Such other matters as are agreed by the shareholding Ministers and the board.
- (4) Each statement of corporate intent shall also include the board's estimate of the current commercial value of the Crown's investment in the group and a statement of the manner in which that value was assessed. 35
- (5) The board shall consider any comments on the draft statement of corporate intent that are made to it not later than 14 days before the commencement of the financial year by the shareholding Ministers, and shall deliver the completed statement of corporate intent to the shareholding Ministers on or before the commencement of the financial year or such later date as the shareholding Ministers may determine. 40
- (6) A statement of corporate intent may be modified at any time by written notice from the board to the shareholding 45

Ministers, so long as the board has first given written notice to the shareholding Ministers of the proposed modification and considered any comments made thereon by the shareholding Ministers within 1 month of the date on which that notice was given.

5 Cf. 1986, No. 124, s. 14; 1992, No. 27, s. 16

16. Annual report, accounts, and dividend—(1) Within 3 months after the end of each financial year of the company, the board shall deliver to the shareholding Ministers—

- 10 (a) A report of the operations of the company and those of its subsidiaries (if any) during that financial year; and
(b) Audited consolidated financial statements for that financial year consisting of statements of financial position, profit and loss, changes in financial position, and such other statements as may be necessary to show the financial position of the company and its subsidiaries and the financial results of their operations during the financial year; and

15 (c) The auditor's report on those financial statements.

20 (2) Every report under **subsection (1) (a)** of this section shall—

- (a) Contain such information as is necessary to enable an informed assessment to be made of the operations of the company and its subsidiaries, including a comparison of the performance of the company and its subsidiaries with the relevant statement of corporate intent; and

25 (b) State the dividend (if any) that could be paid to the Crown by the company for the financial year to which the report relates.

30 Cf. 1986, No. 124, s. 15

17. Half-yearly reports—(1) Within 2 months after the end of the first half of each financial year of the company, the board shall deliver to the shareholding Ministers a report of its operations during that half-year.

35 (2) Each report required by this section shall include the information required by the statement of corporate intent to be included in the report.

Cf. 1986, No. 124, s. 16

18. Information to be laid before House of Representatives—(1) The responsible Minister shall lay the rules before the House of Representatives within 12 sitting days after the date on which the responsible Minister and the

Minister of Finance acquire shares in the capital of the company pursuant to **section 9** of this Act.

(2) The responsible Minister shall lay before the House of Representatives any change to the rules of the company within 12 sitting days of the date on which the rules were changed. 5

(3) Within 12 sitting days after receiving all the following documents in respect of a financial year of the company, the responsible Minister shall lay the documents before the House of Representatives:

- (a) The statement of corporate intent of the company for that year and the succeeding 2 years; and 10
- (b) The annual report and audited financial statements of the company for the preceding financial year; and
- (c) The auditor's report on those financial statements.

(4) Where a statement of corporate intent for the company has been modified pursuant to **section 15(6)** of this Act, the responsible Minister shall lay before the House of Representatives a copy of the notice making the modification within 12 sitting days after the date on which the Minister receives the notice. 15 20

(5) Within 12 sitting days after a half-yearly report is given to the responsible Minister pursuant to **section 17** of this Act, the responsible Minister shall lay a copy of the report before the House of Representatives.

Cf. 1986, No. 124, s. 17 25

19. Other information—(1) Subject to **subsection (3)** of this section, the board shall supply to the shareholding Ministers or to such other person or class or classes of persons as either of those Ministers specifies such information relating to the affairs of the company, or any of its subsidiaries, as either of those Ministers requests after consultation with the board (whether or not the information is of a kind referred to in the statement of corporate intent). 30

(2) A shareholding Minister may request information to be supplied whether or not the supply of the information is required for the purposes of, or is contemplated by, this Act. 35

(3) The board shall not be obliged by **subsection (1)** of this section to supply to any Minister any information relating to an individual employee, client, or customer of the company or any subsidiary of it, or any other person, if the information supplied would enable the identification of the person concerned. 40

(4) Notwithstanding any other enactment or rule of law, the board may direct an officer or employee of the company to comply with a request under **subsection (1)** of this section, and

the officer or employee shall comply with the request on being directed to do so.

5 (5) No member of the board and no officer or employee of the company who acts in accordance with a request or direction under this section is liable to any person under any other enactment or rule of law by reason of acting in accordance with that request or direction.

Cf. 1986, No. 124, s. 18; 1990, No. 23, s. 2 (1)

10 **20. Audit Office to be auditor of company and subsidiaries**—(1) Notwithstanding sections 163 to 165 of the Companies Act 1955, the Audit Office shall be the auditor of the company, and of every subsidiary of the company, and for the purposes of that Act shall have and may exercise the functions, duties, and powers of an auditor appointed under 15 that Act and all such powers as it has under the Public Finance Act 1977 in respect of public money and public stores.

(2) The company shall pay to the Audit Office for carrying out its duties and functions under this section fees at such rates as may be prescribed by the Minister of Finance.

20 (3) Without limiting subsection (1) or subsection (2) of this section, the board may, after consultation with the Audit Office and if the responsible Minister so approves, appoint a person or firm that is qualified for appointment as an auditor of a company to be an additional auditor of the company or any 25 subsidiary of the company.

Cf. 1986, No. 124, s. 19

30 **21. Protection from disclosure of sensitive information**—Nothing in this Act shall be construed as requiring the inclusion in any statement of corporate intent, annual report, financial statements, or half-yearly report referred to in sections 15 to 17 of this Act of any information that could be properly withheld if a request for that information were made under the Official Information Act 1982.

Cf. 1986, No. 124, s. 20

35

PART IV

VESTING OF STATE HOUSING ASSETS AND LIABILITIES AND CORPORATION ASSETS AND LIABILITIES IN COMPANY

40 **22. Agreements in relation to vesting of State housing assets and liabilities and Corporation assets and liabilities**—(1) Notwithstanding any Act, rule of law, or

agreement, the shareholding Ministers may, from time to time, do any one or more of the following:

- (a) Enter into an agreement with the company on such terms and conditions as the shareholding Ministers and the company think fit that identifies the State housing assets or liabilities or Corporation assets or liabilities that the shareholding Ministers and the company agree should be vested in the company and that states the consideration for such vesting: 5
 - (b) Authorise the company to act on behalf of the Crown or the Corporation in providing housing services or in managing State housing assets or liabilities or Corporation assets or liabilities: 10
 - (c) Grant to the company leases, licences, easements, permits, or rights of any kind in respect of State housing assets or liabilities or Corporation assets or liabilities. 15
- (2) Any agreement entered into under **subsection (1)** of this section may apply to State housing assets or liabilities or Corporation assets or liabilities separately or as a group or class and for the purposes of this subsection a class of State housing assets or liabilities or Corporation assets or liabilities may comprise— 20
- (a) All or any State housing assets or liabilities or Corporation assets or liabilities: 25
 - (b) All or any State housing assets or liabilities or Corporation assets or liabilities other than State housing assets or liabilities or Corporation assets or liabilities identified separately or as a group or class.
- (3) The responsible Minister shall lay before the House of Representatives any contract or other document entered into pursuant to **subsection (1)** of this section within 12 sitting days after the date of that contract or document. 30

23. Assets relating to land and interests in land may be dealt with separately—The shareholding Ministers and the company may agree pursuant to **section 22** of this Act that any State housing assets or Corporation assets that are fixed to, or are under or over, any land may be vested in the company whether or not the land is also vested in the company and, in any such case, for the purposes of this Part of this Act, the assets and the land shall be regarded as separate assets each capable of separate ownership. 35 40

24. Vesting of State housing assets and liabilities and Corporation assets and liabilities in company—

(1) The Governor-General may from time to time, by Order in Council, appoint a date on which, by virtue of this Act, State housing assets or liabilities and Corporation assets or liabilities referred to in any agreement entered into between the shareholding Ministers and the company, being an agreement specified in the order, shall vest in the company.

(2) The vesting of State housing assets and liabilities and Corporation assets and liabilities pursuant to this Part of this Act shall take effect notwithstanding any enactment or rule of law or agreement and, in particular, but without limitation, the vesting shall take effect notwithstanding any provision contained in the Land Act 1948, the Reserves Act 1977, the Public Works Act 1981, the Resource Management Act 1991, or any other enactment relating to land.

(3) Every Order in Council under this section shall be deemed to be a regulation for the purposes of the Acts and Regulations Publication Act 1989.

25. Additional provisions relating to vesting—

(1) Nothing in this Part of this Act—

(a) Shall be regarded as placing the Crown, the company, the Corporation, or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or

(b) Shall be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or

(c) Shall be regarded as placing the Crown, the company, the Corporation, or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or

(d) Shall release any surety from any obligation; or

(e) Shall invalidate or discharge any contract or security.

(2) District Land Registrars and other persons charged with the keeping of books or registers are hereby authorised to make such entries in their respective books or registers and do everything necessary to give effect to the vesting of any State housing assets or liabilities and Corporation assets or liabilities in the company under this Part of this Act.

(3) A certificate, signed by the Chief Surveyor for the land district in which the land is situated, that land described in the

certificate, or described in any document on which the certificate appears, is land vested in the company pursuant to this Part of this Act shall be sufficient evidence, in the absence of proof to the contrary, that the land was so vested.

(4) Where State housing assets or liabilities or Corporation assets or liabilities vest in the company pursuant to this Part of this Act— 5

- (a) The publication under the Acts and Regulations Publication Act 1989 of any Order in Council made under section 24 of this Act relating to those State housing assets or liabilities or Corporation assets or liabilities shall be deemed to be notice of the vesting and any third party shall, after the date of such publication, deal with the company in place of the Crown or the Corporation, as the case may be: 10
- (b) The Crown or the Corporation, as the case may be, shall remain liable to any third party as if the asset or liability had not been vested but shall be indemnified by the company in respect of any liability to any third party: 15
- (c) Any satisfaction or performance by the company in respect of the asset or liability shall be deemed to be also satisfaction or performance by the Crown or the Corporation, as the case may be: 20
- (d) Any satisfaction or performance in respect of the asset or liability by any third party to the benefit of the company shall be deemed to be also to the benefit of the Crown or the Corporation, as the case may be. 25

26. Vesting of assets where certain terms and conditions prescribed by statute—(1) Where— 30

- (a) Rights or obligations to provide goods or services to third parties are vested in the company pursuant to this Part of this Act; and
- (b) Those goods or services have previously been provided by the Crown or the Corporation, as the case may be, on terms and conditions wholly or partly prescribed by any Act; and 35
- (c) The Governor-General has, by Order in Council, declared that this subsection shall apply in respect of those goods or services,— 40

the goods or services shall, to the extent that those terms and conditions are not already contained in contracts between the Crown or the Corporation, as the case may be, and third parties, from the date of vesting be deemed to be provided

pursuant to contracts between the company and the third parties (whether or not the Act is repealed).

5 (2) Each such contract shall be deemed to include such of the terms and conditions contained in that Act (with all necessary modifications) as are specified in the Order in Council.

(3) Where any land that is subject to any lease, licence, permit, or right, created on terms and conditions wholly or partly set out in any Act has been vested in the company pursuant to this Part of this Act, the Governor-General may, by
10 Order in Council, declare that such of the provisions of that Act as are specified in the order shall continue to apply in relation to the land and such lease, licence, permit, or right.

(4) Where an Order in Council is made under subsection (3) of this section, the provisions of the Act referred to in the order
15 shall, with all necessary modifications, continue to apply in relation to the land and the terms or conditions of the lease, licence, permit, or right subject to any agreement to—

(a) Amend or revoke any such term or condition; or

(b) Revoke any such term or condition and substitute another
20 term or condition for it—

made between the owner for the time being of the land and the holder for the time being of the lease, licence, permit, or right.

Cf. 1986, No. 124, s. 23 (7), (8), (8A); 1992, No. 27, s. 4

27. Provisions relating to vesting of land—

25 (1) Notwithstanding any other provision of this Act, no land that is subject to a lease or licence pursuant to section 66 or section 66AA of the Land Act 1948 shall be vested in the company pursuant to this Part of this Act.

(2) Notwithstanding any other provision of this Act, no land
30 for the time being administered by the Department of Conservation under the Conservation Act 1987 or under any enactment specified in the First Schedule to that Act shall be vested in the company pursuant to this Part of this Act.

(3) All land that is subject to the Land Act 1948 or the Forests
35 Act 1949 or the Housing Act 1955 and that is vested in the company pursuant to this Part of this Act shall cease to be subject to the Land Act 1948 or the Forests Act 1949 or the Housing Act 1955, as the case may be, from the date of that vesting, unless otherwise expressly provided by this Act or any
40 other Act.

(4) Nothing in sections 40 to 42 of the Public Works Act 1981 shall apply to the vesting of land in the company pursuant to this Part of this Act.

(5) Nothing in this Part of this Act or in any vesting of land in the company pursuant to this Part of this Act shall derogate from the provisions of section 10 or section 11 of the Crown Minerals Act 1991.

Cf. 1986, No. 124, s. 24 (2)–(5); 1987, No. 117, s. 7 (1), (2); 5
1990, No. 31, s. 37; 1991, No. 70, s. 121

28. Title to land—(1) A District Land Registrar shall, on written application by any person authorised by either of the shareholding Ministers and on payment of the prescribed fee,—

- (a) Register the company as the proprietor, in substitution for the Crown, of the estate or the interest of the Crown in land that is incorporated in the register or otherwise registered in the land registry office of the land registration district concerned and that is vested in the company pursuant to this Part of this Act; and 10 15
- (b) Register the company as the proprietor, in substitution for the Corporation, of the estate or the interest of the Corporation in land that is incorporated in the register or otherwise registered in the land registry office of the land registration district concerned and that is vested in the company pursuant to this Part of this Act; and 20
- (c) Make such entries in the register and on any outstanding documents of title and generally do all such things as may be necessary to give effect to this section. 25
- (2) The powers conferred by subsection (1) of this section may be exercised in respect of any estate or interest that is incorporated in the register by virtue of a lease or licence that has expired or been determined. 30
- (3) A District Land Registrar shall, on written application by any person authorised by either of the shareholding Ministers, and on payment of the prescribed fee, issue a certificate of title for land, other than land that is registered under the Land Transfer Act 1952, that is vested in the company pursuant to this Part of this Act in form No. 1 of the First Schedule to the Land Transfer Act 1952, amended as appropriate. 35
- (4) A District Land Registrar shall, on written application by a person authorised by either of the shareholding Ministers, issue a certificate of title for land that is subject to the Land Transfer Act 1952 but for which no certificate of title has been issued and that is vested in the company pursuant to this Part of this Act, in Form No. 2 in the First Schedule to the Land Transfer Act 1952, amended as appropriate. 40

(5) Every application under **subsection (1)** or **subsection (3)** or **subsection (4)** of this section shall—

- (a) State that the land has been vested in the company under this Part of this Act; and
- 5 (b) Contain a description of the land that is sufficient to identify it; and
- (c) In the case of an application under **subsection (3)** of this section, be accompanied by a certificate by the Chief Surveyor for the district concerned as to the
10 correctness of the description.

(6) Where land is vested in the company pursuant to this Part of this Act and at any time before the 22nd day of July 1991 (being the date of the coming into force of Part X of the Resource Management Act 1991), in relation to a proposed
15 subdivision of the land, either the Crown or the Corporation held an approval under the Local Government Act 1974 (being an approval that expired before that date) or no such approval was required, as the case may be,—

- 20 (a) Any person authorised by either of the shareholding Ministers may, notwithstanding the Resource Management Act 1991, deposit a survey plan in respect of that land:
- (b) A District Land Registrar shall, notwithstanding that Act,
25 on written application by a person authorised by either of the shareholding Ministers, issue a certificate of title for any land that is shown as a separate allotment on a survey plan in respect of the land (whether the survey plan was deposited before the
30 22nd day of July 1991 or is the survey plan referred to in **paragraph (a)** of this subsection) for the purpose of giving effect to the subdivision shown on that plan.

(7) For the purposes of **subsection (6)** of this section the expressions “allotment”, “subdivision”, and “survey plan” shall
35 have the same meanings as in the Resource Management Act 1991.

Cf. 1990, No. 105, s. 9

29. Land certification—(1) Before a District Land Registrar issues a certificate of title in respect of any land, other than land that is registered under the Land Transfer Act 1952, that
40 is vested in the company pursuant to this Part of this Act, the District Land Registrar shall either receive under the hand of, or request from, the Director-General of Survey and Land Information or any Chief Surveyor a certificate in a form substantially similar to the form set out in the Second Schedule

to the Land Act 1948 as to the legal description of the land, any trusts, reservations, or restrictions affecting the land, and any other matters that the District Land Registrar considers appropriate.

(2) A certificate in accordance with **subsection (1)** of this section shall be filed by the District Land Registrar in the Land Registry Office and shall be conclusive evidence to the District Land Registrar of the matters required to be stated in it.

Cf. 1990, No. 105, s. 10

30. Certification of easements—(1) Where land is vested in the company pursuant to this Part of this Act subject to the reservation of or together with any easement, not being an easement previously registered under the Land Transfer Act 1952, the Director-General of Survey and Land Information or any Chief Surveyor shall include in the certificate given under **section 29 (1)** of this Act a sufficient description of the easement and particulars as to the rights and powers, terms, covenants, conditions, or restrictions attaching thereto.

(2) The District Land Registrar shall enter a memorial of the easement upon the relevant certificate of title by reference to the certificate in which it is described as if that certificate were the instrument creating the easement.

(3) Where a memorial of an easement is entered upon the relevant certificate of title under **subsection (2)** of this section, the easement shall be treated for all purposes including all subsequent dealings as if it had been created under the Land Transfer Act 1952.

Cf. 1986, No. 124, s. 26A; 1992, No. 27, s. 6

31. Orders in Council relating to vesting of State housing assets and liabilities and Corporation assets and liabilities—For the purpose of facilitating the vesting of State housing assets or liabilities and Corporation assets or liabilities in the company pursuant to this Part of this Act, the Governor-General may, from time to time, by Order in Council, do any one or more of the following:

(a) Declare that a reference to the Crown or a Minister, officer, employee, department, or instrument of the Crown or to the Corporation or an officer or employee of the Corporation, as the case may be, in any or all regulations, orders, notices, or documents shall be deemed to be or to include a reference to the company:

- 5 (b) Declare that the company shall assume or continue to have the rights and obligations of the Crown or a Minister, officer, employee, department, or instrument of the Crown or of the Corporation or an officer or employee of the Corporation, as the case may be, in respect of applications for rights, objections, or proceedings before any court, authority, or other person, being rights and obligations that have been vested in the company pursuant to this Part of this Act:
- 10 (c) Declare, in respect of any State housing assets or liabilities or Corporation assets or liabilities vested in the company pursuant to this Part of this Act, that the company shall be deemed to have specified rights or obligations in respect of those assets or liabilities, being rights or obligations that are required in respect of those assets or liabilities as a result of the change of ownership or responsibility from the Crown or the Corporation, as the case may be, to the company:
- 15 (d) Declare that any Order in Council made under this section shall be deemed to be notice to all persons, and that specific notice need not be given to any authority or other person:
- 20 (e) Direct any authority or other person to register or record any such vesting or declaration.
- 25

Cf. 1986, No. 124, s. 28; 1991, No. 69, s. 362

32. Books and documents to remain evidence—(1) Any document, matter, or thing, which if this Act had not been passed would have been admissible in evidence in respect of
30 any matter relating to State housing assets or liabilities or Corporation assets or liabilities vested in the company pursuant to this Part of this Act for or against the Crown or the Corporation, as the case may be, shall, on and after the date on which those assets or liabilities vest in the company, be
35 admissible in evidence in respect of the same matter for or against the company.

(2) In this section “document” has the same meaning as in section 2 (1) of the Evidence Amendment Act (No. 2) 1980.

33. Application of Housing Act 1955 to company—
40 (1) The Housing Act 1955 shall have effect in respect of State housing land within the meaning of section 2 of the Housing Act 1955 vested in the company pursuant to this Part of this Act where at the date of vesting there is a lease, licence, permit,

agreement, or tenancy in respect of that land to which all or any of the following provisions of the Housing Act 1955 (or any corresponding provisions of any former Housing Act, as the case may be) apply, and those provisions shall continue to apply to that lease, licence, permit, agreement, or tenancy (and any renewal thereof pursuant to a right expressly conferred thereby or by any Act) as if the land were still State housing land subject to the Housing Act 1955 and every reference in those provisions to the Minister of Housing or the Corporation included a reference to the company:

- (a) Section 17 (which relates to the issue of licences to occupy):
- (b) Section 18 (which relates to the registration of agreements for sale and licences to occupy):
- (c) Section 22 (which relates to the acceptance of money after the rescission of an agreement for sale):
- (d) Section 23 (which relates to the recovery of possession of land):
- (e) Section 37 (which relates to the registration of dealings with agreements registered under section 18 of the Housing Act 1955).

(2) Without limiting subsection (1) of this section, section 18 of the Housing Act 1955 shall apply in relation to every licence to occupy land that is issued by the company under section 17 of that Act as applied by subsection (1) of this section.

(3) Without limiting the powers of the company, the provisions of sections 25 to 30 of the Housing Act 1955 shall continue to apply in relation to State housing land within the meaning of section 2 of the Housing Act 1955 that has been vested in the company pursuant to this Part of this Act, whether or not the land remains vested in the company, as if the land continued to be State housing land subject to that Act.

(4) Section 36 (5) of the Housing Act 1955 shall continue to apply in relation to State housing land within the meaning of section 2 of the Housing Act 1955 vested in the company pursuant to this Part of this Act as if the land continued to be State housing land and as if the references to the Minister of Housing and the Corporation included a reference to the company.

(5) Section 3 of the Housing Amendment Act 1956 shall have effect as if—

- (a) The references to the Corporation and the Minister of Housing included references to the company; and

(b) The reference in subsection (2) to State housing land included a reference to land vested in the company pursuant to this Part of this Act.

34. Application of Finance Act 1957—(1) The reference
5 in paragraph (b) of subsection (3) of section 21 of the Finance Act (No. 2) 1946 (as contained in section 9 (2) of the Finance Act 1957) to the Corporation shall be read as if it included a reference to the company.

(2) Every reference in section 9 (3) of the Finance Act 1957 to
10 the Corporation shall be read as if it included a reference to the company.

35. Acquisition of land under Public Works Act 1981—
Where, before the vesting of any land in the company pursuant
15 to this Part of this Act, any negotiations or action had been commenced by the Crown or the Corporation in respect of the taking or acquisition of the land under the Public Works Act 1981, the taking or acquisition may be continued and concluded as if the land were required for a public work.

**36. Return of assets or liabilities by company to the
20 Crown**—(1) The Governor-General may, from time to time, by Order in Council, vest in the Crown, on a date specified in the order, any assets or liabilities specified in the order, being assets or liabilities that were State housing assets or liabilities vested in the company pursuant to this Part of this Act and that the
25 shareholding Ministers and the company agree should be vested in the Crown.

(2) Where, pursuant to an Order in Council under subsection
(1) of this section, assets or liabilities vest in the Crown,—

(a) The provisions of sections 24 (2) and 25 of this Act shall
30 apply, with such modifications as may be necessary:

(b) The company shall remain liable to any third party in
respect of any liability in relation to the assets or liabilities incurred on or after the vesting of the assets or liabilities in the company under this Part of this
35 Act but shall be indemnified by the Crown in respect of that liability to that third party:

(c) Any satisfaction or performance by the Crown in relation
to the assets or liabilities shall be deemed to be also satisfaction or performance by the company:

(d) Any satisfaction or performance in respect of the assets or
40 liabilities by any third party to the benefit of the

Crown shall be deemed to be also to the benefit of the company.

(3) Where land taken or acquired by the Crown under the Public Works Act 1981 before it was vested in the company pursuant to this Part of this Act is vested in the Crown pursuant to an Order in Council under this section the provisions of that Act shall apply to the land as if the land continued to be land taken or acquired under that Act. 5

37. Title to land—(1) A District Land Registrar shall, on written application by any person authorised by either of the shareholding Ministers and on payment of the prescribed fee,— 10

(a) Register the Crown as the proprietor, in substitution for the company, of the estate or interest of the company in any land that is incorporated in the register or otherwise registered in the land registry office of the land registration district concerned and that is vested in the Crown pursuant to an Order in Council made under section 36 of this Act; and 15

(b) Make such entries in the register and on any outstanding documents of title and generally do all such things as may be necessary to give effect to this section. 20

(2) Every application under this section shall—

(a) State that the land has been vested in the Crown under section 36 of this Act; and 25

(b) Contain a description of the land that is sufficient to identify it.

38. Application of Housing Act 1955—Where land is vested in the Crown pursuant to an Order in Council made under section 36 of this Act the land shall be deemed to be State housing land within the meaning of section 2 of the Housing Act 1955 and that Act shall apply to the land accordingly. 30

39. Amendment to section 34 of Housing Act 1955—

(1) Section 34 (1) of the Housing Act 1955 is hereby amended by omitting the expression “31st day of March”, and substituting the expression “30th day of June”. 35

(2) This section shall be deemed to have come into force on the 31st day of March 1989.

40. Amendment to Maori Housing Act 1935—The Maori Housing Act 1935 is hereby amended by repealing 40

section 10 (as amended by section 9 (1) of the Ministry of Maori Development Act 1991) and substituting the following section:

5 “10. **Rate of interest on advances**—The rate of interest to be charged on advances made under this Act shall be such rate as the chief executive determines, but not in excess of the rate fixed under section 25 of the Housing Corporation Act 1974 in respect of similar loans made by the Housing Corporation of New Zealand.”

41. Application of Government Superannuation Fund

10 **Act 1956**—(1) For the purposes of the Government Superannuation Fund Act 1956, a person who, at any time within 9 months after the prescribed date, became or becomes an employee of a specified company and who, immediately before becoming such an employee, was an officer or employee
15 of the Corporation and was a contributor to the Government Superannuation Fund under that Act shall, so long as that person was or continues to be employed by that company, be deemed to have been or to be employed in the Government service and that Act shall be deemed to have applied or to
20 apply, as the case may be, to that person as if service with the company were Government service.

(2) Subject to the Government Superannuation Fund Act 1956, nothing in **subsection (1)** of this section shall entitle any such person to become a contributor to the Government
25 Superannuation Fund after that person has once ceased to be a contributor.

(3) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with **subsection (1)** of this section, to a person who is in the service of the company
30 and is a contributor to the Government Superannuation Fund the term “controlling authority”, in relation to that person, means the chief executive of the company.

(4) In this section—

35 (a) “Prescribed date” means a date (whether or not it is a date that is earlier than the date on which this Act comes into force) declared by the responsible Minister by notice in the *Gazette* to be the prescribed date for the purposes of this section:

40 (b) “Specified company” means a company declared by the responsible Minister by notice in the *Gazette* to be a specified company for the purposes of this section.

42. Amendments to other Acts—(1) The enactments specified in the First Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(2) This section shall come into force on a date to be appointed by the Governor-General by Order in Council. 5

PART V

AMENDMENTS TO HOUSING CORPORATION ACT 1974

43. Part to be read together with Housing Corporation Act 1974—This Part of this Act shall be read together with and deemed part of the Housing Corporation Act 1974* (in this Part of this Act referred to as the principal Act). 10

*R.S. Vol. 24, p. 281

Amendments: 1989, No. 54; 1991, No. 91

44. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “Director-General”.

(2) Section 2 of the principal Act is hereby further amended by repealing the definition of the term “Minister”, and substituting the following definition: 15

“ ‘Minister’ means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the Corporation:”.

 20

45. Section relating to establishment of Tenancy Bond Division repealed—Section 3A of the principal Act (as inserted by section 143 (1) of the Residential Tenancies Act 1986) is hereby repealed. 25

46. Repeal of section relating to appointment of Director-General—(1) Section 5 of the principal Act (as amended by section 4 of the Housing Corporation Amendment Act 1991) is hereby repealed.

(2) Section 4 of the Housing Corporation Amendment Act 1991 is hereby consequentially repealed. 30

(3) On the commencement of this Act the person holding office as Director-General of the Corporation shall vacate office.

47. Employees—The principal Act is hereby amended by repealing section 13, and substituting the following section: 35

“13. (1) The Corporation may, from time to time, appoint such employees of the Corporation as are necessary for the efficient and economical carrying out of its functions.

“(2) The remuneration and other payments payable to such employees shall be paid by the Corporation out of its own funds.”

5 **48. Execution of documents on behalf of Corporation**—The principal Act is hereby amended by repealing section 15, and substituting the following section:

“15. (1) The Corporation may, from time to time, in writing under its common seal, authorise any person to execute deeds, instruments, or other documents on behalf of the Corporation, and may at any time in the same manner revoke any such authority.

“(2) Any authority under this section may be given to—

“(a) A specified person; or

“(b) A person of a specified class; or

15 “(c) The holder for the time being of a specified office or appointment; or

“(d) The holders for the time being of offices or appointments of a specified class.

20 “(3) Every person purporting to execute any document on behalf of the Corporation pursuant to this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with an authority under this section.”

25 **49. Delegation of functions or powers of Corporation**—The principal Act is hereby amended by repealing section 17, and substituting the following section:

“17. (1) The Corporation may, from time to time, delegate any of its functions or powers, including the power of delegation conferred by this subsection, to any person it thinks fit.

30 “(2) Any delegation under this section may be made to—

“(a) A specified person; or

“(b) A person of a specified class; or

“(c) The holder for the time being of a specified office or appointment; or

35 “(d) The holders for the time being of offices or appointments of a specified class.

40 “(3) Subject to any general or special directions given or conditions imposed by the Corporation or by any person by whom any functions or powers are so delegated, the person to whom those functions and powers are delegated may exercise them in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by delegation.

“(4) Every delegation under this section may be revoked at any time by the Corporation, or by the person by whom it was made, and no such delegation shall prevent the exercise of any function or power by the Corporation or by the person by whom the delegation was made.” 5

50. Functions of Corporation—(1) The principal Act is hereby amended by repealing section 18, and substituting the following section:

“18. The functions of the Corporation shall be—

“(a) To make loans for housing purposes and for such other purposes that are for the time being approved by the Minister: 10

“(b) To carry on and manage the business and undertaking of the Corporation existing from time to time and to exercise all rights and powers and discharge all obligations of the Corporation relating to that business and undertaking: 15

“(c) To carry out such other functions as are conferred on it by this Act or by any other enactment.”

(2) This section shall come into force on a date to be appointed by the Governor-General by Order in Council. 20

51. Section empowering Corporation to make loans for industry and other purposes repealed—(1) Section 22 of the principal Act is hereby repealed.

(2) Notwithstanding its repeal by subsection (1) of this section, section 22 of the principal Act shall continue to apply in relation to any loan made by the Corporation before the commencement of this section. 25

52. Section empowering Corporation to give guarantees and indemnities repealed—(1) Section 23 of the principal Act is hereby repealed. 30

(2) Notwithstanding its repeal by subsection (1) of this section, section 23 of the principal Act shall continue to apply in relation to any guarantee or indemnity given by the Corporation before the commencement of this section. 35

53. Section relating to guarantees and indemnities under Residential Tenancies Act 1986 repealed—(1) Section 23A of the principal Act (as inserted by section 143 (2) of the Residential Tenancies Act 1986) is hereby repealed. 40

(2) Notwithstanding its repeal by subsection (1) of this section, section 23A of the principal Act shall continue to apply in relation to any guarantee or indemnity given by the Corporation before the commencement of this section.

5 **54. Financial year**—(1) The principal Act is hereby amended by repealing section 38, and substituting the following section:

10 “38. The financial year of the Corporation shall end with the 30th day of June or such other date as may from time to time be determined by the Minister of Finance.”

(2) This section shall be deemed to have come into force on the 31st day of March 1989.

15 **55. Audit of accounts**—(1) Section 41 of the principal Act is hereby amended by repealing subsection (1A) (as inserted by section 143 (3) of the Residential Tenancies Act 1986).

20 (2) Subsection (1A) of section 41 of the principal Act (as in force immediately before the commencement of this section) shall continue to apply in respect of the financial statements of the Corporation for the financial year ended on the 30th day of June 1992.

25 **56. Conveyancing**—Section 43A (1) of the principal Act (as inserted by section 4 of the Housing Corporation Amendment Act 1987) is hereby amended by omitting the words “the Director-General or any other officer”, and substituting the words “any employee of the Corporation”.

30 **57. Amendments to other enactments, repeals, and savings**—Section 50 (3) (b) of the principal Act is hereby amended by omitting the words “Director-General”, and substituting the words “person for the time being holding office as the chief executive (however designated)”.

PART VI

AMENDMENTS TO RESIDENTIAL TENANCIES ACT 1986

35 **58. Part to be read together with Residential Tenancies Act 1986**—This Part of this Act shall be read together with and deemed part of the Residential Tenancies Act 1986* (in this Part of this Act referred to as the principal Act).

*1986, No. 120

59. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by omitting from paragraph (d) of the

definition of the term “application” the words “Director-General”, and substituting the words “chief executive”.

(2) Section 2 (1) of the principal Act is hereby further amended by inserting, in their appropriate alphabetical order, the following definitions: 5

“‘Chief executive’ means the chief executive of the Ministry of Housing:

“‘Ministry’ means the Ministry of Housing:”.

(3) Section 2 (1) of the principal Act is hereby further amended by repealing the definitions of the terms “Corporation” and “Director-General”. 10

(4) Section 2 (1) of the principal Act is hereby further amended by omitting from the definition of the term “officer of the Tribunal” the word “Corporation”, and substituting the word “Ministry”. 15

60. Duties of landlord on receipt of bond—Section 19 (1) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) The landlord shall, within 15 working days after the payment is made, forward the amount received to the chief executive, together with a statement of particulars in the prescribed form signed by the landlord and the tenant, and a copy of the receipt issued in respect of the payment in accordance with paragraph (a) of this subsection.” 20 25

61. New sections substituted—The principal Act is hereby amended by repealing sections 20 to 22, and substituting the following sections:

“20. Duties of chief executive in relation to bonds—Where a landlord forwards to the chief executive any amount paid by way of bond, the chief executive shall— 30

“(a) Deposit the money into the Residential Tenancies Trust Account; and

“(b) Give to the landlord a written receipt showing—

“(i) The address of the premises to which the payment relates; and 35

“(ii) The name of the landlord; and

“(iii) The name of the tenant; and

“(iv) The amount and nature of the payment; and

“(v) The date of the receipt by the chief executive of the payment: 40

“(c) Give to the tenant a copy of the receipt issued in accordance with paragraph (b) of this section.

“21. **Tenant may pay bond direct to chief executive with landlord’s consent**—(1) Notwithstanding anything in section 19 or **section 20** of this Act, but subject to **subsection (2)** of this section, any amount payable by way of bond may, with the consent of the landlord, be paid direct to the chief executive.

5 “(2) No such payment may be made to the chief executive otherwise than in cash, or by a cheque drawn on a solicitor’s trust account, or by a bank cheque, and every such payment shall be accompanied by a statement of particulars in the prescribed form signed by the landlord and the tenant.

10 “(3) Where any amount payable by way of bond is paid direct to the chief executive, the chief executive shall—

“**(a)** Deposit the money into the Residential Tenancies Trust Account:

15 “**(b)** Give to the tenant a written receipt showing—

“**(i)** The address of the premises to which the payment relates; and

“**(ii)** The name of the landlord; and

20 “**(iii)** The name of the tenant; and

“**(iv)** The amount and nature of the payment; and

“**(v)** The date of the receipt by the chief executive of the payment:

“**(c)** Give to the landlord a copy of the receipt issued in accordance with **paragraph (b)** of this subsection.

25 “22. **Claims against bonds**—(1) No amount deposited into the Residential Tenancies Trust Account in accordance with **section 20** or **section 21** of this Act shall be paid out of that account except in accordance with this section.

30 “(2) Every application for the payment of any money out of the account in accordance with this section shall be made to the chief executive in the prescribed form.

“(3) The chief executive shall, on an application made at any time by the landlord, repay the bond to the tenant.

35 “(4) The chief executive shall, on the application of both the landlord and the tenant, or on the application of one of them and with the consent of the other, pay the bond in accordance with the terms of the application or of any subsequent agreement reached by the parties.

40 “(5) Subject to the succeeding provisions of this section, the chief executive shall,—

“**(a)** On the application of the landlord made at any time during or after the termination of the tenancy; or

“**(b)** On the application of the tenant made at any time after the termination of the tenancy,—

pay the bond in accordance with the terms of the application.

“(6) On receipt of an application made under **subsection (5)** of this section, the chief executive shall give to the other party written notice of the application, inviting that other party to indicate, by written notice to the chief executive within 10 working days after receipt of the notice of the application, whether or not that other party wishes to contest the application. 5

“(7) If the chief executive receives from the other party a written indication that that other party does not wish to contest the application, the chief executive shall pay the bond in accordance with the terms of the application. 10

“(8) If the chief executive does not receive from the other party, within the time allowed, a written indication whether or not that other party wishes to contest the application, the chief executive shall either— 15

“(a) Pay the bond in accordance with the terms of the application; or

“(b) Refer the matter to the Tribunal for determination, if there are reasonable grounds to believe that the payment of the bond in the absence of any response from that other party would not be just. 20

“(9) If the chief executive receives from the other party, within the time allowed, a written indication that that other party wishes to contest the application, the chief executive shall refer the matter to the Tribunal for determination. 25

“(10) Where any matter is referred to the Tribunal under **subsection (8) (b)** or **subsection (9)** of this section, the application made to the chief executive under **subsection (5)** of this section shall be deemed to be an application made to the Tribunal under section 86 of this Act. 30

“(11) If, on the termination of a tenancy, neither the landlord nor the tenant applies to the chief executive in respect of the bond, the chief executive may apply to the Tribunal for an order determining the person or persons to whom, and (where appropriate) the proportions in which, the bond is to be paid.” 35

62. Abandoned goods—(1) Section 62 (1) of the principal Act is hereby amended by repealing paragraphs (e) and (f), and substituting the following paragraph:

“(e) The landlord shall be entitled to recover, out of any bond held in the Residential Tenancies Trust Account in respect of the tenancy, all costs and expenses reasonably incurred by the landlord in respect of the storage or disposition of any goods pursuant to 40

paragraph (a) or paragraph (b) of this subsection or to an order of the Tribunal made under paragraph (c) of this subsection.”

5 (2) Section 62 (2) of the principal Act is hereby amended by repealing paragraphs (c), (d), and (e), and substituting the following paragraphs:

“(c) The proceeds of sale shall be paid to the chief executive who shall pay them into the Residential Tenancies Trust Account; and

10 “(d) Within 10 working days after the date of the sale, the landlord may apply to the Tribunal for an order for the payment to the landlord, out of the proceeds of sale (if any) paid into the Residential Tenancies Trust Account in accordance with **subsection (2) (c)** of this section, of any sum payable to the landlord by the tenant in excess of the amount of any bond held in the Account in respect of the tenancy, and the Tribunal may make such an order accordingly:

15
20 “(e) Subject to any order made under **paragraph (d)** of this subsection, at any time within 1 year after the date of the sale, the tenant may apply to the chief executive for the payment to the tenant of so much of the proceeds of the sale as were paid by the chief executive into that Account in accordance with
25 **paragraph (c)** of this subsection.”

63. Offices and Tenancy Officers—(1) Section 75 (1) of the principal Act is hereby amended by omitting the words “, within the office of the Corporation,”.

30 (2) Section 75 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) A Tenancy Officer shall be appointed from time to time under the State Sector Act 1988 for each office of the Tribunal.”

64. Orders as to costs—The principal Act is hereby
35 amended by inserting, after section 79, the following section:

“79A. Where the Tribunal makes an order awarding payment of costs or disbursements to any person who is or has been a party to an application to the Tribunal, it may direct that payment of those costs or disbursements shall be met by
40 the Crown.”

65. Tenancy Mediator or Tribunal may require valuer's report in certain proceedings—The principal Act is hereby amended by repealing section 100, and substituting the following section:

“100. A Tenancy Mediator or the Tribunal may, at any stage of any proceedings under section 25 of this Act, require the chief executive to obtain and submit to the Tenancy Mediator or the Tribunal a report by a registered valuer who—

“(a) Is not employed by the Crown, in any case where the Crown or any instrument of the Crown is a party; or

“(b) Is employed or engaged by the Crown in any other case.”

66. Enforcement of orders other than possession orders and work orders—Section 107 of the principal Act is hereby amended by repealing subsection (6), and substituting the following subsection:

“(6) The chief executive may advance to any person who seeks to enforce an order pursuant to subsection (1) of this section the amount of any filing fee payable by that person; and, where the chief executive does make any such advance, the amount of the advance shall be recoverable from the other party as a debt due to the Crown.”

67. Enforcement of work orders—(1) Section 108 (4) of the principal Act is hereby amended by omitting the word “Corporation”, and substituting the words “chief executive”.

(2) Section 108 (5) of the principal Act is hereby amended by omitting the word “Corporation”, in both places where it occurs, and substituting the words “chief executive”.

(3) Section 108 of the principal Act is hereby amended by repealing subsection (6), and substituting the following subsection:

“(6) Any money paid to the chief executive under subsection (4) of this section shall be paid by the chief executive into the Residential Tenancies Trust Account, and shall be paid out of that Account by the chief executive to the tenant if the chief executive is satisfied that the money is to be applied by the tenant to meet the cost of the work.”

68. Unlawful acts—(1) Section 109 (1) of the principal Act is hereby amended by omitting the words “Director-General”, in both places where they occur, and substituting the words “chief executive”.

(2) Section 109 (5) of the principal Act is hereby amended by omitting the words “Director-General”, and substituting the words “chief executive”.

5 (3) Section 109 of the principal Act is hereby amended by repealing subsection (6), and substituting the following subsection:

10 “(6) Any amount ordered by the Tribunal to be paid under this section on the application of the chief executive acting as the person responsible for the general administration of this Act shall be paid to the Crown”.

69. New heading and section substituted—The principal Act is hereby amended by repealing section 121 and the heading above that section, and substituting the following heading and section:

15 *“Functions and Powers of Chief Executive*

“121. **Chief executive responsible for administration of Act**—The chief executive is responsible for the general administration of this Act.”

20 **70. Section relating to delegation by Director-General repealed**—Section 122 of the principal Act is hereby repealed.

71. Annual report—(1) The principal Act is hereby amended by repealing section 126, and substituting the following section:

25 “126. (1) The chief executive shall, as soon as practicable after the 30th day of June in each year, submit to the Minister a report on the administration of this Act during the year ending on that day; and the Minister shall lay the report, or a true copy of it, before the House of Representatives as soon as practicable after receiving it.

30 “(2) The report shall show separately the financial position of the Residential Tenancies Trust Account and the financial results of the operation of the Account during the year to which the report relates.”

35 (2) Section 126 of the principal Act (as in force before the commencement of this section) shall be deemed to have been amended with effect on and from the 31st day of March 1989 by omitting the expression “31st day of March”, and substituting the expression “30th day of June”.

40 (3) Section 126 (1) of the principal Act (as substituted by subsection (1) of this section) shall apply in respect of the year ending on the 30th day of June 1992 as if for the words “chief

executive”, there were substituted the words “person holding office as the chief executive (however designated) of the Housing Corporation of New Zealand”.

72. New heading and section substituted—The principal Act is hereby amended by repealing section 127 and the heading above that section, and substituting the following heading and section: 5

“Residential Tenancies Trust Account

“127. Residential Tenancies Trust Account—(1) The following sums shall be deemed to be trust money for the purposes of Part VII of the Public Finance Act 1989: 10

“(a) All sums paid to the chief executive by way of bond under section 20 or section 21 this Act, as the case may be:

“(b) All rent money that is, by virtue of any of the provisions of this Act or of any order of the Tribunal, to be paid into the Residential Tenancies Trust Account: 15

“(c) Any other money that, by virtue of any such provision or any such order, is to be or may be credited to that Account,— 20

and shall be paid into a Trust Bank Account called the Residential Tenancies Trust Account under that Part of that Act.

“(2) The provisions of Part VII of the Public Finance Act 1989 (except subsection (2) of section 68 and sections 69 and 70) shall apply to the Residential Tenancies Trust Account accordingly. 25

“(3) Subject to section 22 of this Act and to subsection (4) of this section, no money shall be paid out of the Residential Tenancies Trust Account except—

“(a) Pursuant to an order of the Tribunal; or 30

“(b) With the chief executive’s prior written consent.

“(4) If, in respect of any sum of money that is credited to the Residential Tenancies Trust Account, the chief executive is uncertain who is entitled to it, or whether or not any such sum should be paid out of that Account to any person, the chief executive may apply to the Tribunal for an order determining who is so entitled or whether or not any such sum should be so paid out. 35

“(5) Where any money is paid out of the Residential Tenancies Trust Account in conformity with any such order of the Tribunal, neither the Crown nor the chief executive shall incur any liability in respect of the payment. 40

“(6) All interest, dividends, and other gains (whether in the nature of income or capital, and whether in money or otherwise, and whether realised or not) arising from any investment of money in the Residential Tenancies Trust Account shall belong to the Crown and be treated as departmental revenue.

“(7) All money credited to Part A of the Residential Tenancies Fund immediately before the commencement of this Act shall be deemed to be credited to the Residential Tenancies Trust Account.

“(8) All money credited to Part B of the Residential Tenancies Fund immediately before the commencement of this Act shall be deemed to be the property of the Crown.”

73. Sections relating to Residential Tenancies Fund repealed—Sections 128 to 131 of the principal Act are hereby repealed.

74. No execution—The principal Act is hereby amended by repealing section 132, and substituting the following section:

“132. No money from time to time standing to the credit of the Residential Tenancies Trust Account shall be taken in or be subject to execution, whether by way of guarantee or otherwise, without the written consent of the chief executive.”

75. Regulations relating to other matters—Section 140 of the principal Act is hereby amended by adding the following subsections:

“(2) Regulations under this section that prescribe fees to be paid in respect of applications to the Tribunal may prescribe different fees payable by landlords and tenants whether or not the fees are prescribed in respect of applications that relate to matters of the same class.

“(3) Regulations under this section that prescribe the circumstances in which a fee may be waived or remitted in whole or in part may specify, as circumstances in which fees payable by landlords and tenants may be waived or remitted in whole or in part,—

“(i) The fact that a bond of not less than a prescribed number of weeks’ rent has been paid in accordance with section 19 or section 21 of this Act, as the case may be:

“(ii) The fact that an address for service has been notified under section 15 or section 16 of this Act, as the case may be.

“(4) Nothing in subsection (3) (b) (i) of this section limits or affects section 18 (1) of this Act.”

76. Section amending Housing Corporation Act 1974 repealed—Section 143 of the principal Act is hereby consequentially repealed.

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77. Other amendments to principal Act—The principal Act is hereby amended in the manner indicated in the **Second** Schedule to this Act.

SCHEDULES

FIRST SCHEDULE
ENACTMENTS AMENDED

Section 42

Title of Act	Amendment
1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 21, p. 657)	By inserting in Part I of the First Schedule, in its appropriate alphabetical order, the following item: “The Ministry of Housing”.
1976, No. 65—The Income Tax Act 1976 (R.S. Vol. 12, p. 1)	By inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item: “Housing New Zealand Limited”.
1982, No. 156—The Official Information Act 1982 (R.S. Vol. 21, p. 579)	By inserting in the Fourteenth Schedule (as substituted by section 23 (1) of the State Services Conditions of Employment Amendment Act 1987), in its appropriate alphabetical order, the following item: “Housing New Zealand Limited”.
1989, No. 44—The Public Finance Act 1989	By inserting in the First Schedule (as substituted by section 23 (1) of the Official Information Amendment Act 1987), in its appropriate alphabetical order, the following item: “Housing New Zealand Limited”.
	By adding to the definition of “Crown agency” in section 2 (1) the words “, or Housing New Zealand Limited”.

Section 77

SECOND SCHEDULE
AMENDMENTS TO PRINCIPAL ACT

Title of Act	Amendment
1986, No. 120—The Residential Tenancies Act 1986	<p>By omitting from section 18 (3) the word “Corporation”, and substituting the words “chief executive”.</p> <p>By omitting from subsections (1) and (3) of section 34 the word “Corporation”, and substituting the words “chief executive”.</p> <p>By omitting from subsections (2) and (3) of section 76 the word “Corporation”, and substituting the word “Ministry”.</p> <p>By omitting from section 77 (2) (o) the words “Director-General”, and substituting the words “chief executive”.</p> <p>By omitting from section 93 (2) (c) the words “Director-General”, and substituting the words “chief executive”.</p> <p>By omitting from subsections (1) and (2) of section 123 the words “Director-General”, wherever they occur, and substituting in each case the words “chief executive”.</p> <p>By omitting from section 123 (2) the words “Director-General’s”, and substituting the words “chief executive’s”.</p> <p>By omitting from subsections (1), (2), (3), (4), (5), (6), and (7) of section 124 the words “Director-General”, wherever they occur, and substituting in each case the words “chief executive”.</p> <p>By omitting from subsection (3), paragraph (c) and paragraph (e) of subsection (4), and subsection (5) of section 124 the words “Director-General’s”, and substituting the words “chief executive’s”.</p> <p>By omitting from section 125 the words “Director-General”, wherever they occur, and substituting in each case the words “chief executive”.</p> <p>By omitting from section 125 the words “Director-General’s”, and substituting the words “chief executive’s”.</p> <p>By omitting from section 133 (1) the words “Director-General”, in both places where they occur, and substituting the words “chief executive”.</p>

SECOND SCHEDULE—*continued*

AMENDMENTS TO PRINCIPAL ACT—*continued*

Title of Act	Amendment
1986, No. 120—The Residential Tenancies Act 1986— <i>continued</i>	By omitting from section 139 (e) the words “Director-General”, and substituting the words “chief executive”.