



## HOUSING AND CONSTRUCTION

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 No. 29 of 1977  
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### ANALYSIS

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**AN ACT to provide for the appointment of a Director-General of Housing and Construction, the creation of a Department of Housing and Construction and for matters incidental thereto and to amend certain other Acts.**

[28 April 1977]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1—(1)** This Act may be cited as the *Housing and Construction Act 1977*. Short title and commencement.

(2) This Act shall commence on a day to be fixed by proclamation.

Interpretation.

**2** In this Act, unless the contrary intention appears—

“ Department ” means the Department of Housing and Construction referred to in section 4;

“ Director-General ” means the Director-General of Housing and Construction appointed under section 3.

Appointment of Director-General.

**3** In accordance with this Act the Governor may appoint a person to be Director-General of Housing and Construction.

Department of Housing and Construction.

**4—(1)** A department to be called the Department of Housing and Construction may be set up under the *Public Service Act 1973*.

(2) For the purposes of the *Public Service Act 1973* the Director-General shall be deemed to be the permanent head of the Department, and shall have the same powers and authority in relation thereto as if he were an officer under that Act.

Transfer of functions from Director of Housing.

**5** The Director-General shall exercise any functions that apart from this Act would be exercisable by the Director of Housing and accordingly the *Homes Act 1935* and the other Acts mentioned in Schedule I are amended as respectively specified therein.

Conditions of service of Director-General.

**6—(1)** The Director-General holds office on such terms and conditions as may be specified in the instrument of his appointment.

(2) The Director-General shall be paid such remuneration and allowances as the Governor may determine.

(3) The Director-General shall not, as such, be subject to the provisions of the *Public Service Act 1973*.

(4) If an officer of the Public Service is appointed to the office of Director-General, he is entitled to retain all his existing and accruing rights as if his service in that office were a continuation of his service as an officer of the Public Service; and where a person ceases to hold the office of Director-General and becomes an officer of the Public Service his service in that office shall be regarded as service in a permanent capacity in the Public Service for the purpose of determining his rights as an officer of the Public Service.

(5) The Director-General shall be deemed to be an employee within the meaning of the *Superannuation Act 1938* and the *Retirement Benefits Act 1970*.

(6) The Director-General is an employee for the purposes of the *State Employees (Long-Service Leave) Act 1950*.

**7**—(1) The Director-General, unless he sooner resigns or otherwise ceases to hold office, continues in office for such term, not exceeding 5 years, as may be specified in the instrument of his appointment. Term of office of Director-General.

(2) The Director-General ceases to hold office on attaining the age of 65 years, and no person shall be appointed as Director-General who has attained that age.

(3) The Governor may remove the Director-General from office if he is satisfied that the Director-General—

- (a) has become, in the opinion of the Governor, permanently incapable of carrying out the duties of his office;
- (b) has misconducted himself in the performance of the duties of his office;
- (c) has failed to comply with the terms and conditions specified in the instrument of his appointment;
- (d) has applied to take, or takes, advantage of any law relating to bankruptcy, or has compounded, or entered into an arrangement, with his creditors; or
- (e) has been convicted (whether in this State or elsewhere) of an offence of such a nature that, in the opinion of the Governor, renders it improper for him to continue to hold office.

(4) The Director-General shall not be removed from office otherwise than in accordance with subsection (3).

**8** The provisions set out in Schedule II have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act. Transitional provisions.

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## SCHEDULE I

(Section 5)

### ACTS AMENDED

#### PART I

*Homes Act 1935*

(26 Geo. V No. 98)

1. Section 3 is amended by omitting the definitions of “Department” and “Director” and substituting the following definitions:—

“‘Department’ means the Department of Housing and Construction;

“ ‘ Director General ’ means the Director-General of Housing and Construction appointed under the *Housing and Construction Act 1977*;”.

2. After section 6 the following section is inserted:—

Director-General to be corporation sole.

“ 6AA For the purpose of acquiring, holding, disposing of, and otherwise dealing with, land under this Act the Director-General shall be a corporation sole by the name of the Director-General of Housing and Construction and by that name shall have perpetual succession and a seal of office.”.

3. Section 6A is amended—

(a) by omitting from subsection (1) the words “ Director of Housing ” and substituting the words “ Director, Housing Division of the Department ”;

(b) by inserting after that subsection the following subsection:—

“(1A) The Director, Housing Division of the Department shall be responsible to the Director-General for the administration of the Housing Division of the Department and shall carry out such other duties as the Director-General may specify.”;

(c) by adding in subsections (2), (3), and (4) after the word “ Director ” (wherever occurring) the words “, Housing Division of the Department ” in each case; and

(d) by omitting subsection (5).

4. After section 6A the following section is inserted:—

Delegation by Director-General.

“ 6AB—(1) The Director-General may, in relation to a particular matter or class of matters, by instrument in writing under his hand delegate to the Director, Housing Division of the Department such of his authority, powers, functions, and duties under or by virtue of this Act (except the power of delegation) as may be specified in the instrument and any authority, power, function, or duty so delegated may be exercised by the Director, Housing Division of the Department as fully and effectually as by the Director-General.

(2) A delegation under this section shall be revocable at the will of the Director-General and no such delegation shall prevent the exercise of any authority, power, function, or duty by the Director-General.”.

5. Section 6B is amended—

(a) by omitting subsections (1), (2), (3), and (4);

(b) by omitting from subsection (5) the words “ other than clerical work in the Department ” and substituting the words “ for the purposes of this Act other than clerical work ”;

(c) by omitting subsection (6); and

(d) by omitting subsection (7) and substituting the following subsection:—

“(7) For the purposes of this section, ‘industrial award’ means—

- (a) an order or award under the *Conciliation and Arbitration Act* 1904 of the Commonwealth, and an agreement under that Act having the force of an order or award; and
- (b) an award under the *Industrial Relations Act* 1975.”.

6. Section 43 is amended by omitting from paragraph (b) of subsection (1) the word “under” and substituting the words “by virtue of the operation of”.

7. Subject to the provisions of this Part the Act is amended by omitting the word “Director” (wherever occurring) and substituting the word “Director-General” in each case.

## PART II

### *Homes (Old Age Pensioners) Act* 1940

(4 & 5 Geo. VI No. 82)

1. Section 1A is amended by omitting the definition of “Director” and substituting the following definition:—

“‘Director-General’ means the Director-General of Housing and Construction.”.

2. Sections 2 and 3 are amended by omitting the word “Director” (wherever occurring) and substituting the word “Director-General” in each case.

### *Housing Agreement Act* 1956

(No. 55 of 1956)

1. Section 2 is amended by omitting the definition of “Director” and substituting the following definition:—

“‘Director-General’ means the Director-General of Housing and Construction.”.

2. Sections 4 and 5 are amended by omitting the word “Director” (wherever occurring) and substituting the word “Director-General” in each case.

*Housing Agreement Act 1961*

(No. 18 of 1961)

1. Section 2 is amended by omitting the definition of “Director” and substituting the following definition:—

“‘Director-General’ means the Director-General of Housing and Construction.”.

2. Sections 4 and 5 are amended by omitting the word “Director” (wherever occurring) and substituting the word “Director-General” in each case.

*Housing Agreement Act 1966*

(No. 27 of 1966)

1. Section 2 is amended by omitting the definition of “Director” and substituting the following definition:—

“‘Director-General’ means the Director-General of Housing and Construction.”.

2. Sections 4 and 5 are amended by omitting the word “Director” (wherever occurring) and substituting the word “Director-General” in each case.

*Housing Agreement Act 1973*

(No. 51 of 1973)

1. Section 2 is amended by omitting the definition of “Director” and substituting the following definition:—

“‘Director-General’ means the Director-General of Housing and Construction.”.

2. Sections 4 and 5 are amended by omitting the word “Director” (wherever occurring) and substituting the word “Director-General” in each case.

*State Advances Act 1935*

(26 Geo. V No. 41)

Section 5 is amended by omitting paragraph (b) of subsection (2) and substituting the following paragraph:—

“(b) the Director-General of Housing and Construction appointed under the *Housing and Construction Act 1977*; and”.

*Substandard Housing Control Act 1973*

(No. 99 of 1973)

1. Section 2 is amended by omitting from subsection (1) the definition of “Director” and substituting the following definition:—

“‘Director-General’ means the Director-General of Housing and Construction;”.

2. The Act is amended by omitting the word “Director” (wherever occurring) and substituting the word “Director-General” in each case.

## SCHEDULE II

(Section 8)

## TRANSITIONAL PROVISIONS

1. The person who immediately before the commencement of this Act held the office of Director of Housing shall be deemed to have been appointed under section 6A of the *Homes Act* 1935 as amended by this Act as the Director, Housing Division of the Department and shall hold office for such period as he would have held office if this Act had not been enacted.

2. Any estates or interests in land or other property and all rights, obligations, and liabilities of the Director of Housing that are subsisting at the commencement of this Act are transferred to and vest in the Director-General.

3. Subject to this Act, nothing in this Act prejudices or affects the operation of anything done by or any proceedings taken by or in relation to the Director of Housing before the commencement of this Act.

4. The officers who were employed in the Housing Department immediately before the commencement of this Act shall on the commencement of this Act be transferred to the service of the Department but subject to the foregoing provisions of this section nothing in this Act shall be taken as prejudicing their privileges, rights, or duties as officers of the Public Service.

