

Parliament House Construction Authority Act 1979

No. 22 of 1979

TABLE OF PROVISIONS

PART I—PRELIMINARY

Section

1. Short title
2. Commencement
3. Interpretation

PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE NEW PARLIAMENT HOUSE CONSTRUCTION AUTHORITY

4. Establishment of Authority
5. Functions of Authority
6. Powers of the Authority
7. Authority to have regard to advice furnished by Parliamentary Committees and resolution of the Parliament
8. Parliament to authorize commencement of work on certain stages of design and construction
9. Minister may give directions to Authority
10. Placing of land under control of Authority

PART III—CONSTITUTION AND MEETINGS OF THE AUTHORITY

11. Nature of Authority
12. Membership of Authority
13. Period of appointment
14. Acting Chairman
15. Leave of absence
16. Resignation of members
17. Termination of appointments
18. Remuneration and allowances of members
19. Meetings of the Authority

PART IV—EXECUTIVE OFFICER

20. Executive Officer
21. Terms and conditions of appointment, &c.
22. Remuneration and allowances
23. Leave of absence
24. Termination of appointment
25. Resignation
26. Acting Executive Officer
27. Preservation of certain rights of officers and employees of Commission

PART V—STAFF

28. Staff of Authority
29. Authority may engage consultants

TABLE OF PROVISIONS—continued

PART VI—FINANCE

- 30. Moneys payable to Authority
- 31. Estimates
- 32. Bank accounts
- 33. Application of moneys
- 34. Proper accounts to be kept
- 35. Audit
- 36. Exemption from taxation

PART VII—MISCELLANEOUS

- 37. Rights of public servants
- 38. Annual reports and financial statements
- 39. Further reports
- 40. Act not to derogate from section 5 of the *Parliament Act 1974*, &c.
- 41. Regulations

Parliament House Construction Authority Act 1979

No. 22 of 1979

An Act to establish an Authority to control the design and construction of Parliament House.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

- Short title 1. This Act may be cited as the *Parliament House Construction Authority Act 1979*.¹
- Commence-
ment 2. This Act shall come into operation on the day on which it receives the Royal Assent.¹
- Interpret-
ation 3. (1) In this Act, unless the contrary intention appears—
“Authority” means the Parliament House Construction Authority established by section 4;
“Chairman” means the Chairman of the Authority;
“Commission” means the National Capital Development Commission;
“Commissioner” means the Commissioner constituting the National Capital Development Commission;
“Executive Officer” means the Executive Officer of the Authority;
“member” means a member of the Authority;
“relevant Joint Committee” means a joint committee of members of the Parliament declared by the Minister, by notice published in the *Gazette*, to be a relevant Joint Committee for the purposes of this Act.
- (2) In this Act—
(a) a reference to the design of Parliament House shall be read as a reference to the design of Parliament House for erection on the site on Capital Hill marked “Site of Parliament House” on the plan set out in the Schedule to the *Parliament Act 1974*, including the design of access roads, parking areas and other facilities to be provided on that site in connection with Parliament House and of landscaping for that site; and
(b) a reference to the construction of Parliament House shall be read as a reference to the construction of Parliament House on

the site referred to in paragraph (a), including the construction of access roads, parking areas and other facilities to be provided on that site in connection with Parliament House and the landscaping of that site.

(3) Where a person acts in the place of the Commissioner during a vacancy in the office of Commissioner or during the illness or absence of the Commissioner, references in this Act to the Commissioner shall be read as references to the person so acting.

PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE PARLIAMENT HOUSE CONSTRUCTION AUTHORITY

4. There is established by this Act an Authority by the name of the Parliament House Construction Authority. Establishment of Authority

5. Subject to this Part, the functions of the Authority are— Functions of Authority

- (a) to undertake and carry out the design and construction of Parliament House;
- (b) to furnish to the Minister and to any relevant Joint Committee information with respect to matters relating to the design or construction of Parliament House; and
- (c) such other functions in relation to the design or construction of Parliament House as are conferred on it by the regulations.

6. (1) The Authority may do all things necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions. Powers of the Authority

(2) The Authority may, so far as it is practicable to do so, make use of the services and resources of the Commission (including the Associate Commissioners and the officers and employees of the Commission) in performing its functions under this Act.

7. The Authority shall, in the exercise of its powers or the performance of its functions under this Act— Authority to have regard to advice furnished by Parliamentary Committees and resolution of the Parliament

- (a) have regard to any advice furnished to it by a relevant Joint Committee; and
- (b) comply with any resolution passed by both Houses of the Parliament,

with respect to any matter related to the design or construction of Parliament House.

8. (1) The Parliament may, by resolutions of each of the Houses of the Parliament, declare— Parliament to authorize commencement of work on certain stages of design and construction

- (a) a stage in the design of Parliament House to be a declared stage in the design of Parliament House for the purposes of this section; or

(b) a stage in the construction of Parliament House to be a declared stage in the construction of Parliament House for the purposes of this section.

(2) Work shall not be commenced or carried out on a declared stage in the design of Parliament House or a declared stage in the construction of Parliament House unless each of the Houses of Parliament has passed a resolution authorizing the commencement of work on that stage.

Minister may
give
directions to
Authority

9. (1) The Minister may give to the Authority directions in writing with respect to the policy to be followed by the Authority in the performance of its functions and the exercise of its powers under this Act.

(2) The Minister shall, as soon as practicable after giving a direction referred to in sub-section (1), cause a copy of the direction to be laid before each House of the Parliament.

(3) Either House of the Parliament, within 5 sitting days of that House after a copy of the direction has been laid before that House under sub-section (2), may, in pursuance of a motion upon notice, pass a resolution disallowing the direction.

(4) If neither House of the Parliament passes a resolution in accordance with sub-section (3) disallowing a direction, the direction takes effect on the day immediately following the last day upon which such a resolution could have been passed and the Authority shall thereupon comply with the direction.

Placing of
land under
control of
Authority

10. (1) The Minister may, by instrument under his hand, place under the control of the Authority any land in the Australian Capital Territory that is the property of the Commonwealth, is not under the control of the Commonwealth by virtue of an instrument under section 14 of the *National Capital Development Commission Act 1957* and is not comprised in a lease granted to any person.

(2) In relation to any land under the control of the Authority by reason of sub-section (1)—

(a) the Authority is, subject to this section, empowered to manage the land on behalf of the Commonwealth, and may—

(i) authorize the entry of persons on the land; or

(ii) carry out such works on, and make such use of, the land in the performance of its functions as it thinks fit; and

(b) the Authority shall not grant a lease of, or licence to occupy, the land but such a lease or licence on behalf of the Commonwealth shall not be granted without the consent of the Authority.

(3) Where the management or use of land that has been placed under the control of the Authority under this section is no longer required by the Authority, the Authority shall, by instrument under its seal, surrender the control of the land to the Commonwealth.

(4) The Minister may revoke, in whole or in part, an instrument under sub-section (1).

PART III—CONSTITUTION AND MEETINGS OF THE AUTHORITY

11. (1) The Authority—

Nature of
Authority

- (a) is a body corporate with perpetual succession;
- (b) shall have a common seal;
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document and shall presume it was duly affixed.

12. (1) The Authority shall consist of 6 members, namely—

Membership
of Authority

- (a) the Chairman;
- (b) the Commissioner; and
- (c) 4 other members.

(2) The Chairman shall be appointed by the Governor-General, and may be either a full-time member or a part-time member.

(3) Where the Governor-General appoints a person to be the Chairman, the Governor-General shall determine the terms and conditions on which the person is to hold that office, being terms and conditions stating whether he is to hold that office as a full-time member or a part-time member and containing such other terms and conditions (if any), in respect of matters not provided for by this Act, as he deems fit.

(4) The members referred to in paragraph (1) (c) shall be appointed by the Governor-General as part-time members.

(5) The members referred to in paragraph (1) (c) hold office on such terms and conditions (if any), in respect of matters not provided for by this Act, as are determined by the Governor-General.

(6) The Governor-General may, from time to time, vary terms and conditions determined under sub-section (3) or (5), including, with the consent of the Chairman, the terms and conditions by virtue of which the Chairman holds office as a full-time member or part-time member, as the case may be.

(7) The performance of the functions of the Authority is not affected by reason of there being a vacancy or vacancies in the membership of the Authority.

- Period of appointment** **13.** (1) The Chairman shall be appointed for such period, not exceeding 5 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.
- (2) A member referred to in paragraph 12 (1)(c) shall be appointed for such period, not exceeding 3 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.
- Acting Chairman** **14.** (1) The Minister may appoint a member other than the Chairman to act as Chairman during any period, or during all periods, when the Chairman is absent from Australia or is, for any other reason, unable to perform the duties of his office, or there is a vacancy in the office of Chairman.
- (2) The Minister may—
- (a) determine the terms and conditions of appointment of a person appointed under this section, including terms and conditions under which the person will act as Chairman in a full-time capacity or in a part-time capacity; and
- (b) at any time terminate such an appointment.
- (3) An acting Chairman may resign his office of acting Chairman by writing under his hand delivered to the Minister.
- (4) While a member is acting as Chairman in pursuance of an appointment under this section, he has and may exercise all the powers of, and shall perform all the functions of, the Chairman.
- (5) The validity of anything done by the Authority shall not be called in question in any proceedings by reason of any defect or irregularity in or in connection with the appointment of a person under this section or on the ground that the occasion for a person appointed under this section to act in pursuance of the appointment had not arisen or had ceased.
- Leave of absence** **15.** The Minister may grant leave of absence to a member upon such terms and conditions as to remuneration or otherwise as the Minister determines.
- Resignation of members** **16.** A member other than the Commissioner may resign his office by writing under his hand delivered to the Governor-General.
- Termination of appointments** **17.** (1) The Governor-General may terminate the appointment of a member other than the Commissioner by reason of the misbehaviour, or the physical or mental incapacity, of that member.
- (2) If a part-time member other than the Commissioner—
- (a) becomes bankrupt, applies to have the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

- (b) fails to comply with his obligations under sub-section (4) or (6);
or
- (c) is absent, except with the permission of the Minister, from 3 consecutive meetings of the Authority,

the Governor-General shall terminate the appointment of the member.

(3) If the Chairman, being a full-time member—

- (a) becomes bankrupt, applies to have the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) fails to comply with his obligations under sub-section (4) or (6);
- (c) is absent from duty, except with the permission of the Minister—
 - (i) for 14 consecutive days or for 28 days in any 12 months;
or
 - (ii) from 3 consecutive meetings of the Authority; or
- (d) engages in paid employment outside the duties of his office without the approval of the Minister,

the Governor-General shall terminate the appointment of the Chairman.

(4) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Authority shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Authority.

(5) A disclosure under sub-section (4) shall be recorded in the minutes of the Authority.

(6) Subject to sub-section (7), where a matter in respect of which a disclosure has been made to the Authority by a member under sub-section (4) is being considered, or is about to be considered, at a meeting of the Authority, the member—

- (a) shall not take part in any deliberation or decision of the Authority with respect to the matter; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Authority for any such deliberation or decision.

(7) Sub-section (6) does not apply to a matter in respect of which the member concerned has a direct or indirect pecuniary interest as a member of and in common with the other members of, an incorporated company which consists of not less than 25 persons and of which the member is not a director.

(8) Where a disclosure under sub-section (4) is made by a member, the member presiding at the meeting of the Authority at which the disclosure is made shall inform the Minister of the nature of that disclosure.

Remuneration and allowances of members

18. (1) A member other than the Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

(2) A member other than the Commissioner shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act* 1973.

Meetings of the Authority

19. (1) Subject to this section, meetings of the Authority shall be held at such times and places as the Authority from time to time determines.

(2) The Chairman may at any time convene a meeting of the Authority.

(3) At a meeting of the Authority, 4 members constitute a quorum.

(4) The Chairman shall preside at all meetings of the Authority at which he is present.

(5) In the event of the absence of the Chairman, the members present shall appoint one of their number to preside at the meeting.

(6) A question arising at a meeting of the Authority shall be decided by a majority of votes of the members present and voting.

(7) The member presiding at a meeting of the Authority has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.

(8) The Authority shall keep a record of its proceedings.

(9) In this section, a reference to the Chairman shall be read as including a reference to the acting Chairman.

PART IV—EXECUTIVE OFFICER

Executive Officer

20. (1) There shall be an Executive Officer of the Authority who shall be appointed by the Governor-General.

(2) The Executive Officer shall furnish to the Authority such advice and assistance as the Authority requires and shall perform such other duties as the Authority from time to time directs.

Terms and conditions of appointment, &c.

21. (1) The Executive Officer holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

(2) The Executive Officer holds office for such period, not exceeding 5 years, as is specified in his instrument of appointment, but is eligible for re-appointment.

(3) A person who has attained the age of 65 years shall not be appointed or re-appointed as Executive Officer, and a person shall not be appointed or re-appointed as Executive Officer for a period that extends beyond the date on which he will attain the age of 65 years.

22. (1) The Executive Officer shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed. Remuneration and allowances

(2) The Executive Officer shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act* 1973.

23. The Authority may grant leave of absence to the Executive Officer on such terms and conditions as to remuneration or otherwise as the Authority determines. Leave of absence

24. (1) The Governor-General may terminate the appointment of the Executive Officer by reason of the misbehaviour, or the physical or mental incapacity, of the Executive Officer. Termination of appointment

(2) If the Executive Officer—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent from duty, except with the permission of the Authority, for 14 consecutive days or for 28 days in any 12 months; or
- (c) engages in paid employment outside the duties of his office without the approval of the Authority,

the Governor-General shall terminate the appointment of the Executive Officer.

25. The Executive Officer may resign his office by writing under his hand delivered to the Governor-General. Resignation

26. (1) The Minister may appoint a person to act as Executive Officer during any period, or during all periods, when— Acting Executive Officer

- (a) there is a vacancy in the office of Executive Officer; or
- (b) the Executive Officer is absent from duty or from Australia or is, for any other reason, unable to perform the duties of his office.

(2) A person acting in accordance with paragraph (1) (a) shall not continue so to act for more than 12 months.

(3) Where a person is acting as Executive Officer in accordance with paragraph (1) (b) and the office of Executive Officer becomes vacant

while that person is so acting, the person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(4) The Minister may—

- (a) determine the terms and conditions (including terms or conditions relating to remuneration and allowances) of appointment of a person to act as the Executive Officer; and
- (b) at any time terminate such an appointment.

(5) An acting Executive Officer may resign his office by writing under his hand delivered to the Minister.

(6) While a person is acting as Executive Officer in pursuance of an appointment under this section, he has and may exercise all the powers of, and shall perform all the functions of, the Executive Officer.

(7) The validity of anything done by a person acting under this section shall not be called in question by reason of any defect or irregularity in or in connection with his appointment or on the ground that the occasion for his acting had not arisen or had ceased.

Preservation
of certain
rights of
officers and
employees of
Commission

27. (1) Where the Executive Officer was, immediately before his appointment as Executive Officer, an officer or employee of the Commission, other than an officer or employee to whom the *Officers' Rights Declaration Act 1928* applied—

- (a) he preserves or retains upon his appointment as Executive Officer the rights in respect of—
 - (i) leave on the ground of illness;
 - (ii) long service leave or pay in lieu thereof (including pay to dependants on his death); and
 - (iii) superannuation,
 to which from time to time he would be entitled if he had remained an officer or employee of the Commission and had not been appointed as Executive Officer; and
- (b) for the purpose of determining those rights, his service under this Act shall be taken into account as if it were service as an officer or employee of the Commission.

(2) Where the Executive Officer was, immediately before his appointment as Executive Officer, an officer of the Commission then, upon the termination of his employment as Executive Officer, otherwise than by reason of his having been dismissed for misconduct or of his having attained the age of 65 years, he shall be entitled to be appointed by the Commission to an office in the Commission of such status and salary as is determined by the Commission, having regard to the office in

the Commission previously vacated by him and the period of his employment as the Executive Officer.

PART V—STAFF

28. (1) The Authority may appoint such officers and engage such employees as are necessary for the performance of its functions under this Act. Staff of Authority

(2) The terms and conditions of service or employment (in respect of matters not provided for by this Act) of persons appointed or engaged under this section are such as are, subject to the approval of the Public Service Board, determined by the Authority.

(3) The Authority may make arrangements with—

(a) the Commission;

(b) the Minister administering a Department; or

(c) an authority (other than the Commission) established under a law of the Commonwealth,

for the services of officers or employees of the Commission, the Department or the authority, as the case may be, to be made available to the Authority.

29. (1) The Authority may engage persons having suitable qualifications and experience as consultants to the Authority. Authority may engage consultants

(2) The terms and conditions of the engagement of a person under sub-section (1) are such as are, subject to the approval of the Public Service Board, determined by the Authority.

PART VI—FINANCE

30. (1) There are payable to the Authority such moneys as are appropriated by the Parliament for the purposes of the Authority. Moneys payable to Authority

(2) The Minister for Finance may give directions as to the amounts in which, and the times at which, moneys referred to in sub-section (1) are to be paid to the Authority.

31. (1) The Authority shall prepare estimates, in such form as the Minister directs, of its expenditure for each financial year and, if so directed by the Minister, for any other period, and shall submit estimates so prepared to the Minister not later than such date as the Minister directs. Estimates

(2) Moneys shall not be expended by the Authority otherwise than in accordance with the estimates of expenditure approved by the Minister.

**Bank
accounts**

32. (1) The Authority may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.

(2) The Authority shall pay all moneys received by it into an account referred to in this section.

(3) In this section, “approved bank” means the Reserve Bank of Australia or another bank for the time being approved by the Treasurer or a person authorized by the Treasurer to give approvals under this section.

**Application
of moneys**

33. The moneys of the Authority shall be applied only—

(a) in payment or discharge of the costs, expenses and other obligations of the Authority under this Act; and

(b) in payment of any remuneration and allowances payable to any person under this Act.

**Proper
accounts to
be kept**

34. The Authority shall cause to be kept proper accounts and records of the transactions and affairs of the Authority and shall do all things necessary to ensure that all payments out of the moneys of the Authority are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Authority and over the incurring of liabilities by the Authority.

Audit

35. (1) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Authority and the records relating to assets of, or in the custody of, the Authority, and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

(2) The Auditor-General may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (1).

(3) The Auditor-General shall, at least once in each financial year, report to the Minister the results of the inspection and audit carried out under sub-section (1).

(4) The Auditor-General or a person authorized by him is entitled at all reasonable times to full and free access to all accounts and records of the Authority relating directly or indirectly to the receipt or payment of moneys by the Authority, or to the acquisition, receipt, custody or disposal of assets, by the Authority.

(5) The Auditor-General or a person authorized by him may make copies of, or take extracts from, any such accounts and records.

(6) The Auditor-General or a person authorized by him may require any person to furnish him with such information in the possession of the

person or to which the person has access as the Auditor-General or authorized person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

(7) A person who contravenes sub-section (6) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.

36. The Authority is not subject to taxation under any law of the Commonwealth or of a State or Territory.

Exemption
from
taxation

PART VII—MISCELLANEOUS

37. (1) Where a relevant person was, immediately before he became a relevant person, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act 1928* applied—

Rights of
public
servants

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service under this Act shall be taken into account as if it were service in the Australian Public Service; and
- (c) that Act applies as if this Act and this section had been specified in the Schedule to that Act.

(2) For the purpose of this section, a person shall be taken to be a relevant person while—

- (a) he holds an appointment as the full-time Chairman of the Authority;
- (b) he holds an appointment as the Executive Officer; or
- (c) he is an officer or employee of the Authority in pursuance of an appointment or engagement, as the case may be, under section 28.

38. (1) The Authority shall, as soon as practicable after 30 June in each year, prepare and submit to the Minister a report of its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Minister for Finance approves.

Annual
reports and
financial
statements

(2) Before submitting financial statements to the Minister under sub-section (1), the Authority shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records;
- (c) whether the receipt and expenditure of moneys, and the acquisition and disposal of assets, by the Authority during the year have been in accordance with this Act; and

(d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(3) The Minister shall cause copies of the report and financial statements of the Authority together with a copy of the report of the Auditor-General, to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.

Further reports

39. (1) The Authority shall, upon request by the Minister, furnish to the Minister such reports, documents and information concerning its operations as the Minister specifies.

(2) The Authority shall, at all times, keep the Minister informed concerning the operations of the Authority.

Act not to derogate from section 5 of the *Parliament Act 1974*, &c.

40. Nothing in this Act—

(a) shall be taken to affect—

- (i) the operation of section 5 of the *Parliament Act 1974*; or
- (ii) the functions and powers of the Commission under the *National Capital Development Commission Act 1957* except to the extent to which those functions and powers extend to the design and construction of Parliament House; or

(b) shall be taken to authorize a departure from, or the doing of anything inconsistent with, the plan of lay-out of the City of Canberra and its environs published in the *Gazette* on 19 November, 1925, as modified or varied, whether before or after the commencement of this Act, in accordance with law.

Regulations

41. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

NOTE

1. Act No. 22, 1979; assented to 30 March 1979.