

# Housing Corporation Amendment Bill

Government Bill

## Explanatory note

### General Policy Statement

This Bill is a key part of the Government's housing programme. It enables the merger into the present Housing Corporation of New Zealand (the **Corporation**) of Housing New Zealand Limited (**HNZ**), Community Housing Limited (which is at present a subsidiary of the Corporation), and the housing policy function of the Ministry of Social Policy. The merged housing entity is to be called Housing New Zealand Corporation. It will continue to be a Crown Entity under the Public Finance Act 1989.

The purpose of integration is to create a single organisation able to deliver housing services to low income New Zealanders. The Corporation's principal objective will be to give effect to the Crown's social objectives by providing housing and related services in a businesslike manner, and in doing so to—

- exhibit a sense of social responsibility by considering the interests of the communities in which it operates; and
- exhibit a sense of environmental responsibility by considering the environmental consequences of its operations; and
- operate with good financial oversight and stewardship and efficiently manages its assets and liabilities and the Crown's investment.

The Corporation's main activities will be—

- to provide good quality, affordable and secure rental accommodation through the social allocation system, to those who need it most; and

- to provide appropriate housing to community organisations providing residential support services for people with special needs; and
- to provide assistance and advice to households on low and modest incomes who wish to become homeowners but who are finding it difficult to achieve home ownership; and
- to provide quality advice to the Minister of Housing on the formation of housing policy based on on-going consultation with all parts of the housing sector.

#### *Summary of Key Measures*

The Bill principally amends the Housing Corporation Act 1974, and makes consequential amendments to other enactments including the Housing Restructuring Act 1992. The Bill—

- renames the Housing Corporation of New Zealand as the Housing New Zealand Corporation; and
- makes changes to the Corporation's functions and powers, and matters relating to its membership and governance; and
- states the Corporation's principal objective as giving effect to the Crown's social objectives in relation to housing and related services; and
- transfers the Crown's shareholding in HNZ to the Corporation (thus making HNZ, and the Corporation's existing subsidiary Community Housing Limited, wholly owned subsidiaries of the Corporation); and
- enables the later vesting of assets, liabilities, obligations, and functions of HNZ and Community Housing Limited in the Corporation by Order in Council; and
- enables the transfer of affected employees to the Corporation; and
- protects employees' existing employment conditions and provides for continuity of employment; and
- prevents redundancy or severance payments being made on the basis of technical redundancy; and
- ensures that the Corporation is compensated for the cost of providing income-related rents.

### Clause by clause analysis

*Clause 1* relates to the Bill's title.

*Clause 2* provides that, with 3 exceptions, the provisions of the Bill comes into force on 1 July 2001.

The exceptions are—

- *clauses 23(2) and 24(2)*, which effect consequential amendments and a consequential repeal that do not come into effect until HNZ's assets and liabilities are vested in the Corporation; and
- *clause 23(3)*, which corrects a typographical error in the Housing Restructuring (Income-Related Rents) Act 2000 as from the commencement of the provision in which it occurs.

### Part 1

#### Amendments to existing provisions

*Clause 3* inserts into the principal Act a new *section 1A*, which states the purpose of the principal Act as being to—

- establish a corporation to administer the Crown's housing operations; and
- define its objective, functions, powers, and duties.

*Clause 4* replaces the present definitions of **committee**, **Corporation**, and **Minister** in section 2 of the principal Act with redrafted definitions that reflect the amendments effected by the Bill, and inserts into that section some new definitions needed for the purposes of those amendments. The effect of the new definition of **Minister** is that references to this term must now be read as references to the Minister of Finance and the Minister responsible for the Corporation, acting jointly; but in order to make this note more useful, the words "the Ministers" are used in it.

*Clause 5* amends section 3 of the principal Act so that the Corporation—

- is now established (under the name "Housing New Zealand Corporation") as a body corporate with the powers of a natural person; and
- cannot be disestablished except by Act of Parliament.

*Clause 6* inserts 2 new sections into the principal Act.

*New section 3B* states the Corporation's objective, as described in the General Policy Statement above. *New section 3C* provides that

the provisions in *new Schedule 1A* (which is proposed to be inserted by clause 19, and is explained in the part of this note relating to that clause) apply to the Corporation.

*Clause 7* replaces section 18 of the principal Act (which relates to the Corporation's functions) with a redrafted section that gives the Corporation a principal function ("to achieve its objective") and a series of more specific functions, including—

- providing rental housing for those who need it most:
- providing appropriate housing for community organisations that provide residential support services for people with special needs:
- giving people (in particular people on low or modest incomes who wish to own their own homes) help and advice on matters relating to housing or urban development and renewal:
- undertaking housing and other urban development and renewal, whether on its own account or on behalf of other persons:
- acquiring and developing land for housing or other urban development and renewal:
- selling, leasing, disposing of, managing, and otherwise dealing with land:
- advising the Minister of Housing on housing and services related to housing.

*Clause 8* amends section 19 of the principal Act (which relates to the powers of the Corporation) so as to give the Corporation, in addition to the powers of a natural person, "all the powers reasonably necessary to perform its functions and achieve its objective".

*Clause 9* repeals section 19A of the principal Act, which gave the Corporation an express power to dispose of the whole or any part of its property. The Corporation's powers to deal with its property now arise out of the fact that it has the powers of a natural person; and it is not the Government's intention for the Corporation to dispose of the whole of its property. (But see the note to *clause 10*.)

*Clause 10* replaces section 20 of the principal Act (which requires the Corporation to implement Government policy) with 4 new sections.

*New section 19B* empowers the Minister to undertake reviews of the Corporation's operations.

*New section 20* requires the Corporation to give effect to Government policy; but—

- enables the Ministers to require the Corporation to do so by requiring it to enter into a written agreement to give effect to a policy stated in the agreement, as well as simply by giving it written notice;
- requires the Ministers to consult the Corporation before requiring it to give effect to Government policy;
- forbids the Ministers to require the Corporation to act in relation to—
  - a matter in respect of which the principal Act or any other enactment expressly requires it to act independently; or
  - a particular individual.

*New section 20A*—

- requires the Ministers to publish a copy of any notice or agreement in the *Gazette*;
- requires the Ministers to present a copy of any notice or agreement to the House of Representatives;
- requires the Corporation to prepare, and give to the Ministers for approval a draft plan stating how it proposes to give effect to the policy of the Government if it enters into an agreement with the Ministers under *new section 20* (other than an agreement that states how the policy of the Government is to be given effect to) or is given notice under that section;
- requires the Ministers to present a copy of any approved draft plan to the House of Representatives

*New section 20B*—

- requires the Crown to recompense the Corporation if it has been required under *new section 20* to provide housing and related services to any persons (for example, to provide housing to people who are to pay income-related rents rather than market rents for it) in return for the payment by the Crown of all or part of the price to the Corporation of doing so; and
- enables the Crown to recompense the Corporation if its statement of intent requires it to provide services that it cannot provide on normal business terms.

*Clause 11* repeals section 25 of the principal Act, which empowers the Corporation to secure as it thinks fit the loans it makes and, in particular, requires rates of interest on those loans to be fixed by the Minister of Finance.

*Clause 12* amends section 29 of the principal Act to omit references to the Corporation's General Reserve Fund (which is abolished by the repeal of section 36).

*Clause 13* replaces section 30 of the principal Act (which relates to the Corporation's borrowing powers) with a redrafted section requiring the Corporation to obtain the agreement of the Minister of Finance before borrowing, or charging its property.

*Clause 14* amends section 31 of the principal Act (which gives a Crown guarantee in respect of securities issued by the Corporation) so that the guarantee applies only to securities issued before the commencement of the Bill.

*Clause 15* repeals certain financial provisions of the principal Act that are no longer necessary.

*Clause 16* replaces section 40 of the principal Act (which relates respectively to the distribution of the Corporation's profits) with an updated provision.

*Clause 17* amends section 42 of the principal Act (which relates to the Corporation's annual report) so that the annual report—

- must relate to both the Corporation's activities and performance for the year in question and the activities and performance of its subsidiaries:
- must state the fees and benefits paid to individual members of the Corporation (including any fees and benefits paid by virtue of their being directors of a subsidiary):
- must also state, in \$10,000 bands, the number of employees of the Corporation or any subsidiary receiving total gross remuneration of more than \$100,000:
- must also state amounts paid to members, officers, employees, or agents of the Corporation in respect of termination of appointment, a personal grievance, redundancy, keeping confidentiality on the terms of the settlement of a personal grievance, or entering into a restraint of trade agreement with the Corporation.

*Clause 18* amends section 43 of the principal Act (which gives statutory protection to the Corporation's name) so as to—

- protect the Corporation's new name; but
- allow HNZ to continue using its present name.

*Clause 19* repeals section 44 of the principal Act (which provides that it is unlawful for any person to “charge, recover, or receive a procuration fee in respect of any loan from the Corporation”).

*Clause 20* updates a reference to the Companies Act 1955 in section 45 of the principal Act.

## Part 2

### New Parts 6 and 7 of principal Act

*Clause 21* inserts *new Parts 6 and 7* (containing *new sections 51 to 69*) into the principal Act.

*New Part 7* (containing *new sections 51 to 60*) relates to the restructuring of the present housing entities of the Crown.

*New section 51* defines 3 terms (**assets**, **liabilities**, and **rights**) used in *Part VI*.

*New section 52* vests the Crown's shares in HNZ (at present in the name of the Minister of Finance and the Minister responsible for HNZ) in the Corporation.

*New section 53* enables Orders in Council to be made vesting the assets and liabilities of any existing company (a term defined, by a new definition proposed to be inserted into section 2 of the principal Act by *clause 4*, to mean HNZ, Community Housing Limited, or a subsidiary of either of those companies) in the Corporation. There may also be vested in the Corporation assets of the Crown used principally for the purposes of the Corporation or the existing company concerned, and liabilities of the Crown arising from the operations of the Corporation or the existing company concerned.

An order must be made on the recommendation of the Ministers, who—

- must not recommend the making of an order without first considering—
  - the obligations of the existing company concerned to its creditors; and
  - the likely effect of the vesting on those obligations; and
- must not recommend the making of an order vesting a liability of the Crown in the Corporation unless satisfied that the

liability was incurred in the process of or for the purposes of the performance of the functions of that company.

*New section 54* provides that the making of an order under *section 53* (a **vesting order**) has the additional effects that—

- references to the existing company concerned in various documents has effect as references to the Corporation; and
- the Corporation has all the rights, obligations, privileges, and immunities of that company concerned (and of any of its officers and employees acting on behalf of that company) in relation to proceedings of various kinds.

*New section 55* relates to the duties of the keepers of official registers after the making of a vesting order.

*New section 56* provides that the vesting of assets and liabilities in the Corporation of the assets and liabilities of an existing company has effect as an amalgamation of the Corporation and the company, and does not give rise to any tax liability.

*New section 57* makes clear that the changes made by or under *Part 6* simply move certain assets, liabilities, duties, etc., of the Crown from one part of the administrative landscape to another, and are not intended to (and do not) create new rights or obligations or extinguish old ones. In particular, it provides that the changes—

- do not place the Crown, the Corporation, or any other body or person in breach of or default under any contract, or in breach of trust, or in breach of confidence, or otherwise guilty of a civil wrong:
- do not provide any grounds for legal action against the Crown, the Corporation, or any other body or person:
- do not entitle any person to—
  - terminate, cancel, or modify a contract or agreement:
  - enforce or accelerate the performance of an obligation:
  - require the performance of an obligation not otherwise arising:
- do not place the Crown, the Corporation, or any other body or person in breach of any law or contractual provision prohibiting, restricting, or regulating the assignment or transfer or issue of any property or the disclosure of any information:
- do not release any surety from or any obligation:

- do not invalidate or discharge any contract or security;
- do not affect the Corporation's rights or liabilities under any guarantee given by or to the Corporation in relation to an existing company.

*New section 58* expressly preserves the Crown's liabilities in respect of assets and liabilities vested in the Corporation.

*New section 59* applies to the Corporation and an existing company during the period before the company's assets and liabilities vest in the Corporation, and enables the Corporation and company to transfer to each other rights, benefits, and responsibilities under contracts and leases.

*New section 60* provides that the Privacy Act 1993 does not prevent the Corporation and an existing company from giving each other information or using any information given to them.

## **“Part 7**

### **“Transfer of employees to Corporation”**

*New Part 7* (containing *new sections 61 to 69*) relates to the transfer of employees of the Crown and existing companies to the Corporation.

*New section 61* defines 3 terms (**employment agreement**, **old agreement**, and **transferred employee**) used in *Part 7*. A **transferred employee** is a former employee of the Crown or an existing company who has been appointed to a position in the Corporation under *new section 62*.

*New section 62* empowers the Corporation to appoint employees of the Crown and existing companies to positions in the Corporation.

*New section 63* requires an employee of the Crown or an existing company to be consulted before being appointed to a position in the Corporation.

*New section 64* continues a transferred employee's old employment agreement in force after he or she is appointed to a position in the Corporation. The section is, however, subject to *new section 67*.

*New section 65* provides that the old employment agreement continues to apply until a new one is entered into, or the transferred employee leaves.

*New section 66* requires a transferred employee's terms and conditions to be determined under his or her old employment agreement

until it is varied (otherwise than under *new section 67*) or a new one is entered into.

*New section 67* allows transferred employee's terms and conditions of employment to be varied if they are given new duties or required to work in new locations; but the new terms and conditions must be no less favourable than the old ones.

*New section 68* provides that appointment to a position in the Corporation is deemed not to break the continuous employment of a transferred employee.

*New section 69* provides that appointment to a position in the Corporation does not entitle transferred employees to redundancy or severance payments.

*Clause 22* inserts into the principal Act a new *Schedule 1A*, containing provisions relating to the governance and administration of the Corporation. It is based largely on proposed new Schedule 4 of the Government Superannuation Fund Act 1956 (which is set out in Schedule 1 of the Government Superannuation Fund Amendment Bill, at present before the House).

### **Part 3**

#### **Consequential amendments and repeals**

*Clause 23* makes consequential amendments, in particular to the Housing Restructuring Act 1992.

*Clause 24* effects consequential repeals.

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Hon Mark Gosche

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Housing Corporation Amendment Act **2000**.
- (2) In this Act, the Housing Corporation Act 1974<sup>1</sup> is called “the principal Act”.

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<sup>1</sup> 1974, No 19

**2 Commencement**

Except as provided in **sections 23(2), 23(3), and 24(2)**, this Act comes into force on 1 July 2001.

**Part 1**

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**Amendments to existing provisions**

**3 New section 1A inserted**

The principal Act is amended by inserting, after section 1, the following section:

“1A **Purpose**

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The purpose of this Act is to—

- “(a) establish a corporation to administer the Crown’s housing operations; and
- “(b) define its objective, functions, powers, and duties.”

#### 4 Interpretation

Section 2 of the principal Act is amended by repealing the definitions of **committee**, **Corporation** and **Minister**, and inserting, in their appropriate alphabetical order, the following definitions:

“**committee** means a committee of appointed under **clause 43(1) of Schedule 1A**

“**Corporation** means Housing New Zealand Corporation established (as the Housing Corporation of New Zealand) by section 3(1)

“**existing company**—

“(a) means HNZ or Community Housing Limited (a company that on the commencement of the Housing Corporation Amendment Act **2000** was duly incorporated under the Companies Act 1993); and

“(b) includes any subsidiary (within the meaning of the Companies Act 1993) of an existing company

“**HNZ** means the company within the meaning of section 2(1) of the Housing Restructuring Act 1992

“**Minister** means the following 2 Ministers, acting jointly:

“(a) 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:

“(b) the Minister of Finance

“**subsidiary**, in relation to the Corporation, means a body that would under the Companies Act 1993 be a subsidiary of the Corporation if the Corporation were a company within the meaning of that Act

“**State Services Commissioner** means the State Services Commissioner appointed under section 3 of the State Sector Act 1988

“**vesting day**,—

“(a) in relation to an existing company or an asset or liability of an existing company, means the day on which the order under **section 53** relating to that company comes into force; and

“(b) in relation to an asset or liability of the Crown, means the day on which an order under **section 53** relating to that asset or liability comes into force.”

**5 Establishment of Corporation**

- (1) Section 3(1) of the principal Act is amended by omitting the words “the Housing Corporation of New Zealand”, and substituting the words “Housing New Zealand Corporation”. 5
- (2) Section 3 of the principal Act is amended by repealing subsections (2A) to (4), and substituting the following subsections: 5
- “(3) The Corporation—
- “(a) is a body corporate; and
- “(b) has all the powers of a natural person; and
- “(c) is a Crown entity for the purposes of the Public Finance Act 1989. 10
- “(5) The Corporation cannot be disestablished except by Act of Parliament.”
- (3) The heading of Part I of the principal Act is amended by omitting the words “**The Housing Corporation of New Zealand**”, and substituting the words “**Housing New Zealand Corporation**”. 15

**6 New sections 3B and 3C inserted**

The principal Act is amended by inserting, before section 4, the following sections: 20

**“3B Objective of Corporation**

The Corporation’s objective is to give effect to the Crown’s social objectives by providing housing, and services related to housing, in a businesslike manner, and to that end to be an organisation that— 25

- “(a) exhibits a sense of social responsibility by having regard to the interests of the community in which it operates; and
- “(b) exhibits a sense of environmental responsibility by having regard to the environmental implications of its operations; and 30
- “(c) operates with good financial oversight and stewardship, and efficiently manages its assets and liabilities and the Crown’s investment.

**“3C Other provisions relating to Corporation**

**Schedule 1A** applies to the Corporation.” 35

**7 New section 18 substituted**

The principal Act is amended by repealing section 18, and substituting the following section:

**“18 Functions of Corporation**

- “(1) The Corporation’s principal function is to achieve its objective. 5
- “(2) The Corporation’s functions include—
- “(a) providing rental housing for those who need it most:
  - “(b) providing appropriate housing for community organisations that provide residential support services for people with special needs: 10
  - “(c) giving people (in particular people on low or modest incomes who wish to own their own homes) help and advice on matters relating to housing or urban development and renewal: 15
  - “(d) undertaking housing and other urban development and renewal, whether on its own account or on behalf of other persons:
  - “(e) acquiring and developing land for housing or other urban development and renewal, whether by— 20
    - “(i) providing housing amenities, facilities, services, or works; or
    - “(ii) providing commercial or industrial amenities, facilities, services, or works; or
    - “(iii) providing related amenities, facilities, services, or works; or 25
    - “(iv) doing any other thing:
  - “(f) selling, leasing, disposing of, managing, or otherwise dealing with land, whether in the course of housing or other urban development and renewal or otherwise: 30
  - “(g) advising 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 on housing and services related to housing:
  - “(h) consulting with any person for the purposes of **paragraph (g)**: 35
  - “(i) any other functions conferred on it by this Act or any other enactment.
- “(3) **Subsection (2)** does not limit **subsection (1)**.”

**8 Powers of Corporation**

Section 19 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsection:

- “(1) In addition to the powers of a natural person, the Corporation has all the powers reasonably necessary to perform its functions and achieve its objective.” 5

**9 Corporation may sell or dispose of all or part of its property**

Section 19A of the principal Act is repealed.

**10 New sections 19B to 20B substituted** 10

The principal Act is amended by repealing section 20, and substituting the following sections:

**“19B Ministerial reviews**

The Minister may at any time, and for any reason, undertake or commission a review of the Corporation’s operations; and in that case the Corporation must take all reasonable steps to co-operate with the review. 15

**“20 Corporation to give effect to Government policy**

- “(1) The Minister may require the Corporation to give effect to the policy of the Government, by— 20

“(a) giving the Corporation notice in writing that it is required to give effect to a policy stated in the notice; or

“(b) giving the Corporation notice in writing requiring it to enter into a written agreement with the Minister to give effect to a policy stated in the agreement. 25

- “(2) The Corporation must give effect to any applicable policy of the Government (as required under **subsection (1)**), in—

“(a) trying to achieve its objective; and

“(b) exercising its powers and performing its functions (whether under this Act or any other enactment). 30

- “(3) The Minister must consult the Corporation before requiring it to give effect to the policy of the Government.

- “(4) In requiring the Corporation to give effect to the policy of the Government, the Minister must not give the Corporation a notice, or require it to enter into an agreement,— 35

- “(a) relating to a matter in respect of which this Act or any other enactment expressly requires it to act independently; or
- “(b) requiring it, in respect of a particular person, to—
- “(i) make a particular decision, do or refrain from doing a particular act, or bring about a particular result; or 5
- “(ii) make a decision of a particular kind, do or refrain from doing an act of a particular kind, or bring about a result of a particular kind. 10

**“20A Other provisions relating to requirements**

- “(1) Promptly after requiring the Corporation to enter into any agreement, or giving it any notice, requiring it to give effect to the policy of the Government, the Minister must publish a copy of the notice or agreement in the *Gazette*. 15
- “(2) Within 12 sitting days after requiring the Corporation to enter into any agreement, or giving it any notice, requiring it to give effect to the policy of the Government, the Minister must present a copy of the notice or agreement to the House of Representatives. 20
- “(3) The Corporation must prepare, and give to the Minister for approval a draft plan stating how it proposes to give effect to the policy of the Government if,—
- “(a) pursuant to a requirement under **section 20**, it enters into an agreement with the Minister that does not state how the policy of the Government is to be given effect to; or 25
- “(b) it is given notice under that section requiring it to give effect to the policy of the Government.
- “(4) Within 12 sitting days after approving a draft plan given under **subsection (3)**, the Minister must present a copy of the approved plan to the House of Representatives. 30

**“20B Compensation of Corporation for providing certain services**

- “(1) If under section 20 the Minister requires the Corporation to provide housing or services related to housing (or both) to any persons in return for the payment by the Crown of all or part of the price to the Corporation of doing so (as stated in the notice or agreement concerned),— 35

- “(a) the Crown must pay to the Corporation all or part of that price (as the case requires); and
- “(b) if the policy is for the Corporation to provide housing and related services to persons who are to be required to pay income-related rents rather than market rents for the housing, the agreement or notice concerned must state that the services are to be provided in return for the payment by the Crown to the Corporation of the difference between the amounts of market rents for the housing and the income-related rents charged.
- “(2) If, because its statement of intent requires it to do so, the Corporation provides services that it cannot provide on normal business terms, the Crown may wholly or partly recompense it for doing so.
- “(3) In **subsection (1)(b), income-related rents and market rents** have the meanings given to those terms by section 42(1) of the Housing Restructuring Act 1992.
- “(4) After the vesting day, every agreement between the Crown and HNZ entered into by virtue of a requirement under section 7 of the Housing Restructuring Act 1992 (or under that section as applied by section 65 of that Act) has effect as if it were an agreement entered into under a requirement under **section 20(1)**.
- “(5) Nothing in this section limits or affects the generality of **section 20.**”
- 11 Borrowers to contribute to General Reserve Fund**
- Section 29 of the principal Act is amended by omitting the words “General Reserve Fund”, in both places where they occur, and substituting in each case the words “Corporation’s funds”.
- 12 Securities**
- Section 25 of the principal Act is repealed.
- 13 New sections 30 and 30AA substituted**
- (1) The principal Act is amended by repealing section 30, and substituting the following sections:
- “30 Borrowing powers of Corporation and subsidiaries**
- “(1) The Corporation may do any of the things stated in **subsection (2)** only—

- “(a) with the agreement of the Minister of Finance; and  
“(b) in compliance with any conditions subject to which the agreement was given.
- “(2) The things referred to in **subsection (1)** are—
- “(a) issue securities for the purpose of providing funds for carrying on its business under this Act, or as consideration for mortgages of land or other securities transferred to it: 5
- “(b) borrow money (by way of loan, overdraft, or otherwise): 10
- “(c) grant securities over, or otherwise charge, any of its real or personal property.
- “(3) A subsidiary of the Corporation may do any of the things stated in **subsection (4)** only—
- “(a) with the agreement of the Minister of Finance; and 15  
“(b) in compliance with any conditions subject to which the agreement was given.
- “(4) The things referred to in **subsection (3)** are—
- “(a) borrow money (by way of loan, overdraft, or otherwise): 20
- “(b) issue securities:
- “(c) grant securities over, or otherwise charge, any of its real or personal property.
- “(5) The Corporation may seek the Minister of Finance’s agreement for the purposes of **subsection (1) or subsection (3)**— 25
- “(a) when it submits a statement of intent or modified statement of intent to the Minister under the Public Finance Act 1989; or
- “(b) when the Minister gives it a direction, or enters an agreement with it, under **section 20**; or 30
- “(c) at any other time.
- “30AA Loans deemed to have been lawfully raised**  
So far as concerns any lender or holder,—
- “(a) all loans to the Corporation or a subsidiary raised or to be raised, and all securities purporting to be issued or varied, under this Act must for all purposes be treated as having been raised, issued, or varied, in accordance with **section 30**; and 35

“(b) the lender or holder does not have to inquire whether, or to what extent, authority has been given under that section.”

**14 Securities issued by Corporation to be guaranteed by the Crown** 5

Section 31(1) of the principal Act amended by omitting the words “of the Corporation”, and substituting the words “issued by the Corporation before the commencement of the Housing Corporation Amendment Act 2000”.

**15 Sections 33 to 37, and 39 repealed** 10

Sections 33 to 37, and 39 of the principal Act are repealed.

**16 New section 40 substituted**

The principal Act is amended by repealing section 40, and substituting the following section:

**“40 Distribution of profits** 15

“(1) The Corporation must pay its surplus for each financial year into the Crown bank account, unless the Minister authorises the Corporation to keep all or any part of it.

“(2) In **subsection (1), surplus** means surplus capital, and any operating net surplus, after any provision the Minister thinks proper has been made for any matters that, in the Minister’s opinion (reached in the light of the Corporation’s statement of intent) are necessary for the efficient and effective conduct of the Corporation’s operations.” 20

**17 Annual report** 25

Section 42 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

“(1) As soon as is practicable after the end of each financial year, the Corporation must give the Minister a report on—

“(a) its activities and performance for that year; and 30

“(b) the activities and performance for that year of each of its subsidiaries.

“(1A) The report must state,—

“(a) the fees and other benefits paid to individual members (including any fees or other benefits paid by virtue of their being directors of a subsidiary); and 35

- “(b) in \$10,000 bands, the number of employees of the Corporation or any subsidiary receiving total gross remuneration of more than \$100,000; and
- “(c) every amount paid to any person who is or has been a member, officer, employee, or agent of the Corporation in respect of—
  - “(i) the termination of the person’s appointment as a member, officer, employee, or agent of the Corporation; or
  - “(ii) a personal grievance arising in the course of the person’s employment or appointment as an officer, employee, or agent of the Corporation; or
  - “(iii) the person’s becoming redundant; or
  - “(iv) the person’s keeping confidential the terms of the settlement of a personal grievance arising in the course of the person’s employment or appointment as an officer, employee, or agent of the Corporation (whether relating to redundancy or supposed redundancy or not); or
  - “(v) a dispute within the meaning of section 129 of the Employment Relations Act 2000; or
  - “(vi) the person’s entering into a restraint of trade agreement with the Corporation; and
- “(d) in respect of each amount of a kind referred to in **paragraph (c)**,—
  - “(i) a statement of whether the person to whom it was paid was a member, officer, employee, or agent of the Corporation; and
  - “(ii) a brief description of the matter in respect of which it was paid.”

**18 Protection of name of Corporation**

- (1) Section 43 of the principal Act is amended by inserting, before the words “Housing Corporation of New Zealand”, in both places where they occur, the words “Housing New Zealand Corporation or”. 35
- (2) Section 43 of the principal Act is amended by inserting, after subsection (2), the following subsection:
  - “(2A) Subsections (1) and (2) do not prevent HNZ from continuing to use the name ‘Housing New Zealand’.”

- 19 Procuration fees**  
Section 44 of the principal Act is repealed.
- 20 Corporation's liability for taxes and rates**  
Section 45 is amended by omitting the expression "1955", and substituting the expression "1993". 5

## Part 2

### New Parts 6 and 7 of principal Act

- 21 New Parts 6 and 7 inserted in principal Act**  
The principal Act is amended by inserting, after Part V, the following Parts: 10

#### "Part 6

#### "Restructuring of housing entities

- "51 Interpretation**  
In this Part, unless the context otherwise requires,—
- "**assets** means property of every kind, whether tangible or intangible, real or personal, corporeal or incorporeal; and includes, without limitation,— 15
- "(a) choses in action and money;
- "(b) goodwill;
- "(c) rights, interests, and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by, or the subject of, an instrument or otherwise, and whether liquidated or unliquidated, actual, contingent, or prospective 20
- "**liabilities** means liabilities, debts, charges, duties, and obligations of every description (whether present or future, actual or contingent, and whether payable or to be observed or performed in New Zealand or elsewhere) 25
- "**rights** means all rights, powers, privileges, and immunities, whether actual, contingent, or prospective." 30
- "Housing New Zealand Limited to become subsidiary of Corporation*
- "52 Vesting in Corporation of the Crown's shares in Housing New Zealand Limited**
- "(1) On the commencement of the Housing Corporation Amendment Act 2000, the shares in the capital of the company held 35

immediately before that commencement by the responsible Minister and the Minister of Finance vest in the Corporation.

- “(2) In **subsection (1)**, **company** and **responsible Minister** have the meanings given to those terms by section 2(1) of the Housing Restructuring Act 1992.

5

*“Transfer to Corporation of assets, functions, liabilities, and obligations of existing companies*

“53 **Vesting orders**

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—

10

“(a) vest in the Corporation—

“(i) all the assets and liabilities of an existing company; and

“(ii) any assets of the Crown used principally for the purpose of the Corporation or that existing company; and

15

“(iii) any liability of the Crown arising from the operations of the Corporation or that existing company; and

“(b) confer or impose rights or obligations on the Corporation in relation to any asset or liability vested; and

20

“(c) direct any person or authority to register, record, or take notice of any thing done by the order, the consequential effect of **section 54**, or both.

- “(2) The Minister—

25

“(a) must not recommend the making of an order vesting all the assets and liabilities of an existing company in the Corporation without first considering—

“(i) the company’s obligations to its creditors; and

“(ii) the likely effect of the vesting on those obligations; and

30

“(b) must not recommend the making of an order vesting in the Corporation of any liability of the Crown unless satisfied that it was incurred in the process of or for the purposes of the performance of the functions of the existing company concerned; and

35

“(c) must not recommend the making of an order conferring or imposing of a right or obligation on the Corporation in relation to any asset or liability unless satisfied that it

is necessary or desirable to do so because of the vesting of the asset or liability in the Corporation.

“54 **Additional effects of orders**

On and after the vesting day,—

- “(a) every reference to the existing company concerned in any contract, lease, notice, order, proceedings, regulations, or other document has effect as a reference to the Corporation; and 5
- “(b) the Corporation has all the rights, obligations, privileges, and immunities of the existing company concerned (and of any officer or employee of that company acting as an officer or employee of that company) in relation to all appeals, applications, objections, and other proceedings before any authority, court, tribunal, or person acting judicially, relating to any asset or liability vested by the order concerned. 10 15

“55 **Records and registers**

- “(1) Except as provided in **section 53(1)(c)**, neither the Registrar-General of Land nor any other person charged with the keeping of any records or registers is obliged solely by reason of any provision of this part to change any name in those records or registers or in any document. 20
- “(2) An order under **section 53** is sufficient notice to all persons of its effect (and of any effect of **section 54**); and no specific notice needs to be given to any person or authority. 25
- “(3) In the absence of evidence to the contrary, it is sufficient proof that any asset or liability is vested in the Corporation if a person presents to a registrar or any other person an instrument, whether or not comprising an instrument of transfer,—
  - “(a) executed or purporting to be executed by or on behalf of the Corporation; and 30
  - “(b) relating to any asset or liability held by an existing company immediately before the vesting day; and
  - “(c) containing a recital that the asset or liability has vested in the Corporation under this Act. 35

- “56 Vesting to take effect as amalgamation**
- “(1) For the purposes of the Inland Revenue Acts (within the meaning of section 3(1) of the Tax Administration Act 1994),—
- “(a) the vesting of the assets and liabilities of an existing company under **section 53** is an amalgamation and a qualifying amalgamation of the company and the Corporation; and 5
- “(b) the Corporation must be treated as an amalgamated company; and 10
- “(c) the company must be treated as an amalgamating company; and
- “(d) the company must be treated as having ceased to exist on the vesting day.
- “(2) If the assets and liabilities of an existing company vest in the Corporation under **section 53**,— 15
- “(a) subparagraphs (v) and (vi) of section FE 6(5)(a) and subparagraphs (iv) and (v) of section FE 7(1)(a) of the Income Tax Act 1994 must be treated as having been satisfied; and 20
- “(b) for the purposes of section FE 10 of that Act, the company must be treated as having been solvent immediately before the vesting day.
- “(3) For the purposes of the Financial Reporting Act 1993, the vesting of the assets and liabilities of an existing company under **section 53** is an amalgamation under the Companies Act 1993 of the company and the Corporation. 25
- “(4) **Subsections (1) to (3)** apply as if the Corporation were a company within the meaning of the Companies Act 1993.
- “(5) **Subsections (1) and (2)** override section 45. 30
- “57 Certain matters not affected by vesting**
- Nothing effected or authorised by this Part—
- “(a) places the Crown, the Corporation (or any member), an existing company, or any other person in breach of, or default under, any contract, or in breach of trust, or in breach of confidence, or as otherwise making any of them guilty of a civil wrong; or 35
- “(b) gives rise to a cause of action against the Crown, the Corporation or any member, an existing company, or any other person; or 40

- “(c) gives rise to a right for any person to—
- “(i) terminate or cancel or modify a contract or an agreement; or
  - “(ii) enforce or accelerate the performance of an obligation; or 5
  - “(iii) require the performance of an obligation not otherwise arising for performance; or
- “(d) places the Crown, the Corporation (or any member), an existing company, or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer or issue of any asset or liability or the disclosure of any information; or 10
- “(e) releases any surety wholly or in part from all or any obligation; or 15
- “(f) invalidates or discharges any contract or security; or
- “(g) affects the Corporation’s rights or liabilities under or in respect of any guarantee relating to the liabilities of an existing company given by or to the Corporation.
- “58 **Property or liabilities vested in Corporation** 20
- If any asset or liability of the Crown is vested in the Corporation under this Act,—
- “(a) the Crown remains liable to any third party as if the asset or liability had not been vested, but must be indemnified by the Corporation in respect of any liability to the third party: 25
  - “(b) any satisfaction or performance by the Corporation in respect of the asset or liability is deemed to also be satisfaction or performance by the Crown:
  - “(c) any satisfaction or performance in respect of the asset or liability by any third party to the benefit of the Corporation is deemed to also be to the benefit of the Crown. 30
- “59 **Transfer of contracts and leases**
- “(1) Before the vesting day,—
- “(a) an existing company may transfer to the Corporation a specified right or benefit under a contract or lease to which it is a party; and 35
  - “(b) the Corporation may transfer to an existing company a specified right or benefit under a contract or lease to

which it is a party, or a right or benefit transferred to it under **paragraph (a)**.

- “(2) The transfer does not prevent the transferee from exercising or enjoying the right or benefit transferred.
- “(3) The transfer may not be made unless— 5  
 “(a) the proposed transferee has agreed to it; and  
 “(b) written notice of it has been delivered to the proposed transferee, and to every other party to the contract or lease.
- “(4) The transfer is binding on every party to the contract or lease. 10
- “60 **Application of Privacy Act 1993**
- “(1) For the purposes of the Privacy Act 1993,—  
 “(a) the use by the Corporation or its employees of any information gathered or held by an existing company is a directly related purpose; and 15  
 “(b) the use by an existing company or its employees of any information gathered or held by the Corporation or another existing company is a directly related purpose.
- “(2) **Subsection (1)** is for the avoidance of doubt.

## “Part 7 20

### “Transfer of employees to Corporation

- “61 **Interpretation**  
 In this Part, unless the context otherwise requires,—  
 “**employment agreement** has the meaning given to it by section 5 of the Employment Relations Act 2000 25  
 “**old agreement**, in relation to a transferred employee, means the employment agreement applying to him or her immediately before he or she became a transferred employee  
 “**transferred employee** means a person appointed to a position in the employment of the Corporation under **section 62**. 30
- “62 **Transfer of employees to Corporation**  
 The Corporation may appoint to a position in its employment a person who is—  
 “(a) an employee of an existing company; or  
 “(b) an employee of a department listed in the First Schedule of the State Sector Act 1988 whose chief executive is 35

satisfied that the employee's duties are no longer to be carried out by the department but are instead to be carried out by the Corporation.

**“63 Consultation**

The Corporation must not appoint a person to a position in its employment under **section 62** without first consulting the person. 5

**“64 Effect of old employment agreement**

Unless it provides otherwise, a transferred employee's old agreement continues to apply to him or her during the period referred to in **section 65**, on the same terms and conditions (including its period) as if it were an employment agreement— 10

“(a) entered into with the Corporation, rather than the former employer; and 15

“(b) binding on him or her, the Corporation, and any other party to it other than the former employer.

**“65 Period during which old agreement applies**

The period during which a transferred employee's old agreement continues to apply begins on his or her appointment to a position in the employment of the Corporation under **section 62**, and ends when— 20

“(a) he or she—

“(i) ceases to be an employee of the Corporation; or

“(ii) is appointed to some other position in the employment of the Corporation; or 25

“(b) any of the conditions of employment applying to him or her under it are varied (otherwise than under **section 67**).

**“66 Circumstances in which new employment agreement to apply** 30

The conditions of employment of a person appointed to a position in the employment of the Corporation under **section 62** must be determined in accordance with his or her employment agreement with the Corporation, after—

“(a) he or she is appointed to some other position in the employment of the Corporation; or 35

“(b) any of the conditions of employment applying to a him or her under his or her old agreement are varied (otherwise than under **section 67**).

“67 **Changes in duties or location**

“(1) If during the period referred to in **section 65** there is a change to a transferred employee’s duties or location arising out of his or her appointment to a position in the employment of the Corporation under **section 62**,—

“(a) his or her conditions of employment may be varied by agreement to reflect that change; but

“(b) the varied conditions must be no less favourable than those he or she was entitled to under his or her old agreement.

“(2) **Subsection (1)** overrides **section 64**.

“68 **Transfer not enough to break continuous employment**

For the purposes of any provisions of a transferred employee’s old agreement relating to continuity of service, his or her appointment to a position in the employment of the Corporation under **section 62** is not enough by itself to break his or her employment.

“69 **Transfer not enough to entitle employee to redundancy or severance payment**

A transferred employee is not entitled to receive compensation for redundancy, or a severance payment, because—

“(a) the position he or she held in the existing company or department concerned has ceased to exist; or

“(b) he or she has ceased by virtue of his or her appointment to a position in the employment of the Corporation to be an employee of that company or department.”

22 **New Schedule 1A inserted in principal Act**

The principal Act is amended by inserting, before the First Schedule, the schedule set out in **Schedule 1** of this Act.

### Part 3

#### Consequential amendments and repeals

##### 23 Consequential amendments

- (1) The enactments named in **Schedule 2** are amended in the manner indicated in that schedule. 5
- (2) The Housing Restructuring Act 1992 is amended, with effect on the day on which the order under **section 53** of the principal Act relating to HNZ comes into force, in the manner indicated in **Schedule 3**.
- (3) Schedule 2 of the Housing Restructuring (Income-Related Rents) Amendment Act 2000 is amended, as from its commencement, by omitting from the item relating to section 61H(2) the word “retail”, and substituting the word “regional”. 10

##### 24 Certain enactments consequentially repealed

- (1) The following enactments are repealed: 15
- (a) the Title of the principal Act:
  - (b) sections 5 to 17, 28, 30A, 41A, 43A(3), and 47 of the principal Act:
  - (c) the enactments specified in **Schedule 4**. 20
- (2) Sections 7 and 65 of the Housing Restructuring Act 1992 are repealed, with effect on the day on which the order under **section 53** of the principal Act relating to HNZ comes into force.
-

## Schedule 1 New Schedule 1A of principal Act

s 22

## Schedule 1A Further provisions relating to Corporation

s 30

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**Schedule 1A**—continued

50	Superannuation or retiring allowances	52	Existing Government Superannuation Fund members
51	Application of certain Acts to members and employees		

**1 Interpretation**

In this schedule, unless the context otherwise requires,—

**member** means a member of the Corporation

**quorum** means a majority of members as provided for in **clause 33**.

5

*Members' appointments***2 Criteria for appointments**

The Minister must—

- (a) only appoint a person as a member who, in the Minister's opinion, has appropriate skills and experience to enable the Corporation to carry out its functions and powers; but
- (b) must take into account the desirability of promoting diversity.

10

**3 Method of appointment**

15

The Minister appoints a member by sending written notice to the member and a copy to the Corporation.

**4 When appointment takes effect**

Every member takes office from the date stated in the notice of appointment.

20

**5 Position where concurrent office**

A person appointed as a member may hold that office concurrently with any other office.

*Term of office***6 Term of office**

25

Except as otherwise provided in this Act, a member—

- (a) holds office for a term not exceeding 3 years; and
- (b) may be reappointed; and

**Schedule 1A**—continued

- (c) continues in office after the expiry of his or her term of office (unless the member resigns or is removed from office) until—
- (i) the member is reappointed; or
  - (ii) the member's successor is appointed; or 5
  - (iii) the member is informed in writing by the Minister that the member is not to be reappointed.
- 7 Restrictions on persons who may be members**
- The following persons are disqualified from being appointed or from holding office as a member of the Corporation: 10
- (a) a person who is under 18 years of age:
  - (b) a person who is an undischarged bankrupt:
  - (c) a person who is prohibited from being a member or promoter of, or being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies Act 1993: 15
  - (d) a person who is subject to a property order made under any of sections 10, 11, 12, 30, and 31 of the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act: 20
  - (e) a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, and who has not obtained a pardon, or served the sentence, or otherwise suffered the penalty imposed: 25
  - (f) a person who is subject to a sentence of imprisonment for an offence punishable by a term of imprisonment of less than 2 years:
  - (g) a person who has failed to disclose all interests under **clause 8(2)** (member must consent and certify to appointment and disclose interests): 30
  - (h) a person who is not a natural person:
  - (i) a person employed by a department of State responsible for advising the Minister on the Corporation's performance. 35

**Schedule 1A**—continued

- 8 Members must consent and certify to appointment and disclose interests**
- (1) A person must not be appointed as a member unless he or she has—
- (a) consented in writing to be a member; and 5
  - (b) certified that he or she is not disqualified from being a member.
- (2) A person must not be appointed as a member unless he or she has first disclosed to the responsible Minister the details of any interest that the person would, if he or she were a member, have to disclose under **clauses 20 to 22** (disclosure of interest provisions). 10

*Duties of members*

- 9 Duties of members**
- (1) A member, when exercising powers or performing duties as a member, must act— 15
- (a) in good faith; and
  - (b) with reasonable care, diligence, and skill; and
  - (c) with honesty and integrity; and
  - (d) in accordance with any code of conduct issued by the Minister of State Services that applies to Crown entities generally. 20
- (2) Collectively, the members must ensure that the Corporation operates—
- (a) consistently with its statement of intent, and any agreement as to outputs (however described) under the Public Finance Act 1989; and 25
  - (b) efficiently and effectively; and
  - (c) consistently with a spirit of service to the public; and
  - (d) so that it— 30
    - (i) maintains its long-term financial viability; and
    - (ii) tries to cover all its annual costs (including the cost of capital) from its net annual income; and
    - (iii) tries to act as a successful going concern; and
    - (iv) prudently manages its assets and liabilities. 35
- (3) Collectively, the members must also try to ensure that every subsidiary of the Corporation operates—

**Schedule 1A**—continued

- (a) consistently with the Corporation's objective, functions, powers, and duties; and
- (b) efficiently and effectively; and
- (c) consistently with a spirit of service to the public; and
- (d) in a financially responsible manner in accordance with **subclause (2)(a)**. 5

*Liability of members***10 Liability of members and committee members**

- (1) A member, and a member of any committee of the Corporation, is not personally liable, in an action taken against him or her by the Corporation, for any liability of the Corporation, or for any act done or omitted to be done by the Corporation or the Corporation or by any person acting under a delegation of the Corporation's functions and powers, provided the member acted in good faith in pursuance or intended pursuance of the functions or powers of the Corporation. 15
- (2) Every member, and every member of any committee of the Corporation, is indemnified, by the Corporation,—
  - (a) for costs and damages for any civil liability arising from any action brought by a third party, provided the member was acting in good faith and in pursuance or intended pursuance of the functions or powers of the Corporation; and 20
  - (b) for costs arising from any successfully defended criminal action. 25
- (3) The Crown must meet any costs and damages arising from this indemnity out of money appropriated by Parliament.

*Resignation and removal of members***11 Resignation**

A member may resign from office by sending a written notice to the Minister and a copy to the Corporation. 30

**12 Removal from office**

The Minister may remove a member from office at any time, without compensation, by written notice to the member.

**Schedule 1A**—continued*Vacancies in the Corporation's membership***13 Effect of vacancy in membership**

The functions and powers of the Corporation are not affected by any vacancy in the Corporation's membership.

*Remuneration*

5

**14 Remuneration of members**

Every member, and every member of any committee, is entitled to receive—

- (a) remuneration fixed by the Minister, by way of fees, salary, or allowances, for the member's services as a member of the Corporation or committee: 10
- (b) payment of travelling allowances fixed by the Corporation, or actual and reasonable expenses, in respect of time spent travelling in the service of the Corporation or committee. 15

*Chairperson and deputy chairperson***15 Appointment**

- (1) The Minister may appoint 1 of the members as the chairperson and another member as the deputy chairperson.
- (2) However, no person may, at the same time, hold the office both of chairperson and deputy chairperson. 20
- (3) The Minister appoints a chairperson or deputy chairperson by sending written notice to the member and a copy to the Corporation and every other member.
- (4) The person takes office as chairperson or deputy chairperson from the date stated in the notice of appointment. 25

**16 Term of office**

Every person appointed as chairperson or deputy chairperson holds that office until the person—

- (a) resigns from that office; or 30
- (b) is removed from it by the Minister; or
- (c) ceases to be a member.

**Schedule 1A**—continued**17 Resignation**

- (1) A chairperson or deputy chairperson may resign from that office by sending written notice to the Minister and a copy to the Corporation stating the date on which the resignation takes effect. 5
- (2) A chairperson or deputy chairperson who resigns from that office continues to be a member unless he or she also resigns from that office under **clause 11**.

**18 Exercise of chairperson’s functions, duties, and powers during vacancy, etc** 10

During a vacancy in the office of chairperson, or while the chairperson is for any reason unable to perform the functions, duties, and powers of the chairperson, the deputy chairperson has and may exercise all of the functions, duties, and powers of the chairperson. 15

*Acts not to be called into question***19 Acts not to be called into question**

No one may question the following in any proceedings on the grounds that the occasion for the appointment had not arisen or had ceased: 20

- (a) an appointment of a member to act as chairperson:
- (b) an act done by that member while acting as such:
- (c) an act done by the Corporation while any member is acting as such:
- (d) an act done by the Corporation or any member while the member continues to hold office under **clause 16(c)**. 25

*Disclosure of interest***20 Obligation to disclose interest**

- (1) A member who (otherwise than as a member) is interested, directly or indirectly, in any of the matters listed in **subclause (2)** must, as soon as practicable after the member knows about the relevant facts, disclose the nature of the interest in accordance with **clause 22**. 30
- (2) The matters are—
- (a) the Corporation’s performance of its functions or exercise of a power: 35

**Schedule 1A**—continued

- (b) an arrangement, agreement, or contract, made or entered into, or proposed to be made or entered into, by the Corporation.

**21 Meaning of interested**

A member is **interested** in a transaction to which the Corporation is a party if, and only if, the member— 5

- (a) is a party to, or will or may derive a material financial benefit from, the transaction; or
- (b) has a material financial interest in another party to the transaction; or 10
- (c) is a director, officer, member, or trustee of another party to the transaction (other than a subsidiary of the Corporation); or
- (d) is a person who will or may derive a material financial benefit from the transaction; or 15
- (e) is the parent, child, or spouse of another party to, or person who will or may derive a material financial benefit from, the transaction; or
- (f) is otherwise directly or indirectly materially interested in the transaction. 20

**22 Disclosure of interest**

- (1) A member must, immediately after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the Corporation, cause to be entered in the interests register, and disclose to the Corporation,— 25
- (a) the nature and monetary value of the member's interest, if the monetary value is able to be quantified; or
- (b) the nature and extent of the member's interest, if the monetary value cannot be quantified.
- (2) A general notice entered in the interests register or disclosed to the Corporation to the effect that a member is a shareholder, director, officer, member, or trustee of a named company or other person and is to be regarded as interested in any transaction that may, after the date of the entry or disclosure, be entered into with that company or person, is a sufficient disclosure of interest in relation to that transaction. 30 35

**Schedule 1A**—continued

- 23 Consequences of disclosure**
- (1) A member who discloses his or her interest under **clause 22**—
- (a) must not take part in any deliberation or decision of the Corporation relating to the matter; and
- (b) is to be disregarded for the purpose of forming a quorum for a meeting of the Corporation during which a deliberation or decision relating to the matter occurs or is made. 5
- (2) **Subclause (1)** is subject to **clause 25**.
- 24 Matters to be delegated to committee** 10
- (1) The Corporation must delegate a deliberation or decision to a committee if the effect of **clause 23** is that there is not a quorum of members able to take part in the deliberation or decision, or to form a quorum.
- (2) The committee must comprise at least 2 people, and have a majority of people— 15
- (a) who are not interested in the transaction; and
- (b) in the case of members of the committee who are not members of the Corporation, who are appointed by the Corporation with the agreement of the Minister. 20
- (3) **Subclause (1)** is subject to **clause 25**.
- 25 Exceptions**
- (1) **Clause 23** does not apply—
- (a) to any deliberation or decision of the Corporation that is made in accordance with any existing contract that governs the way in which the deliberation or decision is to be made; or 25
- (b) to any deliberation or decision of the Corporation to establish a committee, and to delegate the matter to a committee of the Corporation, under **clause 24**. 30
- (2) **Existing contract** means a contract—
- (a) that was entered into by or on behalf of the Corporation; and
- (b) in respect of which the person, or a majority of the persons, making the decision by or on behalf of the Corporation were not interested in the transaction. 35

## Schedule 1A—continued

- 26 Effect of non-compliance**  
 The validity of a transaction entered into by the Corporation is not affected by the fact that a member fails to comply with the disclosure requirements in **clauses 20 to 25**.
- Use of information* 5
- 27 Restrictions on disclosure or use of the Corporation’s information**
- (1) A member must not disclose to any person, or make use of, or act on, any information that is only available to the member in that capacity. 10
- (2) **Subclause (1)** does not prevent a member—
- (a) being required or authorised by this Act or any other Act to disclose, use, or act on, the information; or
- (b) disclosing, using, or acting on the information for the purposes of the Corporation or the requirements of the law: 15
- (c) disclosing the information to the Minister.
- 28 When member may rely on certain information and advice**
- (1) A member, when exercising powers or performing duties as a member, may rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the persons listed in **subclause (2)**. 20
- (2) The persons are— 25
- (a) any person who the member believes on reasonable grounds is reliable and competent in relation to the matters concerned; or
- (b) any other member or committee on which the member did not serve in relation to matters within the member’s or committee’s designated authority; or 30
- (c) the Minister.
- 29 When clause 28 applies**  
**Clause 28** applies to a member only if the member—
- (a) acts in good faith; and 35

**Schedule 1A**—continued

- (b) makes proper inquiry if the need for inquiry is indicated by the circumstances; and
- (c) has no knowledge that the reliance is unwarranted.

*Procedure of Corporation: general*

- 30 Procedure generally** 5
- Except as otherwise provided in this Act, the Corporation may regulate its own procedure.

*Procedure of Corporation: meetings*

- 31 Times and places of meetings**
- (1) The Corporation or the chairperson must appoint the times and places for meetings of the Corporation. 10
  - (2) The chairperson, or any 2 members, may at any time call a special meeting of the Corporation by giving not less than 7 days' notice of the special meeting, and of the business to be transacted at the meeting, to each member for the time being in New Zealand. 15
  - (3) The notice must be sent to the member's last known address in New Zealand.
  - (4) No business other than that specified in a notice of special meeting may be transacted at that meeting. 20
- 32 Methods of holding meetings**
- A meeting of the Corporation may be held either—
- (a) by a number of the members who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or 25
  - (b) by means of audio, or audio and visual, or electronic communication by which all members participating and constituting a quorum can simultaneously communicate with each other throughout the meeting.
- 33 Quorum** 30
- (1) A quorum for a meeting of the Corporation is a majority of the members at the time the meeting is held.
  - (2) No business may be transacted at a meeting of the Corporation if a quorum is not present.

**Schedule 1A**—continued

- 34 Who presides at meetings**
- (1) The chairperson must preside at all meetings of the Corporation at which he or she is present.
- (2) If the chairperson is not present, or if there is no chairperson, the deputy chairperson, if present, must preside. 5
- (3) The members present must appoint 1 of their number to be the chairperson for the meeting if—
- (a) the chairperson or the deputy chairperson is not present; or
- (b) there is no chairperson and no deputy chairperson. 10
- (4) The person appointed has and may exercise all the powers, duties, and functions of the chairperson for the purposes of the meeting.
- 35 Voting at meetings**
- All resolutions of the Corporation must be decided by a majority of the votes cast. 15
- 36 Resolutions**
- (1) A resolution in writing signed or assented to by letter, facsimile message, or electronic message by all members is as valid and effectual as if it had been passed at a meeting of the Corporation duly called and constituted. 20
- (2) The resolution may consist of several documents in the same form, each signed or appearing to have been sent by 1 or more members.
- 37 Method of contracting** 25
- (1) A contract or other enforceable obligation may be entered into by the Corporation as stated in **subclauses (2) to (5)**.
- (2) An obligation that, if entered into by an individual, would be required to be by deed, may be entered into on behalf of the Corporation in writing, signed under the name of the Corporation by—
- (a) 2 or more of its members; or
- (b) 1 or more attorneys appointed by the Corporation in accordance with **clause 38**. 30

**Schedule 1A**—continued

- (3) An obligation that, if entered into by an individual, is required to be in writing, may be entered into on behalf of the Corporation in writing by a person acting under the Corporation's express or implied authority.
- (4) An obligation that, if entered into by an individual, is not required to be in writing may be entered into on behalf of the Corporation in writing or orally by a person acting under the Corporation's express or implied authority. 5
- (5) The Corporation may, in addition to complying with **sub-clauses (2) to (4)**, affix its common seal, if it has one, to the contract or document containing the enforceable obligation. 10
- (6) This clause applies to a contract or other obligation—
- (a) whether or not that contract or obligation was entered into in New Zealand; and
- (b) whether or not the law governing the contract or obligation is the law of New Zealand. 15

**38 Attorneys**

- (1) The Corporation may, by an instrument in writing executed in accordance with **clause 37(2)(a)**, appoint a person as its attorney either generally or in relation to a specified matter. 20
- (2) An act of the attorney in accordance with the instrument binds the Corporation.

*Delegations***39 Ability for Corporation to delegate functions and powers**

- (1) The Corporation may by writing, either generally or specifically, delegate any of its functions or powers to— 25
- (a) a committee; or
- (b) a specified person; or
- (c) a person of a specified class; or
- (d) the holder for the time being of a stated office or appointment; or 30
- (e) the holders for the time being of offices or appointments of a stated class.
- (2) **Subclause (1)(a)** is subject to **clause 24(2)**.

**Schedule 1A**—continued**40 Certain powers must not be delegated**

The Corporation must not delegate—

- (a) the power of delegation in **clause 39**; or
- (b) the power to grant a power of attorney.

**41 Effect of delegation**

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- (1) A person to whom any functions or powers are delegated under **clause 39** may carry out those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on the person directly by this Act and not by delegation.

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- (2) **Subclause (1)** is subject to any direction given or condition imposed by the Corporation.

**42 Presumption of acting in accordance with delegation**

A person who appears to act under a delegation under **clause 39** is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

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**43 Other matters relating to delegation**

A delegation under **clause 39**—

- (a) is revocable at will, but the revocation does not take effect until it is communicated to the delegate; and
- (b) continues in force according to its terms until it is revoked; and
- (c) does not prevent the Corporation from performing the functions or exercising the power.

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*Subsidiaries*

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**44 Subsidiaries**

- (1) The Corporation must ensure that—

- (a) the functions and powers of any subsidiary of the Corporation are no broader than those of the Corporation; and
- (b) the Corporation controls the composition of the board of the subsidiary at all times; and
- (c) the Corporation holds a majority of the shares of the subsidiary at all times.

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**Schedule 1A**—continued

- (2) Every subsidiary of the Corporation is a Government office for the purposes of the Archives Act 1957.
- (3) **Clauses 46 to 52** apply to every subsidiary of the Corporation.

*Committees*

- 45 Corporation committees** 5
- (1) The Corporation may, by writing, appoint a committee to—
- (a) advise the Corporation on any matters relating to the Corporation’s functions or powers that are referred to a committee by the Corporation; or
- (b) exercise any of the Corporation’s functions or powers that are delegated to the committee under **clause 24 or clause 39**. 10
- (2) **Subclause (1)** is subject to **clause 24(2)**.
- (3) The Corporation may, by resolution, alter, discharge, continue, or reconstitute a committee appointed under **subclause (1)**. 15
- (4) Committee members may be members of the Corporation or other persons.
- (5) A committee may regulate its own procedure, subject to any direction from the Corporation. 20
- (6) **Clauses 15 to 37** apply to the committee.

*Employees*

- 46 Appointment of chief executive**
- (1) The Corporation may from time to time appoint a chief executive. 25
- (2) The Corporation—
- (a) must not appoint any member to be chief executive; and
- (b) must determine a chief executive’s remuneration and other terms and conditions of appointment after consulting the State Services Commissioner. 30
- (3) **Subsection (2)** does not affect—
- (a) the tenure of the person holding office as the Corporation’s chief executive on the commencement of the Housing Corporation Amendment Act **2000**; or

**Schedule 1A**—continued

- (b) that person's terms and conditions of appointment between that commencement and the time they are first modified or replaced after that commencement.

**47 Appointment of other employees**

- (1) The chief executive officer may appoint those employees, including employees on secondment from other organisations, that he or she thinks necessary for the efficient performance of the Corporation's functions, and may negotiate the terms and conditions of employment of such employees. 5
- (2) Subject to the terms and conditions of employment, the chief executive officer may at any time terminate or suspend the employment of any of the Corporation's employees. 10

**48 Personnel policy**

- (1) The Corporation must, if it appoints employees, operate a personnel policy that complies with the principle of being a good employer. 15
- (2) For the purposes of this clause, a **good employer** is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring— 20
- (a) good and safe working conditions; and
- (b) an equal employment opportunities programme; and
- (c) the impartial selection of suitably qualified persons for appointment; and 25
- (d) recognition of—
- (i) the aims and aspirations of Maori; and
- (ii) the employment requirements of Maori; and
- (iii) the need for involvement of Maori as employees of the Corporation; and 30
- (e) opportunities for the enhancement of the abilities of individual employees; and
- (f) recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
- (g) recognition of the employment requirements of women; and 35
- (h) recognition of the employment requirements of persons with disabilities.

**Schedule 1A**—continued

- 49 Equal employment opportunities**
- (1) The Corporation must, if it appoints employees,—
- (a) develop and publish in each year an equal employment opportunities programme; and
- (b) ensure in each year that the programme for that year is complied with and reported on within the Corporation’s annual report. 5
- (2) An equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons. 10
- 50 Superannuation or retiring allowances** 15
- For the purpose of providing a superannuation fund or retiring allowances for its employees, the Corporation may from time to time pay sums by way of subsidy or contribution into any superannuation scheme that is registered under the Superannuation Schemes Act 1989.
- 51 Application of certain Acts to members and employees** 20
- No person is deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason only of that person’s appointment under **clause 46 or clause 47**.
- 52 Existing Government Superannuation Fund members** 25
- (1) Despite **clause 51**, a person who, immediately before becoming an employee of the Corporation, was a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 is, for the purposes of that Act, deemed to be employed in the Government service so long as that person continues to be an employee of the Corporation; and that Act applies to that person in all respects as if that person’s service as an employee of the Corporation were government service. 30

**Schedule 1A**—continued

- (2) Nothing in **subclause (1)** entitles a person to become a contributor to the Government 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 **subclause (1), controlling authority**, in relation to that employee, means the Corporation. 5
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**Schedule 2** s 23(1)  
**Consequential amendments coming into force on**  
**1 July 2001**

- Housing Restructuring Act 1992** (1992 No 76)
- Omit from the definition in section 2(1) of **Corporation** the words “Corporation of New Zealand” and substitute the words “New Zealand Corporation”. 5
- Repeal the definitions in section 2(1) of **responsible Minister** and **shareholding Ministers**.
- Repeal section 64(1) and substitute the following: 10
- “(1) The company—
- “(a) cannot delegate a power under section 57(2)(b), any of subsections (2)(b), (3), or (4) of section 58, or section 60, except to a person who is an employee of the company, the Corporation, or Community Housing Limited; and 15
- “(b) cannot delegate any other power under this Part, the calculation mechanism, or Schedule 3, except to a person who is—
- “(i) an employee of the company, the Corporation, or Community Housing Limited; or 20
- “(ii) a person engaged by the company under a contract for services providing for the person to exercise that power.”
- Ombudsmen Act 1975** (1975 No 9) 25
- Omit from Part 1 of the First Schedule the item “The Housing Corporation of New Zealand.”.
- Insert in Part 2 of the First Schedule, after the item “Hospital and health services.”, the item “Housing New Zealand Corporation.”
- Public Finance Act 1989** (1989 No 44) 30
- Omit from the Fourth, Fifth, Sixth, and Seventh Schedules the item “Housing Corporation of New Zealand.” and substitute in each case the item “Housing New Zealand Corporation.”.

s 23(2)

**Schedule 3**  
**Consequential amendments to Housing**  
**Restructuring Act 1992 coming into force**  
**on vesting day**

Repeal the definition of **company** in section 2(1) and substitute the following: 5

“**company** means the company the shares in which—

“(a) on 30 June 2001 were owned by the responsible Minister and the Minister of Finance (as those terms were then defined by this section), having been acquired under the former section 9; and 10

“(b) on 1 July 2001 vested in the Corporation under **section 52(1)** of the Housing Corporation Act **1974**”

Repeal section 64(1) and substitute the following:

“(1) The Corporation— 15

“(a) cannot delegate a power under section 57(2)(b), any of subsections (2)(b), (3), or (4) of section 58, or section 60, except to a person who is an employee of the Corporation; and

“(b) cannot delegate any other power under this Part, the calculation mechanism, or Schedule 3, except to a person who is— 20

“(i) an employee of the Corporation; or

“(ii) a person engaged by the Corporation under a contract for services providing for the person to exercise that power.” 25

Omit from sections 42 to 45, 47, 51, 52, 55 to 62, and 64(2), and clauses 1, 3, and 4 of Schedule 3, the word “company” wherever it occurs and substitute in each case the word “Corporation”.

Omit from sections 42, 47, 52, 57, and 58, and clause 7 of Schedule 2, the word “company’s” wherever it occurs and substitute in each case the word “Corporation’s”. 30

Omit from the definition in clause 1 of Schedule 3 of **55+ rent protection programme** the word “company” and substitute the words “Housing New Zealand Limited”. 35

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**Schedule 4**  
**Consequential repeals**

s 24

- Housing Corporation Amendment Act 1989** (1989 No 54)
- Housing Corporation Amendment Act 1992** (1992 No 78)
- Housing Restructuring Act 1992** (1992 No 76) 5  
Sections 4 to 6, 8 to 24, 28 to 31, and 35 to 37.
- Public Finance Amendment Act 1992** (1992 No 142)  
So much of the Second Schedule as relates to section 41A of the principal Act.
- Reserve Bank of New Zealand Act 1989** (1989 No 157) 10  
So much of the First Schedule as relates to the principal Act.