

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time, 23 April 1985

*(Minister for Territories)*

**A BILL**

FOR

**An Act to provide for the restructuring of the National Capital  
Development Commission, and for related purposes**

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

**PART I—PRELIMINARY**

**Short title**

5       **1.** This Act may be cited as the *National Capital Development  
Commission Amendment Act 1985*.

**Commencement**

**2. (1)** Sections 1, 2, 3, 10 and 12 shall come into operation on the day on  
which this Act receives the Royal Assent.

10       **(2)** The remaining provisions of this Act shall come into operation on a day  
to be fixed by Proclamation.

**PART II—AMENDMENTS OF THE NATIONAL CAPITAL  
DEVELOPMENT COMMISSION ACT 1957**

**Principal Act**

3. The *National Capital Development Commission Act 1957*<sup>1</sup> is in this Part referred to as the Principal Act. 5

4. Section 2 of the Principal Act is repealed and the following section is substituted:

**Interpretation**

“2. In this Act, unless the contrary intention appears—

‘appoint’ includes re-appoint; 10

‘Chief Commissioner’ means the Chief Commissioner of the Commission;

‘Commission’ means the National Capital Development Commission established by this Act;

‘Commissioner’ means a Commissioner of the Commission;

‘Deputy Commissioner’ means a Deputy Commissioner of the Commission.”. 15

**National Capital Development Commission**

5. Section 3 of the Principal Act is amended by omitting sub-section (2).

6. Sections 4 to 10 (inclusive) of the Principal Act are repealed and the following sections are substituted: 20

**Constitution of Commission**

“4. (1) The Commission shall consist of 7 members, namely—

(a) a Chief Commissioner;

(b) 2 Deputy Commissioners; and

(c) 4 Commissioners. 25

“(2) The members of the Commission shall be appointed by the Governor-General.

“(3) The members referred to in paragraphs (1) (a) and (b) shall hold office as full-time members.

“(4) The members referred to in paragraph (1) (c) shall hold office as part-time members. 30

“(5) At least 2 of the persons appointed as members of the Commission shall be residents of the Australian Capital Territory.

“(6) At least one of the persons appointed as a member of the Commission shall be a resident of a place other than the Australian Capital Territory. 35

“(7) A member holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister.

“(8) The performance of the functions or the exercise of the powers of the Commission is not affected by reason only of there being a vacancy or vacancies in the membership of the Commission.

**Tenure of office**

5 “5. (1) A member appointed as a full-time member holds office for such period, not exceeding 7 years, as is specified in the instrument of appointment of the member.

10 “(2) A member appointed as a part-time member holds office for such period, not exceeding 3 years, as is specified in the instrument of appointment of the member.

“(3) A member is eligible for re-appointment.

“(4) A person who has attained the age of 65 years shall not be appointed as a member and a person shall not be appointed as a member for a period that extends beyond the date on which the person will attain the age of 65 years.

15 **Remuneration and allowances**

“6. (1) A member shall be paid such remuneration as is determined by the Remuneration Tribunal.

“(2) A member shall be paid such allowances as are prescribed.

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

**Disclosure of interests**

25 “7. (1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Commission shall, as soon as possible after the relevant facts have come to the member’s knowledge, disclose the nature of that interest at a meeting of the Commission.

“(2) A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Commission and the member shall not, unless the Commission or the Minister otherwise determines—

- 30 (a) be present during any deliberation of the Commission with respect to that matter; or
- (b) take part in any decision of the Commission with respect to that matter.

35 “(3) For the purpose of the making of a determination by the Commission under sub-section (2) in relation to a member who has made a disclosure under sub-section (1), a member who has a direct or indirect interest in the matter to which the disclosure relates shall not—

- (a) be present during any deliberation of the Commission for the purpose of making the determination; or
- (b) take part in the making by the Commission of the determination.

**Outside employment**

“8. Except with the consent of the Minister, a member holding office as a full-time member shall not engage in paid employment outside the duties of the office of the member.

**Leave of absence**

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“9. The Minister may grant to a member leave to be absent from duty on such terms and conditions as to remuneration or otherwise as the Minister thinks fit.

**Duties of Chief Commissioner**

“10. (1) The affairs of the Commission shall be managed by the Chief Commissioner. 10

“(2) In managing the affairs of the Commission, the Chief Commissioner shall act in accordance with any direction given to the Commission under section 12.

**Acting appointments**

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“10A. (1) The Minister may appoint a Deputy Commissioner to act as Chief Commissioner—

- (a) during a vacancy in the office of Chief Commissioner, whether or not an appointment has previously been made to the office; or
- (b) during a period, or during all periods, when the Chief Commissioner is absent from duty or from Australia or is, for any other reason unable to perform the functions of the office of Chief Commissioner, 20

but a Deputy Commissioner appointed to act during a vacancy shall not continue so to act for more than 12 months.

“(2) The Minister may appoint a person to act as a Deputy Commissioner, or as a Commissioner— 25

- (a) during a vacancy in the office of that Deputy Commissioner, or in the office of that Commissioner, as the case may be, whether or not an appointment has previously been made to the office; or
- (b) during a period, or during all periods, when that Deputy Commissioner or that Commissioner, as the case may be, is absent from duty or from Australia or is, for any other reason unable to perform the functions of the office of Deputy Commissioner or Commissioner, 30

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months. 35

“(3) An appointment of a Deputy Commissioner under sub-section (1), or of a person under sub-section (2), may be expressed to have effect only in such circumstances as are specified in the relevant instrument of appointment.

“(4) The Minister may—

(a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as—

(i) the Chief Commissioner;

(ii) a Deputy Commissioner; or

(iii) a Commissioner; and

(b) terminate such an appointment at any time.

“(5) Where—

(a) a Deputy Commissioner is acting as the Chief Commissioner in accordance with paragraph (1) (b); or

(b) a person is acting as a Deputy Commissioner, or as a Commissioner, as the case may be, in accordance with paragraph (2) (b),

and the office in which the Deputy Commissioner or that person, as the case may be, is so acting becomes vacant while the Deputy Commissioner or the person is so acting, that Deputy Commissioner or that 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.

“(6) The appointment of a Deputy Commissioner to act as the Chief Commissioner ceases to have effect if the Deputy Commissioner resigns the appointment by writing signed by the Deputy Commissioner and delivered to the Minister.

“(7) The appointment of a person to act as a Deputy Commissioner, or as a Commissioner, ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Minister.

“(8) While a Deputy Commissioner is acting as the Chief Commissioner, that Deputy Commissioner has, and may exercise, all the powers and shall perform all the functions of the Chief Commissioner.

“(9) While a person is acting as a Deputy Commissioner, or as a Commissioner, the person has, and may exercise, all the powers and shall perform all the functions of that Deputy Commissioner, or that Commissioner, as the case may be.

“(10) The validity of anything done by, or in relation to—

(a) a Deputy Commissioner purporting to act under sub-section (1); or

(b) a person purporting to act under sub-section (2),

shall not be called in question on the ground that the occasion for the appointment had not arisen, that there is a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the Deputy Commissioner, or the person, as the case may be, to act had not arisen or had ceased.

“(11) In this section “person” includes a Commissioner.

**Resignation**

“10B. A member may resign the office of member by writing signed by the member and delivered to the Governor-General.

**Termination of appointment**

“10C. (1) A member shall not be removed from office except as provided by this section. 5

“(2) The Governor-General may terminate the appointment of a member by reason of misbehaviour or physical or mental incapacity.

“(3) If a member—

(a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for the benefit of those creditors; 10

(b) fails, without reasonable excuse, to comply with the member’s obligations under section 7; 15

(c) is absent from duty, except on leave granted by the Minister in accordance with section 9, from 3 consecutive meetings of the Commission;

(d) being a member holding office as a full-time member—

(i) engages in paid employment outside the duties of the office of the member otherwise than with the consent of the Minister; or 20

(ii) is absent from duty, except on leave granted by the Minister in accordance with section 9, for 14 consecutive days, or for 28 days in a period of 12 months,

the Governor-General shall terminate the appointment of the member. 25

“(4) For the purposes of sub-section (3), if a member holding office as a full-time member engages in employment outside the duties of his or her office with the approval of the Minister, he or she shall, during any period during which he or she is absent from duty as a full-time member for the purposes of that employment, be deemed to be on leave of absence granted under section 9. 30

**Meetings**

“10D. (1) The Chief Commissioner shall convene such meetings of the Commission as the Chief Commissioner considers necessary for the efficient performance of the functions of the Commission. 35

“(2) The Minister may at any time, by writing, require the Chief Commissioner to convene a meeting of the Commission.

“(3) Meetings shall be held at such places as the Chief Commissioner determines.

“(4) The Chief Commissioner shall preside at all meetings at which the Chief Commissioner is present. 40

“(5) In the absence of the Chief Commissioner from a meeting of the Commission, a Deputy Commissioner shall preside at the meeting.

“(6) At a meeting of the Commission—

(a) 4 members form a quorum;

5 (b) all questions shall be decided by a majority of votes of the members present and voting; and

(c) the member presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

10 “(7) The Commission may regulate the conduct of proceedings at its meetings as it thinks fit and shall cause minutes of those proceedings to be kept.

### **Delegation**

“10E. The Commission may, either generally or as otherwise provided by the instrument of delegation, by writing under its seal, delegate to—

(a) the Chief Commissioner;

15 (b) a Deputy Commissioner; or

(c) an officer of the Commission,

all or any of its powers under this Act, other than this power of delegation.

“(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Commission.

20 “(3) A delegation of the power under this section does not prevent the exercise of the power by the Commission.”.

7. Section 12 of the Principal Act is repealed and the following sections are substituted:

### **Commission to keep Minister informed**

25 “12. The Commission shall keep the Minister informed of the decisions of the Commission with respect to matters of policy in relation to the performance of its functions.

### **Minister may issue directions to Commission**

30 “12A. (1) In the event of a difference of opinion between the Minister and the Commission in relation to a particular matter, including a matter of policy, the Minister and the Commission shall endeavour to reach agreement with respect to that particular matter.

35 “(2) If the Minister and the Commission are unable to reach agreement in relation to that particular matter, the Minister may give a direction, in writing, to the Commission as to the course that is to be followed by the Commission in relation to that particular matter.

40 “(3) Where the Commission has received a direction from the Minister under sub-section (2), the Commission shall give effect to that direction and shall, where it is so required, continue to give effect to that direction until the Minister otherwise directs the Commission.

“(4) The Minister shall, within 21 days after the day on which a direction is given to the Commission, cause the terms of that direction to be published in the *Gazette*.”.

**Repeal of section 17**

8. Section 17 of the Principal Act is repealed. 5

**Reports**

9. Section 24 of the Principal Act is amended by inserting after sub-section (3) the following sub-section:

“(3A) The report referred to in sub-section (3) shall include details of any direction given to the Commission under section 12 during the period to which the report relates.”. 10

**Repeal of section 26A**

10. Section 26A of the Principal Act is repealed.

**Consequential and formal amendments**

11. The Principal Act is amended as set out in Schedule 1. 15

**PART III—AMENDMENTS OF THE PARLIAMENT HOUSE  
CONSTRUCTION AUTHORITY ACT 1979**

**Principal Act**

12. The *Parliament House Construction Authority Act 1979*<sup>2</sup> is in this Part referred to as the Principal Act. 20

**Consequential and formal amendments**

13. The Principal Act is amended as set out in Schedule 2.

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**SCHEDULE 1**

Section 11

CONSEQUENTIAL AND FORMAL AMENDMENTS

***National Capital Development Commission Act 1957***

**Section 1—**

Omit “1957”, substitute “1957”.

**Sub-section 11 (3A)—**

Omit “1910-1959”, substitute “1910”.

**Sub-section 11 (5)—**

Omit “nineteenth day of November, One thousand nine hundred and twenty-five”, substitute “19 November 1925”.

**Sub-section 13 (1)—**

- (a) Omit “of the Capital Territory” (wherever occurring).
- (b) Omit “Department of Construction”, substitute “Department of Housing and Construction”.

**Sub-section 13 (2)—**

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

**Sub-section 14 (1)—**

Omit “under his hand”, substitute “signed by the Minister”.

**Sub-section 14 (2)—**

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

**Paragraph 20 (b)—**

Omit “Commissioner and the Associate Commissioners”, substitute “members of the Commission”.

**Sub-section 21 (1)—**

- (a) Omit “thirty-first day of”, substitute “31”.
- (b) Omit “first day of”, substitute “1”.

**Sub-section 23 (1)—**

Omit “his”, substitute “the Auditor-General’s”.

**Sub-section 23 (2)—**

After “his”, insert “or her”.

**Sub-section 23 (4)—**

Omit “him”, substitute “the Auditor-General”.

**Sub-section 23 (5)—**

Omit “him”, substitute “the Auditor-General”.

**SCHEDULE 1—continued**

**Sub-section 23 (6)—**

- (a) Omit “him” (first occurring), substitute “the Auditor-General”.
- (b) Omit “him with”, substitute “to the Auditor-General or to the authorized person, as the case requires”.

**Sub-section 24 (3)—**

Omit “thirtieth day of”, substitute “30”.

**Sub-section 24 (5)—**

Omit “fifteen”, substitute “15”.

**Sub-section 24 (6)—**

- (a) Omit “three”, substitute “3”.
- (b) Omit “the first day of January, April, July or October”, substitute “1 January, 1 April, 1 July or 1 October”.

**Section 26B—**

Omit “Associate”, substitute “Deputy”.

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**SCHEDULE 2**

Section 13

**CONSEQUENTIAL AND FORMAL AMENDMENTS**

***Parliament House Construction Authority Act 1979***

**Section 1—**

Omit “1979”, substitute “1979”.

**After the definition of “Chairman” in sub-section 3 (1)—**

Insert the following definition:

“ ‘Chief Commissioner’ means the Chief Commissioner of the Commission;”.

**Sub-section 3 (1), definition of “Commissioner”—**

Omit the definition, substitute the following definitions:

“ ‘Commissioner’ means a Commissioner of the Commission;

‘Deputy Commissioner’ means a Deputy Commissioner of the Commission;”.

**Sub-section 3 (2)—**

Omit “1974”, substitute “1974”.

**Sub-section 3 (3)—**

Omit the sub-section.

**Sub-section 6 (2)—**

Omit “Associate Commissioners”, substitute “Deputy Commissioners, Commissioners”.

**Sub-section 10 (1)—**

- (a) Omit “under his hand”, substitute “signed by the Minister”.
- (b) Omit “1957”, substitute “1957”.

**SCHEDULE 2—continued**

**Paragraph 12 (1) (b)—**

Omit “Commissioner”, substitute “Chief Commissioner”.

**Sub-section 12 (3)—**

(a) Omit “he” (first occurring), substitute “the person”.

(b) Omit “he” (second occurring), substitute “the Governor-General”.

**Sub-section 13 (1)—**

Omit “his appointment”, substitute “appointment of the Chairman”.

**Sub-section 13 (2)—**

Omit “his appointment”, substitute “appointment of the member”.

**Sub-section 14 (1)—**

Omit “his office”, substitute “the office of the Chairman”.

**Sub-section 14 (3)—**

(a) Omit “his” (first occurring), substitute “the”.

(b) Omit “under his hand”, substitute “signed by the acting Chairman and”.

**Sub-section 14 (4)—**

Omit “he”, substitute “the member”.

**Section 16—**

(a) Omit “Commissioner”, substitute “Chief Commissioner”.

(b) Omit “his office by writing under his hand”, substitute “the office of member by writing signed by the member and”.

**Sub-section 17 (1)—**

Omit “Commissioner”, substitute “Chief Commissioner”.

**Sub-section 17 (2)—**

(a) Omit “Commissioner”, substitute “Chief Commissioner”.

(b) After “his” (wherever occurring), insert “or her”.

**Sub-section 17 (3)—**

After “his” (wherever occurring), insert “or her”.

**Sub-section 17 (4)—**

(a) Omit “his” (first occurring), substitute “the member’s”.

(b) Omit “his” (second occurring), substitute “that”.

**Paragraph 17 (6A) (b)—**

(a) Omit “he”, substitute “the member”.

(b) Omit “his”, substitute “that”.

**Sub-section 18 (1)—**

(a) Omit “Commissioner”, substitute “Chief Commissioner”.

(b) Omit “he”, substitute “the member”.

**SCHEDULE 2—continued**

**Sub-section 18 (2)—**

Omit “Commissioner”, substitute “Chief Commissioner”.

**Sub-section 18 (3)—**

Omit “1973”, substitute “1973”.

**Sub-section 19 (4)—**

Omit “he”, substitute “the Chairman”.

**Sub-section 21 (2)—**

Omit “his instrument of appointment”, substitute “the instrument of appointment of the Chief Executive”.

**Sub-section 21 (3)—**

Omit “he”, substitute “the person”.

**Sub-section 22 (1)—**

Omit “he”, substitute “the Chief Executive”.

**Sub-section 22 (3)—**

Omit “1973”, substitute “1973”.

**Sub-section 24 (2)—**

After “his” (wherever occurring), insert “or her”.

**Section 25—**

Omit “his office by writing under his hand”, substitute “the office of Chief Executive by writing signed by the Chief Executive and”.

**Paragraph 26 (1) (b)—**

Omit “his office”, substitute “the office of Chief Executive”.

**Sub-section 26 (5)—**

Omit “his office by writing under his hand”, substitute “the office of Chief Executive by writing signed by the acting Chief Executive and”.

**Sub-section 26 (6)—**

Omit “he”, substitute “the person”.

**Sub-section 26 (7)—**

Omit “his” (wherever occurring), substitute “the person’s”.

**Sub-section 27 (1)—**

- (a) Omit “his appointment” (first occurring), substitute “being appointed”.
- (b) Omit “the *Officers’ Rights Declaration Act 1928*”, substitute “Part IV of the *Public Service Act 1922*”.

**Paragraph 27 (1) (a)—**

Omit “he preserves or retains upon his appointment as Chief Executive”, substitute “the Chief Executive preserves or retains, upon being so appointed,”.

**SCHEDULE 2—continued**

**Sub-paragraph 27 (1) (a) (ii)—**

Omit “his death”, substitute “the death of the Chief Executive”.

**Paragraph 27 (1) (a)—**

Omit “he” (second and third occurring), substitute “the Chief Executive”.

**Paragraph 27 (1) (b)—**

Omit “his service”, substitute “the service of the Chief Executive”.

**Sub-section 27 (2)—**

- (a) Omit “the” (first occurring), substitute “a person who is the”.
- (b) After “his” (first and second occurring), insert “or her”.
- (c) Omit “his” (third and fourth occurring), substitute “the person’s”.
- (d) Omit “he”, substitute “that person”.
- (e) Omit “him”, substitute “the person”.
- (f) Omit “his” (fifth occurring), substitute “the person’s”.

**Sub-section 35 (1)—**

Omit “his”, substitute “the Auditor-General’s”.

**Sub-section 35 (2)—**

After “his”, insert “or her”.

**Sub-section 35 (4)—**

Omit “him”, substitute “the Auditor-General”.

**Sub-section 35 (5)—**

Omit “him”, substitute “the Auditor-General”.

**Sub-section 35 (6)—**

- (a) Omit “him” (first occurring), substitute “the Auditor-General”.
- (b) Omit “him with”, substitute “to the Auditor-General or to the authorized person, as the case requires,”.

**Section 37—**

Repeal the section.

**Sub-paragraph 40 (a) (i)—**

Omit “1974”, substitute “1974”.

**Sub-paragraph 40 (a) (ii)—**

Omit “1957”, substitute “1957”.

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**NOTES**

1. No. 42, 1957, as amended. For previous amendments, see No. 83, 1960; No. 216, 1973; No. 66, 1975; No. 91, 1976; No. 36, 1978; and No. 61, 1981.
2. No. 22, 1979, as amended. For previous amendments, see No. 80, 1982.

