

Western Australia

Government Employees' Housing Act 1964

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Government Employees' Housing Act 1964

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Government Employees' Housing Act 1964

An Act to make provision for adequate and suitable housing accommodation for persons employed by or under the Government of the State; to provide for the establishment of a Government Employees' Housing Authority; and for incidental and other purposes.

1. Short title

This Act may be cited as the *Government Employees' Housing Act 1964*¹.

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation¹.

[3. *Repealed by No. 10 of 1998 s.76.*]

Part I — Preliminary

4. Objects

The objects of this Act are —

- (a) the provision of adequate and suitable housing accommodation for Government employees;
- (b) the improvement of existing housing conditions with respect to Government employees; and
- (c) the establishment of a body corporate constituted as provided by this Act having, the name of the Government Employees Housing Authority and having the powers and functions prescribed by this Act.

5. Interpretation

In this Act unless the context requires otherwise —

“Authority” means the Government Employees' Housing Authority established under this Act;

“Department” means any department which principally assists the Minister for Public Sector Management or the Minister in the administration of Part 3 of the *School Education Act 1999*; and includes any other department or any Crown instrumentality, hospital, board, body corporate or other body of whatever description that the Governor declares by proclamation to be a Department for the purposes of this Act;

“Fund” means the Government Employees' Housing Authority Fund established under this Act;

“Government employee” means a person employed under the State in any capacity in any Department to which this Act applies;

“house” means any building, including any single, attached or multi-storey dwelling unit, edifice; structure or erection, or any part thereof which, or any part of which, has been used or is used or is intended to be used as a dwelling; and

includes outbuildings, fences, walls and permanent provision for lighting, heating, water supply, drainage and sewerage and other appurtenances of a house;

“member” means a person occupying any of the offices of the Authority, including that of chairman;

“officer” means any officer of the Authority, or of the agent of the Authority, authorised by the Authority or the agent, in respect of or whose duty it is to deal with or to act in regard to any acts, matters or things in connection with which the term is used;

“permanent head”, in relation to a Department, means the officer of the Department immediately responsible for the management of the Department to a Minister of the Crown;

“tenant” includes any person deriving title under the original tenant.

[Section 5 amended by No. 36 of 1999 s.247.]

6. Administration

Subject to the Minister and the provisions of this Act, the Authority is responsible for the administration of this Act.

7. Governor may by proclamation declare Departments

- (1) The Governor may at any time declare, by proclamation, any department under the administration of a Minister of the Crown in the Government of the State or any Crown instrumentality, hospital, board, body corporate or other body of whatever description to be a Department for the purposes of this Act, and thereupon the provisions of this Act shall apply to that Department.
- (2) A proclamation made under this section may be varied or cancelled by a subsequent proclamation.

Part II — Government Employees' Housing Authority

8. Establishment of Authority

- (1) For the purposes of this Act an Authority having the name of the Government Employees' Housing Authority is hereby established in accordance with the provisions of this Act.
- (2) The Authority shall consist of 8 members appointed 3 by the Minister of whom —
 - (a) one person shall be appointed to be chairman;
 - (b) one person shall be the Under Treasurer of the State or an officer of the Treasury nominated in writing by the Under Treasurer;
 - (c) one shall be the chief executive officer of the department referred to in section 228 of the *School Education Act 1999* or a person employed in that department under section 235(1)(a), (b) or (c) of that Act, nominated in writing by the chief executive officer;
 - (d) one person shall be the General Manager of The State Housing Commission continued under the *Housing Act 1980* or an officer of The State Housing Commission nominated in writing by the General Manager;
 - (e) one person shall be the Commissioner of Police appointed under the *Police Act 1892* or an officer of the Police Department⁴ nominated in writing by the Commissioner;
 - (f) one person shall be the General Secretary of The State School Teachers' Union of W.A. (Incorporated) or a person nominated in writing by the General Secretary;
 - (g) one person shall be the General Secretary of the Western Australian Police Union of Workers or a person nominated in writing by the General Secretary; and

- (h) one person shall be the General Secretary of the Civil Service Association of Western Australia (Inc.) or a person nominated in writing by the General Secretary.

[Section 8 amended by No. 3 of 1973 s.2; No. 62 of 1987 s.4; No. 22 of 1996 s.16(5); No. 36 of 1999 s.247.]

9. Deputies of members

- (1) The Minister may, in respect of any member of the Authority, appoint a person to be the deputy of that member to act in his office during his absence.
- (2) Any person so appointed is entitled, in the absence from a meeting of the Authority of the member for whom he is the deputy, to attend that meeting, and while so attending shall be deemed to be a member and is authorised to carry out any function that the member of whom he is the deputy could, if present, perform under this Act.
- (3) The appointment of a deputy member may be terminated at any time by the Minister.

10. Allowances to members

Each member of the Authority, and each deputy while acting in the place of a member, shall be paid such travelling allowances while engaged on official business of the Authority, other than attendance at meetings thereof, at the rates and in accordance with the scale and conditions applicable from time to time in respect of senior executive officers within the meaning of the *Public Sector Management Act 1994*.

[Section 10 amended by No. 32 of 1994 s.19.]

11. Leave of absence, etc., of members

- (1) The Minister may grant leave of absence to a member upon such terms and conditions as of the Minister determines.

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- (2) A member may resign his office of member by writing under his hand addressed to the Minister.
- (3) The Minister may terminate the appointment of a member appointed under section 8(2)(a), (f), (g) or (h) by reason of the misbehaviour, or the physical or mental incapacity of the member.
- (4) The term of office of a member appointed under section 8(2)(b), (c), (d) or (e) is terminated if the person ceases to hold the position referred in the relevant provision, or, if the person is nominated under one of those provisions, the nomination is withdrawn.

[Section 11 amended by No. 62 of 1987 s.5.]

12. Meetings of Authority

- (1) The Authority shall hold such meetings as are necessary for the performance of its functions under this Act.
- (2) The chairman may at any time convene a meeting of the Authority, and shall convene the first meeting thereof as soon as practicable after the commencement of this Act.
- (3) The chairman, or in his absence the person appointed to be his deputy, shall preside at all meetings of the Authority, but if both the chairman and his deputy are absent from any meeting, the members present at that meeting shall appoint one of their number to preside thereat.
- (4) At any meeting of the Authority —
 - (a) 4 members form a quorum;
 - (b) all questions arising at the meeting shall be decided by a majority of the valid votes of the members present at the meeting;
 - (c) each member, including the chairman, shall be entitled to one vote only on the determination of any question; and

- (d) in the event of an equality of votes, the question shall be deemed to be determined in the negative.
- (5) Subject to this Act, the Authority may regulate its procedure in such manner as it thinks fit and shall cause to be kept minutes of its proceedings.

[Section 12 amended by No. 62 of 1987 s.6.]

13. Authority a body corporate

- (1) When established the Authority —
 - (a) is a body corporate with perpetual succession and a common seal; and
 - (b) is capable in law in its corporate name of suing and being sued, and of acquiring, holding, maintaining, improving, exchanging, leasing and disposing of real and personal property, and of doing and suffering all things that bodies corporate may do and suffer.
- (2) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Authority affixed to any document and shall presume that it was duly affixed.

14. Delegation by Authority of its powers

- (1) The Authority may, in relation to any particular matter or class of matters, or to any particular place, delegate to any person all or any of its powers under this Act (except this power of delegation), so that the delegated powers may be exercised by the delegate with respect to the matter or class of matters, or the place, specified in the delegation, and in the same manner and with the same effect as if they had been directly conferred on the delegate by this Act and not by delegation.
- (2) Any delegation pursuant to this section may at any time be revoked by the Authority, in whole or in part, but such revocation shall not affect in any way anything lawfully done under the delegated authority.

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- (3) A delegation under this section does not prevent the exercise by the Authority itself of any of the powers and functions conferred on it by or under this Act.

15. Appointment of officers, etc.

- (1) For the purposes of enabling the Authority to carry out its powers, functions, duties and liabilities under this Act, there may be appointed from time to time in accordance with the provisions of Part 3 of the *Public Sector Management Act 1994*, a person to be secretary of the Authority and such other officers as may be necessary for those purposes.
- (2) Subject to the provisions of any current relevant industrial award or agreement made under the *Industrial Arbitration Act 1912*⁵, the Authority may from time to time appoint and dismiss such temporary and casual employees as it thinks fit on such terms and conditions as it may determine.
- (3) By agreement with the employing authority, within the meaning of the *Public Sector Management Act 1994*, of the public service officer, the Authority may for the purposes of this Act co-opt the services of any public service officer, as secretary or as an officer of the Authority.
- (4) The appointment under section 8 or subsection (1) of a person who is a public service officer within the meaning of the *Public Sector Management Act 1994*, or the co-opting under subsection (3) of the services of such a person —
- (a) is without prejudice to the provisions of that Act and all other Acts applying to that person as such an officer; and
 - (b) does not prejudice his existing and accruing rights as such under any of those Acts,
- and for the purposes of determining those rights, the service of that person with the Authority under this Act shall be taken into account as if it were service in the Public Service of the State.

[Section 15 amended by No. 32 of 1994 s.19.]

Part III — Administration

16. Function of Authority

Subject to the provisions of this Act, the function of the Authority is to provide adequate and suitable housing accommodation within the State for Government employees, and for the purpose of carrying out that function, the powers of the Authority include —

- (a) purchasing, contracting for the use of, or otherwise acquiring (other than by compulsory acquisition) any land or houses;
- (b) the erection of houses on land acquired by the Authority;
- (c) letting or disposing of houses or land owned by or under the control of the Authority; and
- (d) doing such other things as under this Act are required or permitted to be done by the Authority.

17. Transfer to Authority of land and houses

- (1) Forthwith upon the coming into operation of this Act, and upon the date of proclamation in the case of a Department proclaimed pursuant to section 7, all land, houses and improvements vested in or under the management or control of any Department for providing housing accommodation of Government employees, and all powers, authorities, rights, title, interest and obligation in the same or with respect thereto, shall by virtue of this Act and without any transfer or assignment whatever pass to and become vested in and imposed upon the Authority and be divested and discharged from that Department.
- (2) Notwithstanding the provisions of subsection (1), the Authority may refuse to take over, accept or have vested in it any land or house referred to in that subsection in any case where such taking over, acceptance or vesting of that land or house would in the opinion of the Authority impose or be likely to impose upon it an obligation or duty, whether financial or otherwise, which the Authority considers it should not undertake or accept.

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18. Application may be made for houses for Department

- (1) The permanent head may in any case where he is of opinion that houses are required for Government employees apply to the Authority for the allocation to his Department of houses owned or controlled by the Authority.
- (2) The Authority shall have regard to the submissions of the permanent head set forth in his application under this section and if satisfied that his Department requires houses for Government employees may allocate such houses as it thinks fit for occupation by those employees.
- (3) For the purpose of exercising its duties under this section the Authority has power and authority —
 - (a) to inquire into and consider applications under this section;
 - (b) to require any further or other information in respect of any application;
 - (c) to approve of any application, either wholly or in part;
 - (d) to refuse any application.
- (4) Except in so far as the Authority is required under this Act, or under the terms of any agreement relating to any house taken over by the Authority under this Act, to provide a house for any Government employee, the Authority is not required to provide a house for any Government employee and may let any house to a person other than such an employee at such rent and upon such terms and conditions as it thinks fit.

19. Powers of Authority

Subject to this Act, the Authority has and may exercise the following powers, in addition to any other powers conferred on the Authority by this Act —

- (a) subject to the provisions of the *Planning and Development Act 2005*, to plan and subdivide any land acquired by the Authority under this Act;

- (b) to lay out and construct as streets any land so acquired by the Authority or any part of that land and to expend moneys on works and operations necessary or deemed necessary for the purpose of tendering that land suitable for housing;
- (c) to let or lease or dispose of any land, whether improved or unimproved, for any one or more of the purposes of this Act, or if satisfied that any land vested in it under this Act is not immediately required for the purposes of this Act, to lease or dispose of that land at such price and on such terms and conditions as the Authority thinks fit;
- (d) to erect, or cause to be erected, on lands vested in the Authority houses for letting to Government employees in accordance with the provisions of this Act, or to convert any buildings or erections into houses;
- (e) to maintain, alter, enlarge, repair and carry out any improvements to, and generally to control and manage, houses and other buildings and the land upon which they are situated;
- (f) to exchange, upon such terms and conditions and subject to such restrictions, exceptions and reservations as the Authority thinks fit, any unimproved land of the Authority for any other land, and to give or receive consideration for equality of exchange;
- (g) to enter into arrangements and agreements with any Department or any Crown instrumentality in regard to the building, maintenance, management, letting or renting of houses; or to any service or thing available from any Department and make such recoup of cost of services as may be arranged;
- (h) notwithstanding the provisions of any Act or any regulations made under any Act, to determine and fix, upon such basis or formula as may be prescribed, rents payable and conditions of tenancy in respect of houses let to tenants pursuant to this Act, and to assess and

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reassess such rents at periods not exceeding 3 years or whenever any house becomes vacant, regard being had to the age, type of construction, design, condition and available amenities, or any other matter that the Authority may deem relevant;

- (i) to make or cause to be made any inquiry, investigation or report required by this Act or that the Authority thinks necessary or expedient to make;
- (j) to undertake and carry out all other matters connected with this Act generally.

[Section 19 amended by No. 62 of 1987 s.7; No. 1 of 1995 s.24; No. 38 of 2005 s. 15.]

20. Power to accept gifts

- (1) For the purposes of this Act, the Authority may —
 - (a) accept any absolute gift, devise or bequest of real or personal property; or
 - (b) with the consent of the Minister, accept any gift, devise or bequest of real or personal property subject to any trust the objects of which are not substantially different from those for which the Authority is established, and carry out and give effect to the objects of any such trust.
- (2) If the Authority receives any gift, devise or bequest for the purpose of assisting it to provide houses for Government employees and that gift, devise or bequest is subject to any trust, condition or stipulation which cannot by reason of any other provision of this Act be given effect to, the Authority may, notwithstanding that provision, give effect to the trust, condition or stipulation if it is otherwise in accordance with law.
- (3) No stamp duty, probate or estate or succession duty shall be payable on any property given, devised or bequeathed to the Authority.

21. Power to appoint agent

The Authority is empowered to enter into an arrangement or agreement with the State Housing Commission constituted by the *State Housing Act 1946*⁶, whereby that Commission shall be and act as the agent of the Authority for the purposes of this Act upon such terms and subject to such conditions as may be mutually agreed upon by the Authority and the State Housing Commission.

Part IV — Finance

22. Power to borrow money

- (1) The Authority has power to borrow money upon the guarantee of the Treasurer of the State for the purposes of carrying out its functions and powers under this Act.
- (2) The Authority is authorised with the prior approval in writing of the Treasurer to borrow money upon such terms and conditions only as the Treasurer approves.
- (3) The Treasurer is hereby authorised to so approve and to give the guarantee referred to in subsection (1), including the guarantee of interest, for and on behalf of the Crown in right of the State.
- (4) Before a guarantee is given by the Treasurer under this section, the Authority shall give to the Treasurer such security as the Treasurer may require, and shall execute all such instruments as may be necessary for that purpose.
- (5) The Authority shall apply and use all moneys borrowed under the power conferred by this section for the purposes of carrying this Act into effect.

23. Funds of Authority

The funds available for the purpose of enabling the Authority to carry out its functions and powers under this Act consist of —

- (a) moneys from time to time appropriated by Parliament for the purposes of this Act;
- (b) moneys borrowed by the Authority under the powers conferred by this Act;
- (c) moneys from time to time received by the Authority from rents derived from letting houses and from the disposal of houses and land pursuant to the provisions of this Act;
- (d) moneys received by way of gifts or legacies for the general purposes of this Act; and

- (e) moneys received by the Authority in any manner and from any source as part of its general revenue, including short term borrowings and temporary advances.

24. Establishment of Government Employees' Housing Authority Fund

- (1) For the purposes of administering this Act there shall be established and kept at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*, an account to be called the "Government Employees' Housing Authority Fund" to which shall be credited all moneys received by or for the Authority and to which shall be charged all costs of operation and administration of this Act.
- (2) The Fund shall be controlled by the Authority and may be operated upon for the purposes in such manner as the Treasurer approves from time to time.
- (3) The expenses incurred by the Authority in carrying out its functions and exercising its powers under this Act and generally in administering this Act shall be charged to the Fund, and such expenses shall include interest on and contributions to the sinking fund for the redemption of moneys appropriated by Parliament to the purposes of this Act and moneys borrowed by the Authority under the provisions of this Act.
- [(4) *repealed.*]
- (5) Any moneys standing to the credit of the Fund may, until required for the purposes of this Act, be temporarily invested at the request of the Authority by the Treasurer in any securities approved by the Treasurer, and all interest derived from the investment shall be credited to the Fund.

[Section 24 amended by No. 98 of 1985 s.3; No. 49 of 1996 s.64; Correction to reprint in Gazette 9 May 2003 p. 1619.]

Part V — Miscellaneous

25. Application of *Financial Administration and Audit Act 1985*

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Authority and its operations.

[Section 25 inserted by No. 98 of 1985 s.3.]

[26. Repealed by No. 98 of 1985 s.3.]

27. Exemption from personal liability

A person who is or has been a member of the Authority, or an officer or agent of the Authority, or who otherwise carries out or exercises or has carried out or exercised any function or power conferred or any duty imposed by this Act, is not personally liable for anything done or omitted in good faith in or in connection with the exercise or purported exercise of any function or power conferred, or the carrying out of any duty imposed, by this Act.

28. Determination of tenancy

- (1) The Authority may determine the tenancy of any premises let pursuant to the provisions of this Act in any case where the tenant —
 - (a) makes default in payment of any instalment of rent for 14 days after the day upon which that instalment became due;
 - (b) fails or neglects to comply with any of his covenants or conditions under the tenancy agreement and such default continues for 14 days;
 - (c) ceases to be an employee in a Department; or

- (d) is an owner, or the spouse or de facto partner of an owner, of land where, in the opinion of the Authority, that tenant might reasonably reside.
- (2) Where the Authority determines a tenancy pursuant to this section, it may give notice in writing to the tenant requiring him to vacate the premises or before a date specified in the notice, and if the tenant fails to vacate the premises on or before the date so specified, any court of summary jurisdiction may upon application made by the Authority or its agent issue a warrant in the prescribed form directed to such person as the court thinks fit requiring that person, within a period to be specified in the warrant, to enter (if need be by force) upon the premises the subject of the tenancy and give possession thereof to the Authority.
- (3) A warrant to a person to give possession of premises under this section shall justify the person named in the warrant in entering upon the premises with such assistance as he thinks necessary, and in giving possession accordingly.
- (4) For the purpose of subsection (1)(d) “**owner**”, in relation to any land, means —
- (a) a person authorised by the Crown to occupy land vested in the Crown pursuant to any lease, licence, concession or any other arrangement;
 - (b) a person entitled to the use, occupation and enjoyment of land of which a corporation is the registered proprietor in fee simple, or a specific part of that land, by virtue of a shareholding in that corporation held by that person expressly conferring that entitlement;
 - (c) a person entitled to —
 - (i) receive the rent of the land;
 - (ii) receive the rent of the land if the land were let at a rent; or

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(iii) possession of the land for the time being as a beneficiary under a deceased estate or as a life tenant;

or

(d) a person who has agreed to purchase the land under a contract of sale, notwithstanding that title to that land has not passed to that person from the vendor.

[Section 28 amended by No. 62 of 1987 s.8; No. 28 of 2003 s. 71.]

29. Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are contemplated, required or permitted to be prescribed or that may in his opinion be necessary or expedient to be prescribed for enabling the functions of the Authority to be carried out, or for carrying out or giving effect to the objects and purposes of this Act.
- (2) Regulations made under this Act may impose a fine of \$40 for the breach of any regulation.

[Section 29 amended by No. 113 of 1965 s.8(1).]

30. Review of Act

- (1) As soon as practicable after 1 July 1992, and every 5 years thereafter, the Minister shall cause an investigation and review to be conducted, and a report to be prepared, as to the need for this Act to continue in operation.
- (2) The Minister shall cause a copy of the report prepared for the purposes of subsection (1) to be laid before each House of Parliament as soon as practicable after it is completed.

[Section 30 inserted by No. 62 of 1987 s.9.]

Notes

- ¹ This is a compilation of the *Government Employees' Housing Act 1964* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Government Employees' Housing Act 1964</i>	95 of 1964	14 Dec 1964	Proclaimed 2 Aug 1965 (see section 2 and <i>Gazette</i> 23 Jul 1965 p.2133)
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Sections 4 to 9: 14 Feb 1966 (see section 2(2)); balance on assent
<i>Government Employees' Housing Act Amendment Act 1973</i>	3 of 1973	21 May 1973	21 May 1973
<i>Acts Amendment (Financial Administration and Audit) Act 1985, section 3</i>	98 of 1985	4 Dec 1985	Proclaimed 1 Jul 1986 (see section 2 and <i>Gazette</i> 30 Jun 1986 p.2255)
<i>Government Employees' Housing Amendment Act 1987</i> ³	62 of 1987	13 Nov 1987	Sections 4, 5 and 6 proclaimed 22 Apr 1988 (see section 2 and <i>Gazette</i> 22 Apr 1988 p.1219); balance on assent
<i>Acts Amendment (Public Sector Management) Act 1994, Part 4</i>	32 of 1994	29 Jun 1994	Proclaimed 1 Oct 1994 (see section 2 and <i>Gazette</i> 30 Sep 1994 p.4948)
<i>Industrial Legislation Amendment Act 1995, section 24</i>	1 of 1995	9 May 1995	9 May 1995 (see section 2)
<i>Education Amendment Act 1996, section 16(5)</i>	22 of 1996	11 Jul 1996	11 Jul 1996 (see section 2(1))
<i>Financial Legislation Amendment Act 1996, section 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see section 2(1))

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Part V Miscellaneous

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Short title	Number and year	Assent	Commencement
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998, section 76</i>	10 of 1998	30 Apr 1998	30 Apr 1998 (see section 2(1))
<i>School Education Act 1999, section 247</i>	36 of 1999	2 Nov 1999	Proclaimed 1 Jan 2001 (see section 2 and <i>Gazette</i> 29 Dec 2000 p.7904)
Reprint of the Government Employees' Housing Act 1964 as at 8 Dec 2000 (includes amendments listed above) (correction in <i>Gazette</i> 9 May 2003 p. 1619)			
<i>Acts Amendment (Equality of Status) Act 2003 Pt. 25</i>	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Planning and Development (Consequential and Transitional Provisions) Act 2005 s. 15</i>	38 of 2005	12 Dec 2005	9 Apr 2006 (see s. 2 and <i>Gazette</i> 21 Mar 2006 p. 1078)

² Footnote no longer relevant.

³ Section 4(2) of the *Government Employees' Housing Amendment Act 1987* (No. 62 of 1987) reads as follows —

“

(2) The appointment of the holder of an office specified in section 8(2) of the principal Act as in force immediately before the coming into operation of this section is hereby determined.

”

⁴ Now known as Police Service.

⁵ Repealed by the *Industrial Arbitration Act 1979* (No. 114 of 1979) now called the *Industrial Relations Act 1979*.

⁶ Repealed by the *Housing Act 1980* (No. 58 of 1980) which preserved and continued the Commission.