

# House of Assembly—No 183

As laid on the table and read a first time, 12 September 2013

South Australia

## **Community Housing Providers (National Law) (South Australia) Bill 2013**

A BILL FOR

An Act to apply as a law of this State a national law relating to the registration of community housing providers; to make other provision for community housing providers and community housing; to make consequential amendments to the *Intervention Orders (Prevention of Abuse) Act 2009*, the *Local Government Act 1999*, the *Residential Tenancies Act 1995* and the *Water Industry Act 2012*; to repeal the *South Australian Co-operative and Community Housing Act 1991*; and for other purposes.

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The Parliament of South Australia enacts as follows:

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *Community Housing Providers (National Law) (South Australia) Act 2013*.

### 5 2—Commencement

- (1) This Act will come into operation on a day to be fixed by proclamation.
- (2) Section 7(5) of the *Acts Interpretation Act 1915* does not apply to this Act or a provision of this Act.

### 3—Interpretation

- 10 (1) For the purposes of this Act, the *local application provisions of this Act* are the provisions of this Act other than the South Australian Community Housing Providers National Law text.
- (2) In the local application provisions of this Act—
  - authorised officer* means an authorised officer appointed under section 27;
  - 15 *community housing provider* means an entity that provides community housing;
  - Community Housing Providers National Law (South Australia)* means the provisions applying in relation to this jurisdiction because of section 4;
  - Department* means the administrative unit of the Public Service that is, under the Minister, responsible for the administration of this Act;
  - 20 *District Court* means the Administrative and Disciplinary Division of the District Court of South Australia;
  - land* means, according to the context—
    - (a) land as a physical entity; or
    - (b) any legal estate or interest in, or right in respect of, land,
  - 25 and includes any building or structure fixed to land;
  - SAHT* means the *South Australian Housing Trust* and includes a subsidiary of the *South Australian Housing Trust*;
  - South Australian Community Housing Providers National Law text* means the *Community Housing Providers National Law* set out in Schedule 1 (as in force for the
  - 30 time being);
  - this jurisdiction* means the State of South Australia.
- (3) Terms used in the local application provisions of this Act and also in the South Australian Community Housing Providers National Law text have the same meanings in those provisions as they have in that text unless the contrary intention appears.

- (4) A reference in this or any other Act to the *Community Housing Providers National Law* is a reference to—
- (a) the *Community Housing Providers National Law* as it applies as a law of a participating jurisdiction; or
  - (b) the law that substantially corresponds to the law referred to in paragraph (a).

## **Part 2—Application of *Community Housing Providers National Law***

### **4—Application of *Community Housing Providers National Law***

- (1) The South Australian Community Housing Providers National Law text—
- (a) applies as a law of South Australia; and
  - (b) as so applying may be referred to as the *Community Housing Providers National Law (South Australia)*.
- (2) If—
- (a) the Parliament of New South Wales enacts an amendment to the *Community Housing Providers National Law* set out in the Appendix to the *Community Housing Providers (Adoption of National Law) Act 2012* of New South Wales; and
  - (b) the Governor is satisfied that an amendment that corresponds, or substantially corresponds, to the amendment made by the Parliament of New South Wales should be made to the *Community Housing Providers National Law (South Australia)*,
- the Governor may, by regulation, amend the South Australian Community Housing Providers National Law text.
- (3) The Governor may, as part of a regulation made under subsection (2), make any additional provision (including so as to modify an amendment that has been made to the *Community Housing Providers National Law* by the Parliament of New South Wales or to provide for related or transitional matters) considered by the Governor to be necessary to ensure that the amendment to the *Community Housing Providers National Law* has proper effect in South Australia.
- (4) A regulation made under subsection (2) may, if the regulation so provides, take effect from the day of the commencement of an amendment to the *Community Housing Providers National Law* made by the Parliament of New South Wales (including a day that is earlier than the day of the regulation's publication in the Gazette).

### **5—Meaning of certain terms in *Community Housing Providers National Law* for the purposes of this jurisdiction**

- (1) In the *Community Housing Providers National Law (South Australia)*—
- Appeal Tribunal* means the Housing Appeal Panel established under Part 3A of the *South Australian Housing Trust Act 1995*;
- this jurisdiction* means the State of South Australia.

- (2) The *relevant appeal period* for the purposes of section 25 of the *Community Housing Providers National Law (South Australia)* is 30 days.

## 6—Exclusion of legislation of this jurisdiction

The *Acts Interpretation Act 1915* does not apply to the *Community Housing Providers National Law (South Australia)* or to instruments made under that Law.

## 7—Community housing legislation

For the purposes of the *Community Housing Providers National Law (South Australia)*, the provisions of Part 3, Part 4 and Schedule 2 and Schedule 3 of this Act are declared to be community housing legislation of this jurisdiction.

## 8—Community housing assets

- (1) For the purposes of paragraph (e) of the definition of *community housing asset* in section 4 of the *Community Housing Providers National Law (South Australia)*, the following are declared as community housing assets for the purposes of that Law:
- (a) any asset identified as a community housing asset under an agreement between a community housing provider and a Housing Agency;
  - (b) any other asset of a class of assets declared by the regulations as being within the ambit of this subsection.
- (2) In addition, the Minister may, by notice in the Gazette, exclude an asset or class of assets from the ambit of the definition of *community housing asset* under the *Community Housing Providers National Law (South Australia)*.
- (3) The Minister may, by subsequent notice in the Gazette, vary or revoke a notice under subsection (2).

## 9—Housing Agency

For the purposes of the *Community Housing Providers National Law (South Australia)*—

- (a) the Minister and the SAHT are declared to be Housing Agencies in relation to the definition of *community housing asset* in section 4 of that Law; and
- (b) SAHT is declared to be a Housing Agency in relation to section 10(1)(h) of that Law; and
- (c) SAHT is declared to be a Housing Agency in relation to section 15(2)(c) of that Law; and
- (d) the Minister and SAHT are declared to be Housing Agencies in relation to section 20(4) of that Law.

## 10—Relevant Minister

For the purposes of the *Community Housing Providers National Law (South Australia)*, the Minister responsible for the administration of this Act is declared to be the relevant Minister.

## **11—Registrar**

- (1) For the purposes of the *Community Housing Providers National Law (South Australia)*, the Registrar is declared to be the person appointed as Registrar under subsection (2).
- 5 (2) The Minister may appoint a public service employee as Registrar for the purposes of the *Community Housing Providers National Law (South Australia)*.
- (3) The position of Registrar may be held in conjunction with any other position in the Public Service.
- 10 (4) The Registrar's functions under section 10 of the *Community Housing Providers National Law (South Australia)* are limited to exercising those functions insofar as may be relevant to the administration and operation of that Law (and not solely for the purposes of the community housing legislation of this jurisdiction).

## **12—Delegation of functions by Registrar**

15 For the purposes of section 11 of the *Community Housing Providers National Law (South Australia)*, the persons to whom functions may be delegated under that section are—

- (a) a person employed in the Department; and
- (b) without limiting paragraph (a), an authorised officer; and
- (c) a person, or person of a class of persons, prescribed by the regulations.

## **13—Fees**

20 For the purposes of section 13(4) of the *Community Housing Providers National Law (South Australia)*, the fee is the fee prescribed by the regulations.

## **14—Appeal Tribunal—related matters**

- 25 (1) This section applies in relation to an application made to the Appeal Tribunal for the purposes of an appeal under the *Community Housing Providers National Law (South Australia)*.
- (2) An application must be made in the prescribed manner and form (and accompanied by the prescribed fee (if any)).
- 30 (3) The following provisions apply where the Appeal Tribunal is acting on an application under this section:
- (a) the Appeal Tribunal—
- (i) is not bound by the rules of evidence; and
- (ii) must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms;
- 35 (b) the Appeal Tribunal may require a party—
- (i) to furnish such information in relation to the matter as the Appeal Tribunal thinks necessary; and
- (ii) to verify any information by statutory declaration;

- (c) the Appeal Tribunal may invite any person to appear before the Appeal Tribunal (either personally or through a representative) and to make submissions relating to the matter;
- (d) the Appeal Tribunal may, after considering the matter and any submissions made to the Appeal Tribunal—
- (i) dismiss the application;
  - (ii) vary the decision to which the application relates;
  - (iii) set aside the decision to which the application relates and—
    - (A) substitute its own decision; or
    - (B) send the matter back to the Registrar for reconsideration with such suggestions as the Appeal Tribunal thinks fit;
  - (iv) make any ancillary or consequential order that the Appeal Tribunal considers appropriate.

(4) A party to proceedings before the Appeal Tribunal under this section may, with the permission of the Supreme Court, appeal against a decision of the Appeal Tribunal under this section on a question of law.

(5) The Supreme Court may, on an appeal under subsection (4), determine the question and give any consequential directions or orders considered by the Court to be appropriate in the circumstances of the case.

## **Part 3—Additional South Australian provisions relating to community housing**

### **Division 1—Interpretation**

#### **15—Interpretation**

(1) In this Part—

*community housing agreement*—see section 20;

*current market value*, in relation to property, means the price that could reasonably be expected to be obtained on a sale of the property (free of encumbrances) on the open market.

(2) For the purposes of this Part, SAHT is taken to have an interest in land of a community housing provider—

- (a) if the land constitutes a community housing asset of the community housing provider; or
- (b) without limiting paragraph (a), if a community housing agreement with the community housing provider identifies the land as being land in which SAHT has an interest.

## Division 2—Administration

### 16—Functions and powers of Minister

- (1) The functions of the Minister include—
- (a) to take action (so far as may be appropriate) to support the activities and promote the best interests of community housing providers;
  - (b) to promote the development of community housing in this State;
  - (c) to oversee the activities of community housing providers in connection with the administration of this Act;
  - (d) to promote the active involvement of people in the development of community housing.
- (2) The Minister has such powers as are contemplated by this Act or necessary or expedient for the effective performance of the Minister's functions under this Act.

### 17—Power of Minister to delegate

- (1) The Minister may delegate any of the Minister's functions or powers under this Act—
- (a) to SAHT; or
  - (b) to a particular person or body; or
  - (c) to the person for the time being occupying a particular office or position.
- (2) A delegation under this section—
- (a) may be absolute or conditional; and
  - (b) if the instrument of delegation so provides, may be further delegated by the delegate; and
  - (c) does not derogate from the power of the Minister to act personally in any matter; and
  - (d) is revocable at will by the Minister.
- (3) In any legal proceedings an apparently genuine certificate, purportedly signed by the Minister, containing particulars of a delegation under this section will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

### 18—Functions and powers of SAHT

- (1) The functions of SAHT include—
- (a) to assist the Minister in connection with the administration of this Act and to exercise statutory powers conferred by this Act;
  - (b) to report to the Minister, on its own initiative or when requested to do so by the Minister, on any matter relating to community housing providers;
  - (c) to manage funds that come under SAHT's control in connection with the operation of this Act;

(d) to liaise with other government agencies or instrumentalities that provide assistance or services to community housing providers, or that are otherwise involved in the housing sector;

(e) to perform other functions assigned to SAHT by or under this Act or by the Minister.

(2) Except in relation to the provision of advice and reports to the Minister, SAHT will, in the performance of its functions under this Act, be subject to the control and direction of the Minister.

(3) SAHT may establish such committees (including advisory committees or subcommittees) as it thinks fit to assist it in the performance of its functions under this Act.

(4) SAHT has such powers as are contemplated by this Act or necessary or expedient for the effective performance of SAHT's functions under this Act.

(5) SAHT may, by arrangement with the appropriate authority, make use of the services, facilities or staff of a government department, agency or instrumentality.

(6) Nothing in this Act limits the functions and powers of SAHT under the *South Australian Housing Trust Act 1995* or any other Act.

### **19—Power of SAHT to delegate**

(1) SAHT may, by instrument in writing, delegate any of SAHT's functions or powers under this Act—

(a) to a particular person or body; or

(b) to the person for the time being occupying a particular office or position.

(2) A delegation under this section—

(a) may be absolute or conditional; and

(b) if the instrument of delegation so provides, may be further delegated by the delegate; and

(c) does not derogate from the power of SAHT to act in any matter; and

(d) is revocable at will by SAHT.

## **Division 3—Community housing agreements, property and financial matters**

### **20—Community housing agreements**

(1) SAHT may, for the purposes of a transaction that involves—

(a) SAHT providing funding, land or other property to a community housing provider; or

(b) the acquisition, construction, development or improvement of land by, or for the benefit of, a community housing provider with the assistance of SAHT,

require the community housing provider to enter into an agreement (a *community housing agreement*) with SAHT.

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- 5 (2) SAHT must not enter into a community housing agreement unless the community housing provider is registered under the *Community Housing Providers National Law* (but the fact that the community housing provider subsequently ceases to be registered does not affect any action that SAHT may determine to take (whether under this Act or the community housing agreement, or on any other basis) once the community housing agreement has been entered into under this Act).
- 10 (3) A community housing agreement—
- (a) must contain (with or without modification or addition) such terms and conditions as may be prescribed by the regulations; and
  - (b) must provide for its review on a periodic basis.
- 15 (4) A community housing agreement may contain such terms and conditions as SAHT considers appropriate and without limitation, may include provisions with respect to—
- (a) requiring the community housing provider to meet specified standards and targets in relation to the community housing services and programs provided by the community housing provider; and
  - (b) ensuring that funding, land, property or other assistance provided to the community housing provider by SAHT is used for the purposes for which it was provided; and
  - 20 (c) the proposed sale or other disposition by the community housing provider of land in which SAHT has an interest; and
  - (d) the imposition of a charge over land of the community housing provider to secure payment of money that is or may become payable under the community housing agreement or to provide any other form of security over land that constitutes a community housing asset; and
  - 25 (e) conditions or other requirements that take effect if the community housing provider fails to use land in which SAHT has an interest for the purposes contemplated by the agreement; and
  - 30 (f) conditions or other requirements that must be complied with on the cancellation of the registration of the community housing provider under the *Community Housing Providers National Law*.
- (5) A community housing agreement may be varied by agreement between SAHT and the community housing provider.
- (6) If a community housing provider fails to comply with the terms and conditions of a community housing agreement, the agreement is voidable at the option of SAHT.
- 35 (7) If SAHT avoids a community housing agreement, SAHT may—
- (a) take steps to enforce any relevant charge under this Division; and
  - (b) recover from the community housing provider any outstanding amount, together with compensation for any loss or expenses suffered or incurred by SAHT, as a debt due to SAHT by action in a court of competent jurisdiction.
- 40 (8) The regulations may make provision for or with respect to community housing agreements, including but not limited to prescribing terms and conditions that are taken to be included in community housing agreements (including community housing agreements existing at the time the regulations are made).

## **21—Community housing agreement binding on community housing providers**

- (1) A community housing agreement is binding on the community housing provider to which it relates (whether or not the community housing provider remains registered).
- (2) SAHT may monitor the activities of a community housing provider to determine whether it is complying with the terms and conditions of a community housing agreement.

## **22—Creation of charge**

- (1) SAHT may, in accordance with the terms of a community housing agreement, impose a charge over real property.
- (2) For the purposes of the imposition of a charge under subsection (1), SAHT must deliver to the Registrar-General a notice, in a form determined by the Registrar-General—
- (a) setting out, incorporating or referring to the terms of the charge; and
  - (b) setting out the real property over which it is to exist; and
  - (c) requesting the Registrar-General to make a notation under this section in the Register Book.
- (3) A notice under subsection (2) must be accompanied by such documents or instruments as the Registrar-General may require.
- (4) On receipt of a notice under subsection (2) (and any documents or instruments required under subsection (3)), the Registrar-General must, in relation to the real property referred to in the notice, enter an appropriate notation in the Register Book.
- (5) When an entry is made under subsection (4), a charge over the real property is created.
- (6) While a charge exists over real property, the Registrar-General must not register an instrument affecting the property unless—
- (a) the instrument was executed before the charge was created or relates to an instrument registered before the charge was created; or
  - (b) the instrument is an instrument of a prescribed class; or
  - (c) SAHT consents to the registration in writing; or
  - (d) the instrument is expressed to be subject to the charge; or
  - (e) the instrument is a duly stamped conveyance that relates to the transfer or sale of the real property under section 23.
- (7) Subject to this Division, an instrument registered under subsection (6)(a), (b), or (c) has effect, in relation to the charge, as if it had been registered before the charge was created.
- (8) If an instrument is registered under subsection (6)(e), the charge will be taken to be cancelled and the Registrar-General must make the appropriate entries in the Register Book to give effect to the cancellation.
- (9) SAHT may, on its own initiative, by further notice to the Registrar-General under this section, cancel the charge.

- (10) Where SAHT delivers a notice to the Registrar-General under this section, SAHT must send a copy of the notice to the community housing provider.

### **23—Enforcement of charge**

- 5 (1) If a community housing provider fails to comply with the terms of a community housing agreement secured by a charge (and the matter has not been resolved in the manner contemplated by subsection (3)), the charge may be enforced as follows:
- (a) SAHT must, by notice in writing, inform the community housing provider that the breach must be remedied within a period (of at least 1 month) specified in the notice; and
- 10 (b) if, the breach is not remedied in accordance with the terms of the notice, SAHT may apply to the Minister for an order under subsection (3) in relation to the property subject to the charge.
- (2) SAHT must not act under subsection (1)(a) unless or until it has complied with any relevant step set out in the community housing agreement as to the resolution of the matter by discussion, mediation or some other process under the agreement.
- 15 (3) The Minister may, on application under subsection (1), in relation to the property that is subject to the charge—
- (a) subject to paragraph (b), order that steps be taken to transfer the property to another community housing provider registered under the *Community Housing Providers National Law*; or
- 20 (b) if the Minister considers that a transfer under paragraph (a) is not reasonably practicable or appropriate, order that steps be taken—
- (i) to transfer the property to SAHT; or
- (ii) to sell the property on the open market.
- 25 (4) The community housing provider must comply with the terms of the order within a reasonable time.  
Maximum penalty: \$10 000.
- (5) If the property is transferred pursuant to an order under subsection (3), the value of the property will be taken to be its current market value.
- 30 (6) If the property is transferred to SAHT, SAHT must, as soon as is reasonably practicable, divest itself of the property.
- (7) If property is transferred under subsection (3)(a) or (b)(i), an amount (if any) that is payable to the community housing provider under the community housing agreement on account of money or assets provided by the community housing provider must be paid to the community housing provider in accordance with the terms of the community housing agreement.
- 35 (8) If the property is sold pursuant to an order under subsection (3)(b)(ii), the money received in respect of the sale must be applied as follows:
- (a) firstly—in paying the costs of the sale and any other costs of a prescribed kind;
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- (b) secondly—in discharging any liabilities secured by instrument registered before the charge was created, or that is taken to have such effect by virtue of section 22;
- (c) thirdly—in discharging the amount or amounts secured by the charge over that property;
- (d) fourthly—in discharging any other liabilities secured by registered instruments;
- (e) fifthly—in discharging any other liabilities that exist in relation to that property of which SAHT has notice;
- 10 (f) sixthly—in making a distribution in accordance with the terms of the community housing agreement.
- (9) The title obtained on the sale of the property will be free of—
- (a) any charge under this Part; and
- (b) all other liabilities discharged under subsection (8); and
- 15 (c) any other liability that may exist on account of any mortgage, charge or encumbrance.
- (10) If the community housing provider does not comply with the terms of an order under subsection (3) within a reasonable time, the Minister may take such steps as are necessary to give effect to the order.
- 20 (11) The power of the Minister to act under subsection (10) includes the power to rescind any contract and to deal with or dispose of the property to which the order relates, and the power to make, execute, sign and give such contracts, instruments and documents as the Minister thinks necessary.
- (12) If the Minister acts under subsection (10), a conveyance executed by the Minister will, on registration or enrolment, operate to vest title to the property in the person or body named in the conveyance as transferee.
- 25 (13) The Registrar-General must, on production of a conveyance executed under subsection (12), register the conveyance and, notwithstanding the *Real Property Act 1886*, production of the duplicate certificate of title will not be required (but, if the duplicate certificate of title is not produced, the Registrar-General will cancel the existing certificate of title and issue a new certificate in the name of the transferee).
- 30 (14) If an order is made under this section for the transfer or sale of property, SAHT must take such steps as are reasonably practicable—
- (a) to protect the interests of any creditor of the community housing provider; and
- 35 (b) to assist any tenant whose tenancy is affected or who is otherwise inconvenienced as a result of the order.

#### **24—Dealings with land in which SAHT has an interest**

- 40 (1) A community housing provider must not sell, transfer, assign, mortgage or otherwise deal with—
- (a) land in which SAHT has an interest; or

- (b) without limiting paragraph (a), land that is subject to a charge under this Division,

unless the community housing provider has obtained the written consent of SAHT.

- (2) SAHT must not unreasonably withhold consent under subsection (1).

- 5 (3) Without limiting the grounds on which SAHT may withhold consent under subsection (1), consent may reasonably be withheld if SAHT is not satisfied—

- 10 (a) that the net proceeds of the sale, transfer, assignment, mortgage of, or other dealing with, the land will be applied by the community housing provider for the further acquisition, development or improvement of community housing (to the extent that the proceeds may be attributed to an interest that SAHT has had in the land after taking into account the provisions of any community housing agreement and any principle prescribed by the regulations); or

- 15 (b) that significant detriment will not be suffered by tenants of the property (if any) as a result of the sale, transfer, assignment, mortgage of, or other dealing with, the land.

- 20 (4) SAHT may, in respect of the sale, transfer, assignment, mortgage of, or other dealing with, the land to which it has consented, require that money obtained by the community housing provider from dealing with the land be paid to SAHT (after taking into account the provisions of any community housing agreement and any principle prescribed by the regulations and after discharging any encumbrance that ranks ahead of any relevant charge under this Division).

## **25—Appeals**

- (1) A community housing provider that is aggrieved by—

- 25 (a) a decision of the Minister to issue an order under section 23(3); or

- (b) a decision of SAHT to withhold consent under section 24(1),

may appeal to the District Court.

- (2) An appeal must be instituted within 1 month of the making of the decision appealed against.

## **Division 4—Transfer of property etc**

### **26—Transfer of property etc**

- 30 (1) The Minister may, with the agreement of the Treasurer, by notice in the Gazette—

- (a) transfer an asset, right or liability of the Minister to SAHT;

- (b) transfer an asset, right or liability of SAHT—

- 35 (i) to the Minister; or

- (ii) to the Crown, or to another agent or instrumentality of the Crown; or

- (iii) in prescribed circumstances, subject to prescribed conditions (if any), and with the agreement of the person or body—to a person or body that is not an agent or instrumentality of the Crown.

- (2) A notice under subsection (1) may make other provisions that in the opinion of the Minister are necessary or expedient in connection with the relevant transfer.
- (3) However, the Minister must not act under subsection (1)(b) if to do so would contravene an express agreement entered into by the Minister that limits the Minister's powers in relation to SAHT under this Act.
- (4) A notice under subsection (1) will have effect according to its terms.

## **Part 4—Miscellaneous**

### **27—Appointment of authorised officers**

- (1) The Minister may appoint such persons to be authorised officers for the purposes of this Act as the Minister thinks fit.
- (2) An appointment under this section—
- (a) will be for a period stated in the instrument of appointment; and
  - (b) may be made subject to conditions limiting the purposes for which the appointee may exercise the powers of an authorised officer.
- (3) A person appointed as an authorised officer will be issued with an identity card in a form approved by the Minister.

### **28—Powers of authorised officers**

- (1) In this section—
- prescribed matter* means—
- (a) any matter relevant to ascertaining whether the provisions of this Act, or of the *Community Housing Providers National Law (South Australia)*, have been or are being complied with; or
  - (b) any matter that, in the opinion of the Minister, SAHT or the Registrar, requires investigation for the proper or expedient exercise or performance of a power or function under this Act or the *Community Housing Providers National Law (South Australia)*; or
  - (c) any matter that relates to the operation or enforcement of the terms or conditions of a community housing agreement under this Act; or
  - (d) any other matter of a prescribed class.
- (2) An authorised officer may, for the purpose of investigating a prescribed matter—
- (a) require a person who may be in a position to furnish information relevant to the investigation—
    - (i) to take reasonable steps to provide that information to the authorised officer;
    - (ii) to answer a question to the best of that person's knowledge, information and belief;
  - (b) —
    - (i) require a person to produce any books, documents or records in his or her possession or control;

- (ii) require a person to produce any information stored by computer, microfilm or by any other process,

(insofar as the books, documents, records or information may be relevant to the investigation);

- (c) —

- (i) examine, copy and take extracts from any books, documents, records or information produced under paragraph (b) or require a person to provide a copy of any such book, document, record or information;

- (ii) take possession of any books, documents or records produced under paragraph (b).

(3) Any person who is in a position to do so must at the request of an authorised officer provide such assistance as the authorised officer may reasonably require in the exercise of a power under subsection (2).

(4) An authorised officer exercising a power under subsection (2) may be accompanied by such assistants as are reasonably necessary in the circumstances.

(5) A person who—

- (a) hinders an authorised officer or any assistant in the exercise of powers under subsection (2); or

- (b) refuses or fails to comply with a requirement under subsection (2) or (3),

is guilty of an offence.

Maximum penalty: \$10 000.

(6) A person will not be subject to any civil liability by reason of compliance with a requirement made under this section.

(7) If the possession of a book, document or record is retained under this section, a person who would be entitled to inspect the book, document or record if it were not in the possession of an authorised officer is entitled to inspect the book, document or record at any reasonable time.

(8) An authorised officer exercising a power under this section must, at the request of a person affected by the exercise of the power, produce for the inspection of that person his or her identity card.

## 29—False information

A person must not, in connection with a requirement under this Act or the *Community Housing Providers National Law (South Australia)*—

- (a) provide any information that the person knows is false or misleading in a material particular, whether by reason of the inclusion or omission of any particular; or

- (b) provide or produce any document that the person knows is false or misleading in a material particular, without indicating the respect in which the document is false or misleading and, if practicable, providing correct information.

Maximum penalty: \$10 000.

### 30—General power to grant extensions and exemptions

- (1) The Minister may, on the application of a community housing provider—
- (a) extend any limitation of time under this Act, whether or not the period has expired; and
  - (b) exempt the community housing provider from the obligation to comply with any provision of this Act.
- (2) An application under subsection (1) may be granted by the Minister on such conditions as the Minister thinks fit.
- (3) The Minister may, at any time, by instrument in writing—
- (a) vary or revoke an extension or exemption under subsection (1);
  - (b) vary or revoke a condition under subsection (2).
- (4) A community housing provider must not contravene or fail to comply with a condition imposed by the Minister under this section.

Maximum penalty: \$10 000.

### 31—Evidentiary provision

An apparently genuine document purporting to be a copy of any document registered or lodged under this Act and to be certified by the Minister as a true copy of such a document, will be accepted in any legal proceedings, in the absence of proof to the contrary, as a true copy of that document.

### 32—Continuing offences

- (1) Where a person is convicted of an offence against this Act and after that conviction the act or omission of the person that constituted the offence continues, the person is guilty of a further offence and liable to an additional penalty for each day on which the act or omission continues of an amount not exceeding one-tenth of the maximum penalty for the offence of which the person was convicted.
- (2) For the purposes of subsection (1), an obligation to do something is to be regarded as continuing until the act is done notwithstanding that any period within which, or time before which, the act is required to be done has expired or passed.

### 33—General defence

In proceedings for an offence against this Act, it is a defence if the defendant proves that in the circumstances of the case there was no failure on the defendant's part to take reasonable care to avoid commission of the offence.

### 34—Remission from taxes etc

- (1) A registered community housing provider that is liable for the payment of rates charged with respect to community housing of which the community housing provider is the owner is entitled to claim a remission of rates under the *Rates and Land Tax Remission Act 1986* equal to any remission of rates under that Act that a tenant or resident occupying premises that constitute the community housing could claim in respect of those premises if he or she were the owner of that part of the premises that he or she occupies.

(2) In subsection (1)—

*rates* means rates within the meaning of the *Rates and Land Tax Remission Act 1986*.

(3) The Treasurer may, by notice published in the Gazette, exempt from a tax, duty or other impost, to the extent specified in the notice, any of the following:

- (a) SAHT, in connection with any matter or circumstance arising under this Act;
- (b) instruments to which the Minister, SAHT or a community housing provider is a party;
- (c) instruments that arise from or are connected with a transaction to which the Minister, SAHT or a community housing provider is a party.

(4) The Treasurer may, by further notice published in the Gazette, vary or revoke an exemption under subsection (3).

### 35—Service

(1) A notice or document required or authorised by or under this Act to be given to or served on a person may be served on the person—

- (a) by delivering it personally to the person; or
- (b) by post addressed to the person to the person's last known address or (in the case of a corporation) registered address; or
- (c) by fax or email to a fax number or email address provided by the person for that purpose (in which case the notice or document will be taken to have been given or served at the time of transmission).

(2) Without limiting the effect of subsection (1), a notice or document required or authorised to be given to or served on a person for the purposes of this Act may, if the person is a company or registered body within the meaning of the *Corporations Act 2001* of the Commonwealth, be served on the person in accordance with that Act.

### 36—Fees in respect of lodging documents

(1) Where a fee is payable for or in respect of the lodging of a document under this Act and the document is submitted without payment of the fee, the document will be taken not to have been lodged until the fee has been paid.

(2) Notwithstanding subsection (1), the Minister may—

- (a) waive or reduce, in a particular case or classes of cases, fees that would otherwise be payable under this Act; and
- (b) refund, in whole or in part, any fee paid under this Act.

### 37—Regulations

(1) The Governor may make regulations for or with respect to any matter—

- (a) that by the local application provisions of this Act is required or permitted to be prescribed by the regulations or that is necessary or convenient to be prescribed by the regulations for carrying out or giving effect to the local application provisions of this Act; or
- (b) that by the *Community Housing Providers National Law (South Australia)* is required or permitted to be prescribed by the regulations.

- (2) Without limiting the generality of subsection (1), the regulations may—
- (a) require a community housing provider to provide prescribed information to the Minister or SAHT in prescribed circumstances; and
  - 5 (b) prescribe any form, or regulate any procedure, for the purposes of this Act; and
  - (c) make provision for, or in relation to, the form or content of any agreement between the Minister and community housing providers or SAHT and community housing providers; and
  - 10 (d) prescribe, and provide for the recovery of, fees (including application fees and fees for the late lodgement of returns or reports required under this Act); and
  - (e) prescribe penalties, not exceeding a fine of \$5 000, for breach of, or non-compliance with, any regulation.
- (3) Regulations under this Act—
- 15 (a) may be of general or limited application;
  - (b) may—
    - (i) leave any matter or thing to be determined, varied, dispensed with or regulated according to the discretion of the Minister;
    - (ii) confer other forms of discretionary powers;
  - 20 (c) may make different provision according to the persons, things or circumstances to which they are expressed to apply.

## **Schedule 1—Community Housing Providers National Law**

### **Part 1—Preliminary**

#### **1—Short title**

This Law may be cited as the Community Housing Providers National Law.

#### **2—Commencement**

This Law commences in a participating jurisdiction as provided by the Act of that jurisdiction that applies this Law as a law of that jurisdiction.

#### **3—Object**

- (1) The object of this Law is to provide for a national system of registration, monitoring and regulation of community housing providers:
- (a) to encourage the development, viability and quality of community housing; and
  - 35 (b) to promote confidence in the good governance of registered community housing providers so as to facilitate greater investment in that sector; and

(c) to make it easier for community housing providers to operate in more than 1 participating jurisdiction.

(2) A purpose of registration is to identify appropriate entities to which government funding for community housing might be provided under other legislation or policies of a jurisdiction.

#### 4—Definitions

(1) In this Law—

*binding instructions* means instructions given under section 19;

*category of registration* means a category of registration under this Law for which provision is made in the guidelines under section 10(2);

*community housing* means housing for people on a very low, low or moderate income or for people with additional needs that is delivered by non-government organisations;

*community housing asset* of a community housing provider means—

- (a) land vested in the provider by or under the community housing legislation of a participating jurisdiction; or
- (b) land acquired by the provider wholly or partly with funding provided by a Housing Agency of a participating jurisdiction; or
- (c) land vested in the provider on which a Housing Agency of a participating jurisdiction has constructed housing or made other improvements; or
- (d) funds provided to the provider by a Housing Agency of a participating jurisdiction for the purposes of community housing; or
- (e) any other asset of the provider that is of a class of assets declared by the community housing legislation of a participating jurisdiction as community housing assets for the purposes of this Law;

*community housing legislation* of a participating jurisdiction means—

- (a) this Law as it applies as a law of that jurisdiction by an Act of that jurisdiction (including provisions of that Act that relate to the application of this Law in that jurisdiction); or
- (b) so much of an Act of that jurisdiction that contains provisions that substantially correspond to the provisions of this Law,

and includes any other legislation of that jurisdiction that the law of that jurisdiction declares to be community housing legislation;

*entity* means the following:

- (a) a company limited by shares or guarantee under the *Corporations Act 2001* of the Commonwealth;
- (b) an Aboriginal and Torres Strait Islander corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* of the Commonwealth;
- (c) a body corporate, cooperative or incorporated association created under legislation of the Commonwealth or a State or Territory;

*function* includes a power, authority or duty, and *exercise* a function includes perform a duty;

*Housing Agency* of a participating jurisdiction, means a body or officer declared to be a Housing Agency of that jurisdiction by the community housing legislation for that jurisdiction for the purposes of the provision of this Law in which the expression occurs;

*National Register* means the National Register of Community Housing Providers established by this Law;

*notice of intent to cancel registration*—see section 20;

*notice of non-compliance*—see section 18;

*participating jurisdiction* means an Australian jurisdiction in which—

- (a) this Law applies as a law of the jurisdiction; or
- (b) a law that substantially corresponds to the provisions of this Law has been enacted;

*primary jurisdiction*—see section 5;

*primary Registrar* for an unregistered entity or registered community housing provider means the Registrar for the primary jurisdiction of the unregistered entity or registered community housing provider;

*registered community housing provider* means an entity registered under this Law as a community housing provider;

*Registrar* means a Registrar for a participating jurisdiction as referred to in section 9;

*registration* means registration under this Law;

*relevant Minister* means the Minister declared by the community housing legislation of this jurisdiction as the relevant Minister for the purposes of the provision of this Law in which the expression occurs;

*State* means the Crown in right of a participating jurisdiction, and includes—

- (a) the Government of a participating jurisdiction; and
- (b) a Minister of the Crown in right of a participating jurisdiction; and
- (c) a statutory corporation, or other person, representing the Crown in right of a participating jurisdiction;

*statutory manager* means a statutory manager appointed under section 21.

- (2) In this Law, a reference to registration or any other matter under this Law includes registration or any other act or matter under a law of a participating jurisdiction that substantially corresponds to the provisions of this Law.
- (3) This Law is to be interpreted in accordance with the *Interpretation Act 1987* of New South Wales.

## 5—Primary jurisdiction

- (1) For the purposes of this Law, the *primary jurisdiction* of an unregistered entity or registered community housing provider is—
- 5 (a) the participating jurisdiction in which the unregistered entity or registered community housing provider provides the majority of its community housing; or
- (b) in the case of an unregistered entity that provides no community housing in a participating jurisdiction, the participating jurisdiction in which it intends to provide the majority of its community housing; or
- 10 (c) if the Registrars for each participating jurisdiction agree on a different participating jurisdiction, that jurisdiction.
- (2) The Registrars may agree to a different primary jurisdiction at any time whether or not on the application of the unregistered entity or registered community housing provider.
- 15 (3) As soon as is practicable after making an agreement under this section, the Registrars must ensure that the unregistered entity or registered community housing provider concerned is notified in writing of its new primary jurisdiction and if the agreement relates to a registered community housing provider, that the National Register is updated accordingly.
- 20 (4) Housing in a jurisdiction other than a participating jurisdiction is not to be taken into account in determining where the majority of the community housing of an unregistered entity or a registered community housing provider is located.

## 6—Single national register

25 It is the intention of the Parliament of this jurisdiction that this Law, as applying under the community housing legislation of this and other participating jurisdictions, has the effect that the National Register of Community Housing Providers is 1 single national register.

## 7—Extraterritorial operation of Law

30 It is the intention of the Parliament of this jurisdiction that the operation of this Law is to, as far as possible, include operation in relation to the following:

- (a) things situated in or outside the territorial limits of this jurisdiction;
- (b) acts, transactions and matters done, entered into or occurring in or outside the territorial limits of this jurisdiction;
- 35 (c) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Law, be governed or otherwise affected by the law of another jurisdiction.

## 8—Law binds the State

This Law binds the State.

## Part 2—The Registrar

### 9—The Registrar

- (1) There is to be a Registrar for each participating jurisdiction.
- (2) The Registrar for a participating jurisdiction is the individual or body declared by the community housing legislation of that jurisdiction to be the Registrar for the purposes of this Law.
- (3) The Registrar for a participating jurisdiction is subject to the control and direction of the relevant Minister of that jurisdiction.

### 10—Functions of Registrar

- (1) A Registrar has the following functions:
  - (a) to maintain the National Register of Community Housing Providers jointly with the Registrars of other participating jurisdictions;
  - (b) to assess the suitability of entities to be registered as registered community housing providers;
  - (c) to register entities as registered community housing providers and to cancel the registration of registered community housing providers;
  - (d) to monitor compliance by registered community housing providers with community housing legislation and to exercise enforcement and intervention functions under that legislation;
  - (e) to investigate complaints about the compliance of registered community housing providers with community housing legislation;
  - (f) to provide information about the registration of entities and information about the compliance of registered community housing providers with community housing legislation;
  - (g) to share information and to cooperate with Registrars of other participating jurisdictions for the purposes of community housing legislation;
  - (h) to provide information and advice to the relevant Minister and Housing Agency in relation to the registration of entities and the regulation of registered community housing providers and any other matter under community housing legislation;
  - (i) any other function conferred or imposed on the Registrar by or under this Law or any other law.
- (2) In exercising functions under this Law, a Registrar is required to comply with any guidelines made jointly by the relevant Ministers of each participating jurisdiction and published in the New South Wales Government Gazette or on the NSW legislation website.
- (3) A Registrar and any delegate of the Registrar is not personally liable for any matter or thing done or omitted to be done in good faith in the exercise of his or her functions under this Law.

## 11—Delegation of functions by Registrar

- (1) The Registrar for this jurisdiction may delegate any of the Registrar's functions under this Law (other than this power of delegation) to—
- (a) the Registrar for another participating jurisdiction; or
  - (b) a person, or person of a class, declared by the community housing legislation of this jurisdiction for the purposes of this section.
- (2) Without limiting subsection (1), the functions that may be delegated under this section include—
- (a) functions of the Registrar as primary Registrar for an unregistered entity or registered community housing provider; and
  - (b) functions conferred on the Registrar by the conditions of registration referred to in section 15; and
  - (c) functions delegated to the Registrar by the Registrar for another participating jurisdiction.

## Part 3—Registration

### 12—National Register of Community Housing Providers

- (1) The National Register of Community Housing Providers is established.
- (2) The following information is to be recorded on the National Register in respect of each entity whose application for registration has been approved:
- (a) the name and identifying details of the entity;
  - (b) the category of registration of the entity;
  - (c) the primary jurisdiction of the entity;
  - (d) each other participating jurisdiction in which the entity has community housing assets;
  - (e) the conditions to which the registration of the entity is subject;
  - (f) a copy of any notice of intent to cancel registration issued to the entity;
  - (g) whether the registration of the entity has been cancelled at any time and details of any such cancellation, including a copy of any notice of cancellation issued to the entity;
  - (h) a copy of any binding instructions issued to the entity;
  - (i) details of any appointment of a statutory manager, including a copy of the relevant instrument of appointment;
  - (j) any other information about the entity that a Registrar considers to be relevant for the purposes of this Law.
- (3) The Registrars may agree to divide the National Register into different parts to assist in the administration of the National Register.
- (4) The primary Registrar for an entity may at any time, by notice in writing to the entity, vary the category of registration of the entity and move the registration of the entity to any other part of the National Register.

- (5) Information on the National Register is to be made publicly available.
- (6) A Registrar may carry out searches of the National Register on a person's behalf and may charge a reasonable fee for the search.

### **13—Application for registration or variation of registration**

- 5 (1) An application for registration or the variation of an existing registration may be made by or on behalf of an entity that provides or intends to provide community housing.
- (2) An application may only be made to the primary Registrar for the entity.
- (3) A Registrar who receives an application but who is not the primary Registrar for the entity is to refer the application to the primary Registrar.
- 10 (4) An application must be in a form approved by the primary Registrar for the entity and be accompanied by the fee determined in accordance with the community housing legislation of the primary jurisdiction.
- (5) The primary Registrar may require an applicant to provide further information or documents for the purposes of determining the application, including information or  
15 documents with respect to the following:
  - (a) the exercise of the provider's functions and any arrangements with other persons in relation to the exercise of the provider's functions;
  - (b) the affairs of the provider.
- 20 (6) Subsection (5) does not authorise a Registrar to require information or any document that identifies an individual who is an occupier of residential premises.

### **14—Determination of application**

- (1) The primary Registrar for an entity must approve an application duly made by or on behalf of the entity under section 13 if the Registrar is satisfied that—
  - 25 (a) the entity provides or intends to provide community housing in a participating jurisdiction; and
  - (b) the entity will comply with the community housing legislation of the participating jurisdictions; and
  - (c) the entity will comply with any conditions to which its registration, or registration as varied, will be subject; and
  - 30 (d) approval of the application is appropriate in the circumstances.
- (2) The primary Registrar must, as soon as is practicable after making a determination under this section, notify the applicant in writing of—
  - (a) the determination; and
  - (b) if the application is not approved, the reasons for the determination; and
  - 35 (c) if the application is approved, the category of the registration including whether the entity has been registered in a particular part on the National Register and any conditions to which the registration is subject.

## 15—Conditions of registration

- (1) A registered community housing provider must comply with the conditions to which its registration is subject.
- (2) The following are conditions of the registration of each registered community housing provider:
- (a) the provider must comply with those provisions of the National Regulatory Code set out in Schedule 1 to this Law that are identified on the National Register as applying to the provider;
  - (b) the provider must comply with any applicable requirements of the community housing legislation of a participating jurisdiction in relation to the transfer of, or other dealing with, any community housing assets of the provider;
  - (c) the provider must have provision in its constitution for all its remaining community housing assets in a participating jurisdiction on its winding up to be transferred to another registered community housing provider or to a Housing Agency in the jurisdiction in which the asset is located;
  - (d) the provider must, at the times and in a manner approved by the primary Registrar for the provider, provide any information required by the primary Registrar with respect to the exercise of the provider's functions, including arrangements with other persons with respect to the exercise of the provider's functions;
  - (e) the provider must, after receiving a written request for information from a Registrar in relation to the affairs of the provider, provide within 14 days (or such longer period as may be permitted by the Registrar) the Registrar with the information requested including a copy of any document or record specified in the request;
  - (f) the provider must, if requested to do so in writing by a Registrar, ensure that a suitably qualified officer of the provider attends, at such times as the Registrar may direct, a meeting with the Registrar in order to answer questions about the affairs of the provider;
  - (g) the provider must allow a Registrar to carry out inspections at any reasonable time of the provider's premises or records;
  - (h) the provider must notify the primary Registrar for the provider of the occurrence of any of the following within the time specified:
    - (i) a decision to appoint a voluntary administrator to the provider or a decision to wind-up the provider—as soon as practicable after the decision;
    - (ii) the appointment of a receiver to the provider—as soon as practicable after the provider learns of the appointment;
    - (iii) a decision to apply for the cancellation of the provider's registration—as soon as practicable after the decision and at least 28 days before the application is made;

- (iv) a decision to conduct a vote at a meeting on a matter that could affect the provider's eligibility to be registered or its category of registration—as soon as practicable after the decision and at least 28 days before the meeting is held;
- 5 (v) a change in the affairs of the provider that may have an adverse impact on its compliance with the community housing legislation—before or no later than 72 hours after the change;
- (vi) any other occurrence notified in writing to the provider by the primary Registrar—within the time specified in that notice;
- 10 (i) the provider must keep a list of all of the provider's community housing assets in a form approved by the primary Registrar and must make the list available to the primary Registrar on request;
- (j) a standard condition imposed by the primary Registrar under subsection (3).
- 15 (3) The Registrars may agree to additional standard conditions of registration which may be imposed on the registration of a registered community housing provider by the primary Registrar for the provider—
- (a) when determining an application under this Part; or
- (b) at any other time by notice in writing to the provider.
- 20 (4) An additional standard condition may be revoked by the primary Registrar for the registered community housing provider at any time by notice in writing to the provider.
- (5) The primary Registrar for a registered community housing provider must give the provider an opportunity to make a submission on any proposed notice under subsection (3)(b) and take any submission made into account before issuing the notice to the provider.
- 25 (6) This section does not authorise—
- (a) a registered community housing provider to provide information to a Registrar that identifies an individual who is an occupier of residential premises; or
- 30 (b) a Registrar to enter residential premises occupied by an individual, other than with the consent of the individual.

## **16—Cancellation of registration**

- (1) The primary Registrar for a registered community housing provider may cancel the registration of the provider if—
- 35 (a) the provider has applied to the Registrar in a form approved by the Registrar for its registration to be cancelled; or
- (b) the provider has been wound up or has otherwise ceased to exist.
- (2) The primary Registrar may refuse to cancel the registration of a community housing provider under subsection (1)(a) if the primary Registrar is not satisfied that each community housing asset of the provider in each participating jurisdiction has been transferred or otherwise dealt with in accordance with the community housing legislation of a participating jurisdiction that applies to the asset.
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- (3) The primary Registrar for a registered community housing provider may also cancel the registration of the provider if—
- (a) the primary Registrar has issued a notice of intent to cancel registration to the provider under section 20 and the provider has not, within the time specified in the notice, satisfied the primary Registrar that its registration should not be cancelled; and
  - (b) the primary Registrar has given written notice to the provider of the primary Registrar's decision to cancel the provider's registration setting out the reasons for the proposed cancellation and the date on which the cancellation is to take effect.

## Part 4—Enforcement powers of Registrar

### 17—When action may be taken under Part

The primary Registrar for a registered community housing provider may take action under this Part if the Registrar reasonably believes that the provider is not complying with the community housing legislation of a participating jurisdiction.

### 18—Notice of non-compliance

- (1) The primary Registrar for a registered community housing provider may issue to the provider a notice in writing (a *notice of non-compliance*) identifying the matters required to be addressed in order to avoid cancellation of the provider's registration for not complying with the community housing legislation and specifying a reasonable period in which those matters are to be addressed.
- (2) The Registrar is to provide a copy of the notice to the Registrar for each participating jurisdiction.

### 19—Binding instructions to rectify non-compliance

- (1) The primary Registrar for a registered community housing provider may give written instructions to the provider as to the manner in which the provider is to address any matter that is the subject of a notice of non-compliance issued to the provider.
- (2) More than 1 set of instructions may be issued in relation to a notice of non-compliance.
- (3) A registered community housing provider and each relevant person must comply with any instructions given to the provider under this section within the period (if any) specified in those instructions.
- (4) A Registrar must, in determining whether to give instructions under this section—
  - (a) have regard to the interests of any tenants of the registered community housing provider; and
  - (b) take such steps as are reasonably practicable to obtain the views of any regulatory bodies that the Registrar considers have a relevant interest in the matter.
- (5) In this section—

*relevant person* in relation to a registered community housing provider means—

  - (a) a member of the governing body of the provider; or

- (b) an officer or employee of the provider.

## 20—Notice of intent to cancel registration

- (1) The primary Registrar for a registered community housing provider may issue a *notice of intent to cancel registration* to the provider if the Registrar is of the opinion that—
- 5 (a) the provider has not addressed the matters identified in a notice of non-compliance issued to the provider within the period specified in the notice; or
- (b) the provider has not complied with binding instructions issued to the provider within the period specified in the instructions; or
- 10 (c) the provider's failure to comply with the community housing legislation is serious and requires urgent action.
- (2) A notice of intent to cancel registration is a notice in writing that identifies the matters that the Registrar considers warrant cancellation of the registered community housing provider's registration and states that the provider's registration will be cancelled unless, within the period specified in the notice (being a period of at least 14 days), the provider satisfies the Registrar that its registration should not be cancelled.
- 15 (3) Any period specified in a notice of intent to cancel registration may be extended in writing by the Registrar at the request of the registered community housing provider concerned if the Registrar is satisfied that there are good reasons for extending the period.
- 20 (4) The Registrar is to provide a copy of the notice to the Registrar and Housing Agency for each participating jurisdiction.

## 21—Statutory managers

- (1) The primary Registrar for a registered community housing provider may, by instrument in writing, appoint a statutory manager to conduct such of the affairs and activities of the provider as relate to the community housing assets of the provider.
- 25 (2) The primary Registrar may appoint a person as a statutory manager of the provider only if either of the following occurs:
- (a) a notice of intent to cancel registration has been issued to the provider;
- 30 (b) the Registrar forms the opinion that the provider has failed to comply with community housing legislation or binding instructions issued to the provider and the provider's failure to comply is serious and requires urgent action.
- (3) The instrument of appointment of a person as a statutory manager of a registered community housing provider must specify the following:
- 35 (a) the person's name;
- (b) details of the provider;
- (c) details of the person's functions as a statutory manager;
- (d) any limitations on the person's functions as a statutory manager;
- (e) the date on which the appointment takes effect;
- 40 (f) the period of appointment (which may be expressed as continuing until further written notice from the primary Registrar);

- (g) any conditions of the appointment;
- (h) any other matter the primary Registrar considers appropriate.

(4) A copy of the instrument of appointment must be served on the registered community housing provider.

5 (5) The primary Registrar may amend or revoke an instrument of appointment at any time.

(6) A statutory manager has the functions specified in the instrument of appointment (subject to any limitations specified in the instrument) and is to comply with any conditions specified in the instrument.

10 (7) While a statutory manager is appointed to exercise functions of a registered community housing provider, the governing body of the provider may not exercise any of those functions without the consent of the statutory manager.

(8) The primary Registrar must revoke a person's appointment as statutory manager if the primary Registrar is satisfied that—

15 (a) the registered community housing provider will no longer fail to comply with community housing legislation or any binding instructions; or

(b) the provider no longer has any functions with respect to community housing in participating jurisdictions; or

(c) the provider has been wound up.

20 **22—Other provisions relating to exercise of functions by statutory manager**

(1) The expenses of and incidental to the conduct of the affairs and activities of a registered community housing provider by a statutory manager appointed under this Law are payable by the provider.

(2) Those expenses include—

25 (a) in the case of a statutory manager who is not an employee of the State, the remuneration of the statutory manager (being a rate of remuneration that may be fixed by the relevant Minister); or

30 (b) in the case of a statutory manager who is an employee of the State, the reimbursement of the State of an amount certified by the relevant Minister in respect of the remuneration of that employee (being an amount that is recoverable from the registered community housing provider concerned in a court of competent jurisdiction as a debt due to the State).

(3) A statutory manager appointed under this Law for a registered community housing provider is not liable for any loss incurred by the provider during the statutory manager's term of office unless the loss was attributable to—

35 (a) wilful misconduct of the statutory manager; or

(b) gross negligence of the statutory manager; or

40 (c) wilful failure of the statutory manager to comply with community housing legislation or with any other law regulating the conduct of members of the governing body of the provider.

## 23—Displacement of Corporations Act 2001 (Cth)

Sections 19 and 21 are declared to be Corporations legislation displacement provisions for the purposes of section 5G of the *Corporations Act 2001* of the Commonwealth in relation to the provisions of that Act generally.

5       **Note—**

Section 5G of the *Corporations Act 2001* of the Commonwealth enables a State to displace the operation of the provisions of the Corporations legislation of the Commonwealth in favour of provisions of State laws that are declared under State law to be Corporations legislation displacement provisions for the purposes of that section. See, in particular, section 5G(4), (5) and  
10       (11) of the *Corporations Act 2001* of the Commonwealth in relation to the displacement effected by this section.

## 24—No compensation payable by State

- (1) Compensation is not payable by or on behalf of a State in connection with the operation of this Part.
- 15       (2) Without limiting subsection (1), compensation is not payable by or on behalf of a State arising directly or indirectly from any of the following:
  - (a) the cancellation of an entity's registration or the imposition of conditions on any such registration;
  - (b) the publication of any notice of intent to cancel registration;
  - 20       (c) the issuing of binding instructions;
  - (d) the appointment of a statutory manager;
  - (e) the exercise by any person of any function of a statutory manager or a failure by any person to exercise any such function or any loss incurred by an entity during the term of office of a statutory manager for the entity.
- 25       (3) In this section—  
*compensation* includes damages or any other form of monetary compensation.

## Part 5—Miscellaneous

### 25—Appeals to Appeal Tribunal

- 30       (1) An entity may appeal to the Appeal Tribunal of the primary jurisdiction of the entity in relation to any of the following decisions of a Registrar:
  - (a) a decision to refuse an application for registration or for the variation of a registration of the entity;
  - (b) a decision to impose or revoke any additional standard condition of registration of the entity;
  - 35       (c) a decision to issue binding instructions to the entity;
  - (d) a decision to vary the category of the entity's registration;
  - (e) a decision to cancel the entity's registration;
  - (f) a decision to refuse an application made by or on behalf of the entity for the cancellation of its registration;
  - 40       (g) a decision to appoint a statutory manager.

(2) An appeal is to be made within the relevant appeal period after the Registrar provides the entity with written notice of the decision, being a notice that specifies—

- (a) the reasons for the decision; and
- (b) the right of the entity to appeal to the Appeal Tribunal within the relevant appeal period after the entity is provided with the notice; and
- (c) the manner in which the entity may make any such appeal; and
- (d) whether the decision is to be stayed pending the determination of the appeal.

(3) A decision of the Registrar is not stayed unless—

- (a) the Registrar notifies the entity under subsection (2) that the decision is to be stayed; or
- (b) the Appeal Tribunal orders the decision to be stayed.

(4) In this section—

*Appeal Tribunal*, in respect of an entity, has the same meaning as it has in the community housing legislation for the primary jurisdiction of the entity;

*relevant appeal period* means the period of 14 days or such longer period as the community housing legislation for the primary jurisdiction allows for the making of appeals under this section.

## 26—Disclosure of information

A Registrar, and any delegate of the Registrar, who has obtained information in the exercise of his or her functions under this Law or any other law has a duty not to disclose that information unless the disclosure is made—

- (a) in connection with the administration or execution of this Law or the other law; or
- (b) with the consent of the person from whom the information was obtained; or
- (c) in accordance with an authority provided by the guidelines under section 10(2); or
- (d) with other lawful excuse.

## Schedule 1—National Regulatory Code

### 1—Tenant and housing services

The community housing provider is fair, transparent and responsive in delivering housing assistance to tenants, residents and other clients particularly in relation to the following:

- (a) determining and managing eligibility, allocation, and termination of housing assistance;
- (b) determining and managing rents;
- (c) setting and meeting relevant housing service standards;
- (d) supporting tenant and resident engagement;
- (e) facilitating access to support for social housing applicants and tenants with complex needs;

- (f) managing and addressing complaints and appeals relating to the provision of housing services;
- (g) maintaining satisfaction with the overall quality of housing services.

## **2—Housing assets**

5           The community housing provider manages its community housing assets in a manner that ensures suitable properties are available at present and in the future, particularly in relation to the following:

- (a) determining changing housing needs and planning asset acquisitions, disposals and reconfiguration to respond (strategic asset management);
- 10          (b) setting and meeting relevant property condition standards;
- (c) planning and undertaking responsive, cyclical and life-cycle maintenance to maintain property conditions (asset maintenance);
- (d) planning and delivering its housing development program (asset development).

## **3—Community engagement**

15           The community housing provider works in partnership with relevant organisations to promote community housing and to contribute to socially inclusive communities, specifically in relation to—

- 20          (a) promoting community housing to local organisations that work with potential residents, tenants or clients; and
- (b) contributing to place renewal and social inclusion partnerships and planning relevant to the provider's community housing activities.

## **4—Governance**

25           The community housing provider is well-governed to support the aims and intended outcomes of its business, specifically in relation to the following:

- (a) ensuring coherent and robust strategic, operational, financial and risk planning;
- (b) ensuring effective, transparent and accountable arrangements and controls are in place for decision making to give effect to strategic, operational, financial and risk plans;
- 30          (c) complying with legal requirements and relevant government policies;
- (d) ensuring that the governing body has members with appropriate expertise or that such expertise is available to the governing body.

## **5—Probity**

35           The community housing provider maintains high standards of probity relating to the business of the provider, specifically in relation to the following:

- (a) establishing and administering a code of conduct;
- (b) establishing and administering a system of employment and appointment checks;

- (c) establishing and administering a system for preventing, detecting, reporting on and responding to, instances of fraud, corruption and criminal conduct;
- (d) maintaining the reputation of the community housing sector.

## 6—Management

5 The community housing provider manages its resources to achieve the intended outcomes of its business in a cost effective manner, specifically in relation to the following:

- (a) demonstrating it utilises its assets and funding to meet business goals;
- (b) implementing appropriate management structures, systems, policies and procedures to ensure the operational needs of its business can be met (including having people with the right skills and experience and the systems and resources to achieve the intended outcomes of its business).

## 7—Financial viability

15 The community housing provider is financially viable at all times, specifically in relation to the following:

- (a) ensuring a viable capital structure;
- (b) maintaining appropriate financial performance;
- (c) managing financial risk exposure.

# Schedule 2—Internal disputes

## 1—Interpretation

In this Schedule—

*Appeal Tribunal* means the Housing Appeal Panel established under Part 3A of the *South Australian Housing Trust Act 1995*.

## 2—Application to Appeal Tribunal

- 25 (1) Subject to subclause (2), an application for relief under this Schedule may be made by—
- (a) a tenant occupying community housing owned or managed by a registered community housing provider in relation to any of the following decisions of the community housing provider:
    - 30 (i) a decision that relates to an assessment of the financial or other circumstances of the tenant (including as to any question of eligibility or to terminate a benefit or concession);
    - (ii) a decision that relates to the allocation (or reallocation) of any premises (including in relation to the transfer (or potential transfer) of the tenant to other premises);
    - 35 (iii) a decision that relates to the state, condition, modification or improvement of premises;

- 
- (iv) a decision that relates to the calculation or imposition of any rent, levy, charge or subsidy (other than where the rent, levy, charge or subsidy arises under a tenancy agreement);
- 5 (v) a decision to terminate the tenant's membership of the community housing provider (if the community housing provider has members who are tenants);
- (vi) any other decision that affects the person's occupation or use of premises; and
- 10 (b) a person who has applied for membership of a registered community housing provider (if the community housing provider has members who are tenants) in relation to a decision of the community housing provider to reject the application if—
- (i) the person is occupying community housing owned by the community housing provider; and
- 15 (ii) the decision has a direct impact on an existing tenancy or other existing right of occupation; and
- (c) a tenant, resident or other person in prescribed circumstances.
- (2) An application under this Schedule may not relate to a matter—
- 20 (a) that may be the subject of proceedings under, or is otherwise regulated by, the *Residential Tenancies Act 1995* (whether or not proceedings have been brought under that Act); or
- (b) that does not relate to the occupation (or potential occupation) of community housing; or
- 25 (c) that is within a class of matters excluded from the operation of this clause by the regulations.
- (3) In addition—
- (a) the Appeal Tribunal must—
- 30 (i) decline to proceed (or further proceed) with an application under this Schedule if it appears that it would be more appropriate for proceedings to be taken in a court or tribunal constituted by law; and
- (ii) decline to proceed (or further proceed) with an application under this Schedule if proceedings related to the subject matter of the application have been commenced in a court or tribunal constituted by law; and
- 35 (b) the Appeal Tribunal may decline to hear a matter, or may suspend any hearing or consideration of a matter, under this Schedule if the Appeal Tribunal considers or is satisfied—
- (i) that the applicant should have sought to resolve the matter through a mediation or conciliation process; or
- 40 (ii) that the applicant in the proceedings has failed to take a step relevant to the conduct or subject matter of the proceedings within a reasonable time; or

- (iii) that the matter is not suitable for consideration, or further consideration, by the Appeal Tribunal for some other reason.

### 3—Conduct of proceedings

- 5 (1) The following provisions apply where the Appeal Tribunal is acting on application under this Schedule:

- (a) the Appeal Tribunal—

- (i) is not bound by the rules of evidence; and
- (ii) must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms;

- 10 (b) the Appeal Tribunal may require a party—

- (i) to furnish such information in relation to the matter as the Appeal Tribunal thinks necessary; and
- (ii) to verify any information by statutory declaration;

- 15 (c) the Appeal Tribunal may invite any person to appear before the Appeal Tribunal (either personally or through a representative) and to make submissions relating to the matter;

- (d) the Appeal Tribunal may, after considering the matter and any submissions made to the Appeal Tribunal—

- (i) dismiss the application;
- (ii) vary the decision to which the application relates;
- (iii) set aside the decision to which the application relates and—
  - (A) substitute its own decision;
  - (B) send the matter back to the registered community housing provider for reconsideration with such suggestions as the Appeal Tribunal thinks fit;
- (iv) by order, require a party to the proceedings to take such action as is in the opinion of the Appeal Tribunal necessary to resolve the matter;
- (v) make any ancillary or consequential order that the Appeal Tribunal considers appropriate.

- 20  
25  
30 (2) In acting under this Schedule in relation to a decision of a community housing provider, the question to be determined by the Appeal Tribunal is whether the decision—

- (a) was based on a fair process; and
- (b) is reasonable.

### 35 4—Related matters

- (1) An application under this Schedule must be made in the prescribed manner and form (and accompanied by the prescribed fee (if any)).
- (2) An application must be made within—
  - (a) the prescribed period; or

- (b) such longer period as the Appeal Tribunal may allow.
- (3) The operation of a decision that is the subject of an application under this Schedule will be stayed pending the outcome of the proceedings unless—
- 5 (a) the Appeal Tribunal, on its own initiative or on application by the registered community housing provider, determines that the decision may take effect and apply despite the application (and related proceedings) under this Schedule; or
- 10 (b) the decision is within the ambit of a regulation that prescribes a class or classes of decisions that will take effect or apply despite an application (and related proceedings) under this Schedule.
- (4) The Tribunal may order that proceedings under this Schedule be struck out if the Tribunal believes that the relevant application—
- 15 (a) is frivolous, vexatious, misconceived or lacking in substance; or
- (b) is being used for an improper purpose; or
- (c) is otherwise an abuse of process.
- (5) The Appeal Tribunal may act under subclause (4) on its own initiative.
- (6) A person who fails to comply with an order under this Schedule is guilty of an offence.  
Maximum penalty: \$5 000.
- 20 (7) The power to make an order under this Schedule includes the power to vary or revoke the order.
- (8) Nothing in this Schedule derogates from the right of a person to take proceedings in a court or tribunal in relation to a matter that may be the subject of an application under this Schedule.

## 25 **Schedule 3—Repeal, related amendments and transitional provisions**

### **Part 1—Amendment provisions**

#### **1—Amendment provisions**

30 In this Schedule, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

### **Part 2—Repeal of *South Australian Co-operative and Community Housing Act 1991***

#### **2—Repeal of *South Australian Co-operative and Community Housing Act 1991***

The *South Australian Co-operative and Community Housing Act 1991* is repealed.

## Part 3—Related amendments

### Division 1—Amendment of *Intervention Orders (Prevention of Abuse) Act 2009*

#### 3—Amendment of section 3—Interpretation

5 Section 3(1), definition of *registered housing co-operative*—delete the definition

#### 4—Amendment of section 25—Tenancy order

Section 25(2)(a)—delete paragraph (a) and substitute:

(a) in a case where—

- 10 (i) the landlord is a community housing provider registered under the *Community Housing Providers National Law*; and
- (ii) the premises constitute community housing within the meaning of that Law,

15 the assignee meets the eligibility requirements for such community housing and any membership or other requirements of the landlord associated with occupation of those premises; and

### Division 2—Amendment of *Local Government Act 1999*

#### 5—Amendment of section 4—Interpretation

(1) Section 4(1), definition of *supported accommodation*, (c)—delete paragraph (c) and substitute:

- 20 (c) without limiting paragraph (b), accommodation provided by a community housing provider registered under the *Community Housing Providers National Law*, other than accommodation provided by a community housing provider excluded from the ambit of this paragraph by the Minister by notice published in the Gazette;

25 (2) Section 4—after subsection (1) insert:

- (1a) For the purposes of paragraph (c) of the definition of *supported accommodation* in subsection (1), the Minister may, by notice in the Gazette, vary or revoke a notice that has been previously published in the Gazette under that paragraph.

### Division 3—Amendment of *Residential Tenancies Act 1995*

#### 6—Amendment of section 3—Interpretation

Section 3(1), definitions of *registered community housing organisation*, *registered housing association* and *registered housing co-operative*—delete the definitions and substitute:

35 *registered community housing provider* means a community housing provider registered under the *Community Housing Providers National Law*;

**7—Amendment of section 32—Procedural powers of Tribunal**

Section 32(3), (4) and (5)—delete subsections (3), (4) and (5) and substitute:

- 5
- (3) The Tribunal may, on the application of a designated housing agency, allow the designated housing agency to intervene in proceedings before the Tribunal when a registered community housing provider is a party to the proceedings.
- 10
- (4) If a designated housing agency is allowed to intervene in proceedings, it may intervene in the manner and to the extent directed by the Tribunal, and on other conditions determined by the Tribunal.
- (5) In this section—
- designated housing agency* means—
- 15
- (a) the Minister responsible for the administration of the *Community Housing Providers (National Law) (South Australia) Act 2013*; or
- (b) the South Australian Housing Trust.

**8—Amendment of section 55—Variation of rent**

- (1) Section 55(2)(c)(ii)—delete "registered community housing organisation" and substitute:

20 registered community housing provider

- (2) Section 55(2)(c)(iii)—delete "registered community housing organisation" and substitute:

registered community housing provider

**9—Amendment of section 68—Landlord's obligation to repair**

25 Section 68(2)(b)—delete "registered community housing organisation" and substitute:

registered community housing provider

**10—Amendment of section 74—Assignment of tenant's rights under residential tenancy agreement**

- 30 (1) Section 74(2)(b)(i)—delete "registered community housing organisation" and substitute:

registered community housing provider

- (2) Section 74(2a)—delete "registered community housing organisation" and substitute:

registered community housing provider

## 11—Amendment of section 82—Termination of residential tenancy by community housing providers with members who are tenants

Section 82(1)—delete subsection (1) and substitute:

(1) If—

(a) a registered community housing provider is a landlord under a residential tenancy agreement; and

(b) it is a requirement that the occupant of the premises be a member of the registered community housing provider,

the registered community housing provider may, by notice of termination given to the tenant, terminate the residential tenancy on the ground that—

(c) the tenant has ceased to be a member of the registered community housing provider; or

(d) the tenant no longer satisfies conditions specified in the agreement as essential to the continuation of the tenancy.

## 12—Amendment of section 83—Termination by landlord without specifying a ground of termination

Section 83(2)(b)—delete paragraph (b) and substitute:

(b) a registered community housing provider cannot terminate a tenancy with a member of the registered community housing provider under this section where it is a requirement that the occupant of the premises be a member of the registered community housing provider.

## Division 4—Amendment of *Water Industry Act 2012*

### 13—Amendment of section 93—Save the River Murray levy

Section 93(8)(c)—delete paragraph (c) and substitute:

(c) a community housing provider registered under the *Community Housing Providers National Law* entitled to a remission of water rates in respect of premises or a part of premises under a scheme recognised by regulations made for the purposes of this paragraph is exempt from the levy to the extent that it would (apart from this paragraph) apply to the relevant premises or the relevant part of the premises;

## Part 4—Transitional provisions

### 14—Interpretation

(1) In this Part—

*relevant day* means the day on which this Part commences;

*SACCH Act* means the *South Australian Co-operative and Community Housing Act 1991*;

*statutory charge* means a charge imposed under section 65 of the SACCH Act;

*transitional period* means the period of 18 months from the commencement of this Part or such longer period as may be prescribed by the regulations.

- (2) In this Part, terms used have meanings consistent with the meanings they have in the SACCH Act.

5 **15—Transitional provision—housing co-operatives**

- (1) Subject to this clause, a housing co-operative registered under the SACCH Act immediately before the relevant day (a *transitioning housing co-operative*) will continue in existence on and after the relevant day despite the repeal of that Act by this Act.
- 10 (2) The registration of a transitioning housing co-operative under the SACCH Act ceases to have effect—
- (a) on the registration of a corresponding entity under the *Community Housing Providers National Law*; or
  - (b) on the dissolution of the housing co-operative under the SACCH Act; or
  - 15 (c) on the expiration of the transitional period,
- whichever occurs first.
- (3) For the purposes of this clause, a *corresponding entity*, in relation to a transitioning housing co-operative, is an entity that the Minister recognises, by notice in the Gazette, as being an entity that has taken over, or that is to take over, the undertaking (or a part of the undertaking) of a transitioning housing co-operative.
- 20 (4) The Minister may, at the request of a transitioning housing co-operative or a corresponding entity, by instrument in writing (a *transfer instrument*), transfer—
- (a) specified assets or liabilities of a transitioning housing co-operative; or
  - 25 (b) all assets and liabilities of a transitioning housing co-operative, other than specified assets or liabilities; or
  - (c) all assets and liabilities of a transitioning housing co-operative,
- to a corresponding entity.
- (5) A transfer instrument takes effect from a date (which may be earlier than the date of the instrument) specified in the instrument.
- 30 (6) If a transfer instrument provides for the transfer of a statutory charge, the charge will, when the instrument takes effect, be taken to be a charge under section 22 of this Act (over the same real property and with the same ranking) by force of this clause.
- (7) Subject to subclause (6), a transfer instrument has effect according to its terms.
- (8) If—
- 35 (a) a transitioning housing co-operative has been a party to an agreement with SAHT under Part 7 Division 3 of the SACCH Act; and
  - (b) the agreement has not been replaced by a community housing agreement under this Act, or brought to an end by agreement with SAHT, by the end of the transitional period (including on account of a new agreement between
  - 40 SAHT and a corresponding entity),

the agreement under Part 7 Division 3 of the SACCH Act is voidable at the option of SAHT.

(9) If SAHT avoids an agreement under subclause (8), SAHT may—

- (a) take steps to enforce any relevant charge under Part 7 Division 4 of the SACCH Act; and
- (b) recover any outstanding amount, together with compensation for any loss or expenses suffered or incurred by SAHT—
  - (i) from the assets of the transitioning housing co-operative; or
  - (ii) from a corresponding entity.

(10) A right of recovery under subclause (9) is exercised as follows:

- (a) in the case of subclause (9)(a), the right is against any assets of the transitioning housing co-operative that exist at the time that SAHT avoids the relevant agreement (notwithstanding the dissolution of the housing co-operative);
- (b) in the case of subclause (9)(b), the right is a right to sue for a debt due to SAHT by the corresponding entity by action in a court of competent jurisdiction.

(11) In addition to the preceding subclauses, if—

- (a) a community housing agreement is entered into between SAHT and a corresponding entity; and
- (b) SAHT declares that the agreement is in substitution for an agreement with a transitioning housing co-operative under Part 7 Division 3 of the SACCH Act; and
- (c) a charge is to be imposed under section 22 of this Act over real property that was subject to the agreement with the transitioning housing co-operative in substitution for a statutory charge; and
- (d) SAHT gives notice to the Registrar-General in accordance with the regulations,

the charge under section 22 will, when it is imposed, rank in the same place as the statutory charge has ranked over the relevant real property (and the Registrar-General may make such alterations or notations with respect to the Register Book to take into account the operation of this subclause).

(12) When the registration of a transitioning housing co-operative under the SACCH Act ceases to have effect under this clause—

- (a) the incorporation of the housing co-operative is cancelled and the housing co-operative is dissolved by force of this clause; and
- (b) the assets and liabilities of the housing co-operative will be distributed—
  - (i) according to a transfer instrument under this clause; or
  - (ii) to the extent that subparagraph (i) does not apply, according to a determination of the Minister.

- (13) A determination of the Minister under subclause (12)(b)—
- (a) will be effected by instrument published in the Gazette; and
  - (b) may provide for the transfer of any assets or liabilities of the housing co-operative—
    - (i) to the Minister or SAHT; or
    - (ii) to another body that has identical or similar aims and objects to the housing co-operative; and
  - (c) will have effect according to its terms.
- (14) The SACCH Act will, despite its repeal by this Act, continue to apply to and in relation to a transitioning housing co-operative.
- (15) In addition, despite a housing co-operative being dissolved under this clause, the following provisions of the SACCH Act will continue to apply in relation to the housing co-operative or, if relevant, a corresponding entity, subject to any modifications of those provisions prescribed by the regulations:
- (a) section 47, insofar as is necessary to provide for the final financial statements of the housing co-operative;
  - (b) section 49, insofar as the Minister may require the furnishing of a final return;
  - (c) Part 6, so as to provide for—
    - (i) the continuation of the scheme established by that Part in relation to the real property to which an investment share may relate; or
    - (ii) the redemption or cancellation of an investment share;
  - (d) Part 7, subject to the operation of a preceding provision of this clause;
  - (e) Parts 8 and 12, insofar as is relevant to—
    - (i) any matter or circumstance that occurred before the dissolution of the housing co-operative; or
    - (ii) the operation of this Schedule.

### **16—Transitional provisions—housing associations**

- (1) Subject to this clause, a housing association registered under the SACCH Act immediately before the relevant day (a *transitioning housing association*) will continue to be registered under that Act on and after the relevant day despite the repeal of that Act by this Act.
- (2) The registration of a transitioning association under the SACCH Act ceases to have effect—
- (a) on the registration of the housing association under the *Community Housing Providers National Law*; or
  - (b) on the cancellation of the registration of the housing association under the SACCH Act; or
  - (c) on the expiration of the transitional period,
- whichever occurs first.

(3) If —

- (a) a transitioning housing association has been a party to an agreement with SAHT under Part 7 Division 3 of the SACCH Act; and
- (b) the agreement has not been replaced by a community housing agreement under this Act, or brought to an end by SAHT, by the end of the transitional period,

the agreement under Part 7 Division 3 of the SACCH Act is voidable at the option of SAHT.

(4) If SAHT avoids an agreement under subclause (3), SAHT may—

- (a) take steps to enforce any relevant charge under Part 7 Division 4 of the SACCH Act; and
- (b) recover any outstanding amount, together with compensation for any loss or expenses incurred by SAHT, from the housing association, as a debt due to SAHT by action in a court of competent jurisdiction.

(5) In addition to the preceding subclauses, if—

- (a) a community housing agreement is entered into between SAHT and a transitioning housing association; and
- (b) SAHT declares that the agreement is in substitution for an agreement with the transitioning housing association under Part 7 Division 3 of the SACCH Act; and
- (c) a charge is to be imposed under section 22 of this Act over real property that was subject to the agreement with the transitioning housing association in substitution for a statutory charge; and
- (d) SAHT gives notice to the Registrar-General in accordance with the regulations,

the charge under section 22 will, when it is imposed, rank in the same place as the statutory charge has ranked over the relevant real property (and the Registrar-General may make such alterations or notations with respect to the Register Book to take into account the operation of this subclause).

(6) The SACCH Act will, despite its repeal by this Act, continue to apply to and in relation to a transitioning housing association.

(7) In addition, despite a housing association ceasing to be registered under the SACCH Act, the following provisions of that Act will continue to apply to the housing association, subject to any modifications of those provisions prescribed by the regulations:

- (a) section 49, insofar as the Minister may require the furnishing of a final return;
- (b) Part 7, subject to the operation of a preceding provision of this clause;
- (c) Parts 8 and 12, insofar as is relevant to—
  - (i) any matter or circumstance that occurred before the registration came to an end; or
  - (ii) the operation of this Schedule;

(d) Schedules 1 and 2, insofar as is relevant to the operation of this Schedule.

### **17—Related matters**

(1) The Registrar-General must—

(a) on the application of a body corporate in which any estate or interest in real property is vested by virtue of this Schedule; and

(b) on production of such duplicate instruments of title and other documents as the Registrar-General may require,

register the vesting of that estate or interest in the body corporate.

(2) The vesting of property in a body corporate under this Schedule, and any instrument evidencing or giving effect to that vesting, are exempt from stamp duty.

(3) The Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of this Act.

(4) A provision of a regulation made under subclause (3) may, if the regulation so provides, take effect from the commencement of this Act or from a later day.

(5) To the extent to which a provision takes effect under subclause (4) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—

(a) decreasing the person's rights; or

(b) imposing liabilities on the person.

(6) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Schedule (or regulations made under this Schedule), apply to any amendment or repeal effected by this Act.