

Legislative Council—No 6

As introduced and read a first time, 15 February 2012

South Australia

**South Australian Housing Trust (Miscellaneous)
Amendment Bill 2012**

A BILL FOR

An Act to amend the *South Australian Housing Trust Act 1995*.

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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 *South Australian Housing Trust (Miscellaneous) Amendment Act 2012*.

5 2—Amendment provisions

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

Part 2—Amendment of *South Australian Housing Trust Act 1995*

3—Insertion of section 38A

After section 38 insert:

38A—Action on imprisonment of tenant

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- (1) If a tenant of SAHT is sentenced to imprisonment, and the sentence of imprisonment is not wholly suspended, the tenant's lease is to be taken to be cancelled and, if the house is vacant as a result of the cancellation, SAHT may, subject to subsection (2), let the house to another person.
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- (2) If the lease of a tenant sentenced to imprisonment is cancelled, before letting the house to another person, SAHT must make reasonable efforts to offer to let the house to any person who—
- (a) is a dependant of the tenant; and
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- (b) was living at the house immediately before the sentencing; and
- (c) satisfies relevant eligibility criteria for public housing in the State.
- (3) SAHT may require the Courts Administration Authority or the Chief Executive of the administrative unit that is, under a Minister, responsible for the administration of the *Correctional Services Act 1982* to give SAHT, within a time specified by SAHT (which must be reasonable), information in his or her possession that SAHT reasonably requires for the performance of its functions under this section.
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4—Substitution of section 39

Section 39—delete the section and substitute:

39—Rents

- (1) SAHT may let houses at rents fixed by regulation from time to time.
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- (2) Despite the provisions of any other Act, rents relating to houses let by SAHT may be varied by regulation from time to time.

5—Insertion of section 39B

After section 39A insert:

39B—Scheme to install separate meters for all properties

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- (1) The Corporation must establish a scheme under which all land owned by SAHT—
- (a) that is subject to a separate occupation; and

- (b) that is supplied with water by the Corporation as part of a reticulated water system,

will have a meter that records the amount of water supplied to that piece of land.

- 5 (2) The Corporation must seek to ensure that the meters required for the purposes of subsection (1) are fitted by 31 December 2013.
- (3) The scheme is not required to extend to premises where it is not reasonably practicable to fit a separate meter.
- 10 (4) The Corporation must, as part of each annual report up to and including the 2013/2014 annual report, set out the following information:
- (a) information about the scheme established under subsection (1);
- 15 (b) information about the extent to which the goal set out in subsection (2) is being (or has been) achieved;
- (c) if, in the relevant financial year, a separate meter has not been fitted to premises on the basis that it was not reasonably practicable to do so—an explanation as to why the Corporation considered that it was not reasonably practicable to fit a meter to the premises.
- 20 (5) No fee is payable by SAHT to the Corporation for the installation of a meter in accordance with the scheme established under this section.
- (6) In this section—

25 *Corporation* means *South Australian Water Corporation* established under the *South Australian Water Corporation Act 1994*.

6—Insertion of sections 41A to 41C

After section 41 insert:

41A—Eviction of tenant of SAHT on conviction for indictable offence

- 30 (1) A tenant of SAHT must, within 14 days of being convicted of an indictable offence committed during a tenancy, notify SAHT of the conviction.
- Maximum penalty: \$2 500.
- 35 (2) SAHT may require a tenant or SA Police to provide SAHT with a report about the tenant's criminal history.
- (3) Subject to subsection (4)—
- (a) on receipt of a notice under subsection (1); or
- (b) if a tenant's criminal history records that the tenant has been convicted of an indictable offence committed during a tenancy,
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SAHT must give the tenant a written notice requiring the tenant to vacate the housing being let to the tenant within 28 days of receiving the notice.

5 (4) The lodgment of an appeal against a conviction referred to in subsection (1) has effect as a stay of the operation of a notice under subsection (3) pending the determination of the appeal.

(5) A tenant who contravenes or fails to comply with—

(a) a requirement under subsection (2); or

(b) a notice under subsection (3),

10 is guilty of an offence.

Maximum penalty: \$2 500.

41B—Eviction of tenant of SAHT—member of declared organisation

15 (1) If SAHT becomes aware that a tenant of SAHT is a member of a declared organisation within the meaning of the *Serious and Organised Crime (Control) Act 2008*, SAHT must give the tenant a written notice requiring the tenant to vacate the housing being let to the tenant within 28 days of receiving the notice.

20 (2) A tenant who contravenes or fails to comply with a notice under this section is guilty of an offence.

Maximum penalty: \$2 500.

41C—Eviction of tenant of SAHT on certain other grounds

(1) If a police officer seizes—

(a) a controlled drug or controlled plant; or

25 (b) equipment allegedly used in the manufacture of a controlled drug or cultivation of a controlled plant,

from a house let by SAHT, the police officer must, within 7 days of the seizure, notify SAHT in writing of the seizure.

(2) If SAHT—

(a) receives a notice under subsection (1); or

(b) reasonably believes a tenant has—

(i) caused a nuisance; or

35 (ii) interfered unreasonably with the use or enjoyment by another person of any property or area near a house let by SAHT to the tenant,

SAHT must give the tenant a notice under this section (a *show cause notice*).

(3) The show cause notice must state the following:

(a) —

(i) in the case of a show cause notice relating to subsection (2)(a)—that SAHT proposes to determine that the tenant vacate the housing being let to the tenant on account of the seizure; or

(ii) in the case of a show cause notice relating to subsection (2)(b)—that SAHT proposes to determine that the tenant has caused a nuisance for the purposes of subsection (2)(b)(i) or an interference for the purposes of subsection (2)(b)(ii);

(b) the ground for the determination;

(c) an outline of the facts and circumstances forming the basis for the ground;

(d) an invitation to the tenant to show within a stated period (the *show cause period*) why the proposed determination should not be made.

(4) The show cause period must be a period ending at least 14 days after the show cause notice is given to the tenant.

(5) The tenant may make written or oral representations about the show cause notice to SAHT within the show cause period.

(6) After the expiration of the show cause period, SAHT may make a determination, and as soon as practicable after doing so, give a written notice about the determination to the tenant (including the reasons for the determination).

(7) If SAHT determines that a tenant vacate the housing being let to the tenant (under a show cause notice relating to subsection (2)(a)), the written notice about the determination for the purposes of subsection (6) has effect as a notice requiring the tenant to vacate the housing within 28 days of receiving the notice.

(8) If SAHT makes 3 determinations relating to subsection (2)(b) against a tenant, SAHT must, after the third determination, give the tenant a written notice requiring the tenant to vacate the housing being let to the tenant within 28 days of receiving the notice.

(9) A person who contravenes or fails to comply with a notice under subsection (7) or (8) is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 3 months.

(10) To avoid doubt, for the purposes of paragraph (b)(ii) of the definition of *reviewable decision* in section 32A(1), the making of a determination under this section is a matter that affects a tenant of SAHT.

(11) In this section—

controlled drug and *controlled plant* have the same respective meanings as in the *Controlled Substances Act 1984*.

7—Amendment of section 42A—Annual report

Section 42A(2)—after "year" insert:

, including information relating to the number of times in the year that SAHT made a requirement under section 41A(2) and any action taken by SAHT as a result of obtaining a criminal history of a tenant through such a requirement.

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Schedule 1—Related amendment and transitional provision

Part 1—Amendment of *South Australian Co-operative and Community Housing Act 1991*

1—Amendment of section 64—Financial transactions

Section 64—after subsection (1) insert:

- (1a) The regulations may not prescribe a term of an agreement under subsection (1) that provides that the rent payable for premises be as determined or approved by SAHT.

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Part 2—Transitional provision

2—Transitional provision

- (1) Despite section 39(1) of the *South Australian Housing Trust Act 1995* as substituted by this Act, a rent determined by SAHT (as varied from time to time) under that section as in force immediately before the commencement of this Act will continue to apply as if this Act had not been enacted.
- (2) However, after the commencement of this Act, section 39(2) as substituted by this Act applies to the variation of any rent referred to in subclause (1).

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