

Legislative Council—No 90

As received from the House of Assembly and read a first time, 21 February 2007

South Australia

**Statutes Amendment (Affordable Housing)
Bill 2006**

A BILL FOR

An Act to amend the *South Australian Housing Trust Act 1995*, the *South Australian Co-operative and Community Housing Act 1991*, the *Housing and Urban Development (Administrative Arrangements) Act 1995*, the *Residential Tenancies Act 1995*, the *Housing Improvement Act 1940* and the *Development Act 1993*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

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

- 4 Amendment of section 3—Interpretation
- 5 Substitution of heading
- 6 Amendment of section 4—Constitution of SAHT
- 7 Amendment of section 5—Functions of SAHT
- 8 Amendment of section 7—Specific powers of SAHT
- 9 Substitution of Part 2 Division 3
 - Division 3—Specific management duties
 - 9 Specific management duties
- 10 Repeal of Part 2 Division 4
- 11 Amendment of section 18—Committees
- 12 Amendment of section 19—Delegations
- 13 Amendment of section 21—Further specific powers of SAHT
- 14 Insertion of section 21A
 - 21A Covenants to secure certain commitments
- 15 Amendment of section 23—Transfer of property, etc.
- 16 Amendment of section 26—Dividends
- 17 Amendment of section 27—Accounts and audit
- 18 Repeal of sections 30 and 31
- 19 Insertion of Part 3A
 - Part 3A—Appeals
 - 32A Interpretation
 - 32B Housing Appeal Panel
 - 32C Internal reviews
 - 32D Appeals
- 20 Insertion of section 42A
 - 42A Annual report
- 21 Insertion of section 43A
 - 43A Ministerial delegations

Part 3—Amendment of *South Australian Co-operative and Community Housing Act 1991*

- 22 Amendment of section 3—Interpretation
- 23 Insertion of section 6A
 - 6A Functions and powers of Minister
- 24 Amendment of section 7—Power of Minister to delegate
- 25 Repeal of Part 2 Division 2
- 26 Substitution of heading
- 27 Amendment of section 16—Functions and powers of SAHT
- 28 Amendment of section 17—Delegation
- 29 Repeal of section 18
- 30 Amendment of section 18A—Transfer of property, etc.
- 31 Amendment of section 18B—Tax and other liabilities
- 32 Amendment of section 18C—Dividends

33	Substitution of sections 19 and 20
	19 Accounts and audit
	20 Annual report
34	Amendment of section 21—Registers and inspection
35	Amendment of section 22—Registration
36	Amendment of section 25—Amalgamation
37	Amendment of section 27—Alteration of rules
38	Amendment of section 28—Powers of a registered housing co-operative
39	Amendment of section 31—Abolition of doctrine of constructive notice in relation to registered housing co-operatives
40	Amendment of section 32—Application for membership
41	Amendment of section 33—Voting rights of members
42	Amendment of section 36—Control of payments to members etc
43	Amendment of section 39—Qualification of a committee member and vacation of office
44	Amendment of section 47—Preparation of accounts and audit
45	Amendment of section 48—Accounts and reports to be laid before annual general meeting
46	Amendment of section 49—Returns and other information
47	Amendment of section 50—Right of inspection
48	Amendment of section 51—Issue of investment shares
49	Amendment of section 52—Share capital account
50	Amendment of section 56—Loss or destruction of certificates
51	Amendment of section 57—Redemption of investment shares
52	Amendment of section 58—Cancellation of shares
53	Amendment of section 62—Interpretation
54	Repeal of Part 7 Division 2
55	Amendment of section 64—Financial transactions
56	Amendment of section 65—Creation of charge
57	Amendment of section 66—Enforcement of charge
58	Amendment of section 67—Creation of option
59	Amendment of section 68—Paying out the charge
60	Amendment of section 70—Powers of investigation
61	Amendment of section 71—Grounds for intervention
62	Amendment of section 72—Appointment of administrator
63	Amendment of section 74—Winding up
64	Amendment of section 77—Distribution of assets on winding up
65	Amendment of section 78—Defunct co-operatives
66	Amendment of section 79—Outstanding property of former co-operative
67	Amendment of section 80—Disposal of outstanding property
68	Amendment of section 82—Offences
69	Amendment of section 83—Assistance to tenants
70	Amendment of section 84—Appeals
71	Amendment of section 88—Persons under disability
72	Amendment of section 92—Power to reject documents etc
73	Amendment of section 93—False or misleading statements
74	Amendment of section 94—General power to grant extensions and exemptions
75	Amendment of section 95—Ability of Minister to convene special meetings of co-operatives
76	Amendment of section 96—Evidentiary provision
77	Amendment of section 98—Failure to supply appropriate information
78	Amendment of section 102—Proceedings for offences
79	Amendment of section 103—Government guarantee
80	Amendment of section 104—Remissions from taxes etc
81	Amendment of section 105—Fees in respect of lodging documents

- 82 Amendment of section 106—Rule against perpetuities
- 83 Amendment of section 107—Regulations
- 84 Amendment of Schedule 1—Housing associations
- 85 Amendment of Schedule 2—Associated land owners

Part 4—Amendment of *Housing and Urban Development (Administrative Arrangements) Act 1995*

- 86 Amendment of section 3—Interpretation
- 87 Amendment of section 5—Functions
- 88 Repeal of sections 12 and 13
- 89 Amendment of section 14—Validity of acts
- 90 Amendment of section 17—Staff
- 91 Amendment of section 21—Specific powers
- 92 Amendment of section 23—Transfer of property etc

Part 5—Amendment of *Residential Tenancies Act 1995*

- 93 Amendment of section 5—Application of Act
- 94 Amendment of section 24—Jurisdiction of Tribunal

Part 6—Amendment of *Housing Improvement Act 1940*

- 95 Insertion of section 6
6 Delegation

Part 7—Amendment of *Development Act 1993*

- 96 Amendment of section 3—Objects
- 97 Amendment of section 23—Development Plans
- 98 Amendment of section 30—Strategic Directions Reports
- 99 Amendment of section 101A—Councils to establish strategic planning and development policy committees

Schedule 1—Transitional provisions

- 1 Interpretation
 - 2 Public Housing Appeal Panel
 - 3 Property—SACHA
 - 4 References—SACHA
 - 5 Procedures and proceedings—SACHA
 - 6 Other provisions
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Affordable Housing) Act 2006*.

2—Commencement

- 5 This Act will come into operation on a day to be fixed by proclamation.

3—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*

4—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *board*—delete the definition and substitute:

Chief Executive means the Chief Executive of the Department and includes the person for the time being acting in that position;

- (2) Section 3(1), definition of *Department*—delete the definition and substitute:

Department means the administrative unit designated from time to time by the Minister by notice in the Gazette as being the Department primarily responsible for assisting the Minister in the administration of this Act;

- (3) Section 3(1), definition of *relative*—delete the definition

- (4) Section 3(1), definition of *SACHA*—delete the definition

- (5) Section 3(1), definition of *spouse*—delete the definition

- (6) Section 3(2)—delete subsection (2)

5—Substitution of heading

Heading to Part 2 Division 1—delete the heading to Division 1 and substitute:

Division 1—Constitution of SAHT

6—Amendment of section 4—Constitution of SAHT

Section 4—after subsection (2) insert:

- (3) SAHT will be constituted of the Chief Executive.

7—Amendment of section 5—Functions of SAHT

- (1) Section 5(1)(a)—after subparagraph (iv) insert:

and

- (v) supporting initiatives (within the various sectors) to increase the supply of affordable housing;

- (2) Section 5(1)(b) to (e)—delete paragraphs (b) to (e) (inclusive) and substitute:

- (b) to provide houses to meet housing needs, or to support or promote programs or other initiatives within the private or not-for-profit sectors to meet housing needs;

- (c) to facilitate support for South Australians so as to increase their ability to achieve successful housing outcomes;

- (d) to provide advice to the Minister on—

(i) issues, initiatives or programs associated with the housing needs of the community; and

(ii) any other issues as the Minister or SAHT thinks fit;

(3) Section 5(3)(a)—delete "public"

5 (4) Section 5(3)(c)—delete "public"

(5) Section 5(3)(d)—delete "public"

(6) Section 5—after subsection (3) insert:

10 (4) In conducting its affairs and after taking into account the policies of the Government, SAHT should meet its aims and objectives through the most appropriate and effective mechanisms available to it (which mechanisms may include engaging or funding other bodies or persons to provide or deliver programs or services so as to result in the best use of the resources available to SAHT).

8—Amendment of section 7—Specific powers of SAHT

15 (1) Section 7(1)(h)—delete paragraph (h) and substitute:

(h) hold an interest in land under the *Community Titles Act 1996* or the *Strata Titles Act 1988* and participate in the membership or management of any corporation under either Act;

(2) Section 7(1)(j)—delete "organisations" and substitute:

20 entities

(3) Section 7(1)(k)—delete paragraph (k) and substitute:

25 (k) provide financial, and other, assistance in the public, private and community housing sectors, subject to the qualification that the provision of financial assistance will be subject to the approval of the Treasurer;

(4) Section 7—after subsection (2) insert:

(3) The assistance that may be provided under subsection (1)(k) may include—

(a) the provision of support or payments of money—

30 (i) by way of grant; or

(ii) by way of loan; or

(iii) by way of funding agreements that involve the provision of financial benefits or accommodation (whether immediately or over a period of time);

35 (b) the transfer of assets or rights.

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

9—Substitution of Part 2 Division 3

Part 2 Division 3—delete Division 3 and substitute:

Division 3—Specific management duties

9—Specific management duties

- 5 (1) The Chief Executive, in constituting SAHT, is responsible to the
Minister for overseeing the operations of SAHT (and any subsidiary)
with the goal of—
- (a) achieving continuing improvements in the provision of
secure and affordable housing; and
 - 10 (b) providing transparency and value in managing the resources
available to SAHT and meeting Government and
community expectations as to probity and accountability;
and
 - (c) achieving appropriate social objectives and the fulfilment of
15 SAHT's community service obligations.
- (2) Without limiting the effect of subsection (1), the Chief Executive
must for that purpose ensure as far as practicable—
- (a) that appropriate strategic and operational plans and targets
are established; and
 - 20 (b) that SAHT (and any subsidiary) have appropriate
management structures and systems for monitoring
management performance against plans and targets and that
corrective action is taken when necessary; and
 - 25 (c) that appropriate systems and practices are established for
management and financial planning and control, including
systems and practices for the maintenance of accurate and
comprehensive records of all transactions, assets and
liabilities and physical and human resources of SAHT (and
any subsidiary); and
 - 30 (d) that all such plans, targets, structures, systems and practices
are regularly reviewed and revised as necessary to address
changing circumstances and reflect best current commercial
practices; and
 - 35 (e) that the Minister receives regular reports on the performance
of SAHT (and any subsidiary); and
 - 40 (f) that the Minister is advised, as soon as practicable, of any
material development that affects the financial or operating
capacity of SAHT (or any subsidiary) or gives rise to an
expectation that SAHT (or any subsidiary) may not be able
to meet its debts as and when they fall due.

10—Repeal of Part 2 Division 4

Part 2 Division 4—delete Division 4

11—Amendment of section 18—Committees

(1) Section 18(1), (2) and (3)—delete subsections (1), (2) and (3) and substitute:

(1) SAHT must establish—

- (a) a committee to promote initiatives to increase the supply of affordable housing within the State; and
- (b) such other committees (including advisory committees or subcommittees) as the Minister may require.

(2) SAHT may establish such other committees (including advisory committees or subcommittees) as SAHT thinks fit.

(3) Subject to a direction of the Minister, the membership of a committee will be determined by SAHT.

(2) Section 18(4)(a)—delete "the board" and substitute:

SAHT

12—Amendment of section 19—Delegations

(1) Section 19(1)—delete "The board" and substitute:

SAHT or the Chief Executive

(2) Section 19(1)—delete "the board (or SAHT)" and substitute:

SAHT or the Chief Executive

(3) Section 19(2)(c)—delete "the board from acting itself" and substitute:

the delegator from acting

13—Amendment of section 21—Further specific powers of SAHT

Section 21(3)(b)—delete "or SACHA"

14—Insertion of section 21A

After section 21 insert:

21A—Covenants to secure certain commitments

(1) SAHT may, as a term of an agreement with another party that involves the provision of financial or other assistance or support in the public, private or community sectors, require that an instrument of covenant be registered under this section in relation to specified land.

(2) The covenant—

(a) may do 1 or more of the following:

(i) restrict the use of land and buildings;

(ii) require that land only be occupied by a person who satisfies criteria specified by the agreement;

(iii) require the disclosure of specified information to—

(A) SAHT;

- (B) a person who occupies land;
- (C) a person who is seeking to occupy or acquire land;
- 5 (iv) make provision for any tenancy or other agreement relating to the occupation of land;
- (v) provide for the management, preservation or development of land;
- 10 (vi) provide that land may only be sold to a person who satisfies criteria specified in the agreement, and otherwise regulate or restrict the sale of land;
- (vii) make provision for other matters that are contemplated by, or necessary or expedient for the purposes of, the agreement (whether in the form of a positive covenant or a negative covenant); and
- 15 (b) may be registered and have effect under the terms of this section so as to bind subsequent owners of the land despite the fact that the covenant does not benefit land of SAHT.
- (3) The Registrar-General must, on an application of a person who is a party to an agreement under this section, register a covenant under this section on the relevant instrument of title or, in the case of land not under the provisions of the *Real Property Act 1886*, against the land.
- 20 (4) A covenant, once registered, is binding on any person who is for the time being an owner of the land in relation to which the covenant is registered, whether or not the person was the person with whom the agreement was made or who effected the registration of the covenant (and despite any other Act or law).
- 25 (5) An owner of land may, with the consent of, or at the request of, SAHT or SAHT may, after consultation with an owner of land and in accordance with any relevant terms of an agreement under subsection (1)—
- 30 (a) vary a covenant by registration of an instrument of variation; or
- (b) discharge a covenant by registration of an instrument of discharge,
- 35 (with registration being effected in the same manner as the original registration of the covenant).
- (6) The Registrar-General may, in connection with an application to register an instrument under subsection (3) or (5)—
- 40 (a) require the application to be made in a manner and form determined by the Registrar-General; and
- (b) require the application to be accompanied by such information or other instrument specified by the Registrar-General; and

- (c) require the payment of a fee prescribed by the regulations.

15—Amendment of section 23—Transfer of property, etc.

(1) Section 23(1)(b)(ii)—delete "or SACHA"

(2) Section 23(3)—delete subsection (3) and substitute:

(3) This section does not limit the operation of another provision of this or any other Act that allows for the transfer of any asset, right or liability of SAHT.

16—Amendment of section 26—Dividends

Section 26(7)—delete "the board of SAHT" and substitute:

SAHT itself

17—Amendment of section 27—Accounts and audit

Section 27—after subsection (2) insert:

(2a) Subject to subsection (3), the accounts of SAHT may include accounts (and related financial information) that relate to the operations of SAHT under any other Act.

18—Repeal of sections 30 and 31

Sections 30 and 31—delete the sections

19—Insertion of Part 3A

After section 32 insert:

Part 3A—Appeals

32A—Interpretation

(1) In this Part—

Appeal Panel means the Housing Appeal Panel established under section 32B;

reviewable decision means a decision of SAHT—

(a) on an application to SAHT—

(i) for housing assistance; or

(ii) for priority housing; or

(iii) for rent assistance, or other forms of concessions with respect to rent, or in relation to a bond; or

(iv) with respect to a matter arising under a tenancy agreement where SAHT is landlord; or

(b) with respect to any other matter that may—

(i) involve an assessment or decision by SAHT with respect to a person's housing needs or position; or

- (ii) affect a tenant of SAHT; or
 - (c) with respect to any other matter brought within the ambit of this definition by the regulations,
- but does not include a decision where a complaint against the decision would fall within the ambit of subsection (2);
- tenant* includes a former tenant.

- (2) The following matters are excluded from the operation of this Part:
- (a) a complaint about a policy of the Government, the Department or SAHT (as compared to a complaint about whether or not such a policy has been complied with or implemented in accordance with the terms of the policy);
 - (b) a complaint about the manner in which a member of the staff of the Department has acted or behaved (as compared to a complaint about a decision that has been made by a member of the staff of the Department);
 - (c) a complaint about a matter that is the subject of proceedings before the Residential Tenancies Tribunal, or proceedings before a court or another tribunal constituted by law;
 - (d) a complaint about a matter that is attributable to a dispute between neighbours;
 - (e) a complaint about a matter prescribed by the regulations for the purposes of this subsection.

32B—Housing Appeal Panel

- (1) The Minister must establish a panel to be called the *Housing Appeal Panel*.
- (2) The Minister may, as the Minister thinks fit, appoint suitable persons to be members of the Appeal Panel.
- (3) The Minister must appoint a person as the Presiding Member of the Appeal Panel (and may from time to time appoint another member of the Appeal Panel to be the Acting Presiding Member in the absence of the Presiding Member).
- (4) A member of the Appeal Panel is appointed on conditions determined by the Minister and for a term, not exceeding 3 years, determined by the Minister and, at the expiration of the term of appointment, is eligible for reappointment.
- (5) The Minister may remove a member of the Appeal Panel from office—
 - (a) for breach of, or non-compliance with, a condition of appointment; or
 - (b) for failure or incapacity to carry out official duties satisfactorily; or
 - (c) for misconduct.

- 5
- (6) The office of a member of the Appeal Panel becomes vacant if the member—
- (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (e) is removed from office under subsection (5).
- 10
- (7) On the office of a member of the Appeal Panel becoming vacant, the Minister may appoint a suitable person to the vacant office.
- (8) A member of the Appeal Panel is entitled to remuneration, allowances and expenses determined by the Minister after consultation with the Commissioner for Public Employment.
- 15
- (9) A member of the Appeal Panel incurs no civil liability for an honest act or omission in the performance or exercise, or purported performance or exercise, of the member's or the Appeal Panel's functions or powers.
- (10) A civil liability that would, but for subsection (9), attach to a member of the Appeal Panel attaches instead to the Crown.
- 20
- (11) The Appeal Panel may act with respect to—
- (a) a matter brought by application under—
 - (i) this Act; or
 - (ii) another Act that provides for applications to be made to the Appeal Panel; or
 - (b) a matter prescribed by the regulations.
- 25
- (12) For the purposes of hearing an application (whether under this Act or another Act), the Appeal Panel will be constituted by—
- (a) 2 members; or
 - (b) 3 members,
- 30
- as determined by the Presiding Member (either in a particular case or under a policy set by the Presiding Member from time to time).
- (13) The members of the Appeal Panel must comply with any procedures determined by the Presiding Member after taking into account any operational guidelines established by the Minister, but to the extent that any matter is not within a determination of the Presiding Member the members constituting the Appeal Panel in a particular case may decide or determine any procedural matter as they think fit.
- 35
- (14) Where the Appeal Panel is constituted by 3 members, a decision of at least 2 of the members will be a decision of the Appeal Panel.

(15) Despite a preceding subsection, if a person sitting as a member of the Appeal Panel dies or is for any other reason unable to continue to sit on the matter, the remaining members or member (as the case may be) may continue and complete the proceedings.

5 (16) The Appeal Panel, in dealing with a matter, is not bound by the rules of evidence but may obtain information in any manner the Appeal Panel thinks fit.

32C—Internal reviews

10 (1) The Chief Executive must establish a review system within the Department so that a person who is directly affected by a reviewable decision may, at first instance, apply for an internal departmental review of the decision.

15 (2) The system established under subsection (1) must include a process under which a person who has applied for a review of a reviewable decision will, at the conclusion of that process, be furnished with a written statement setting out—

(a) the outcome of the review; and

(b) unless the application has been decided in favour of the applicant—the reasons for the decision made on the review.

32D—Appeals

20 (1) Subject to this section, a person who is dissatisfied with the outcome of a review under section 32C may apply to the Appeal Panel for review of the decision that applies at the conclusion of the review.

(2) The application must be made within—

25 (a) the prescribed period after the day on which a written statement setting out the outcome of the relevant review is furnished under section 32C; or

(b) such longer period as the Appeal Panel may allow.

30 (3) The Appeal Panel may decline to hear a matter, or may suspend any hearing or other consideration of a matter, if the Appeal Panel considers or is satisfied that—

(a) the matter should be determined or dealt with by way of proceedings in a court or tribunal, or before another body or authority; or

35 (b) proceedings have been commenced before the Residential Tenancies Tribunal, or before a court or other tribunal constituted by law; or

40 (c) 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

(d) the matter is not suitable for consideration, or further consideration, by the Appeal Panel for some other reason.

- 5
- (4) The question to be determined by the Appeal Panel in a particular matter is whether the decision that has been made is correct and preferable after taking into account any policy that applies in the relevant case and such other matters that appear to the Appeal Panel to be appropriate in the circumstances.
- (5) The Appeal Panel must, after hearing an appeal under this section and conducting such inquiries as the Appeal Panel thinks fit, formulate a recommendation to the Minister as to whether the decision to which the proceedings relate should—
- 10
- (a) be affirmed; or
 - (b) be varied or revoked; or
 - (c) be substituted with a new decision.
- (6) The Minister may, after taking into account the terms of a recommendation under subsection (5)—
- 15
- (a) affirm the relevant decision; or
 - (b) vary or revoke the relevant decision; or
 - (c) substitute a new decision for the relevant decision,
- (and the Minister's decision will then have effect as a decision of SAHT in accordance with its terms).
- 20
- (7) The Minister, in acting under subsection (6)—
- (a) is not required to conduct a hearing or to invite submissions; and
 - (b) should not depart from the terms of a recommendation except for cogent reasons.
- 25
- (8) The Minister must, on making a decision under this section, ensure that the following information is furnished to the applicant and to SAHT:
- (a) a copy of the recommendation received from the Appeal Panel;
 - (b) a written statement setting out the Minister's decision and the reasons for the decision.
- 30
- (9) The operation of a decision that is the subject of an application under this section will be stayed pending the outcome of the proceedings unless—
- 35
- (a) the Appeal Panel, on its own initiative or on application by SAHT, determines that the decision may take effect or apply despite the application (and related proceedings) under this section; or
 - (b) the decision is within the ambit of a regulation that
- 40
- prescribes a class or classes of decisions that will take effect or apply despite an application (and related proceedings) under this section.

20—Insertion of section 42A

After section 42 insert:

42A—Annual report

- (1) The Minister must on or before 30 September in each year cause a report to be prepared on the operation and administration of this Act for the financial year ending on the preceding 30 June.
- (2) The report must incorporate the audited accounts and financial statements of SAHT.
- (3) The report may be combined with an annual report of the Minister under another Act that is also administered by the Minister.
- (4) The Minister must have copies of the report laid before both Houses of Parliament within 12 sitting days after the report is prepared.

21—Insertion of section 43A

After section 43 insert:

43A—Ministerial delegations

- (1) The Minister or the Treasurer may delegate a function or power conferred on the relevant Minister under this Act—
 - (a) to a specified person or body; or
 - (b) to a person occupying a specified office or position.
- (2) A delegation—
 - (a) may be made subject to conditions and limitations specified in the instrument of delegation; and
 - (b) if the instrument of delegation so provides, may be further delegated by the delegate; and
 - (c) is revocable at will and does not prevent the relevant Minister from acting personally in a matter.

Part 3—Amendment of *South Australian Co-operative and Community Housing Act 1991*

22—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *Authority*—delete the definition
- (2) Section 3(1)—after the definition of *capital value* insert:

Chief Executive means the Chief Executive of the Department and includes the person for the time being acting in that position;

- (3) Section 3(1), definition of *Department*—delete the definition and substitute:

Department means the administrative unit designated from time to time by the Minister by notice in the Gazette as being the Department primarily responsible for assisting the Minister in the administration of this Act;

- (4) Section 3(1), definition of *Fund*—delete the definition

23—Insertion of section 6A

Before section 7 insert:

6A—Functions and powers of Minister

- 5 (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 housing co-operatives and housing associations;
- 10 (b) to promote the development of co-operative or community housing in this State;
- (c) to register housing co-operatives and housing associations under this Act and to oversee and regulate the activities of those co-operatives and associations;
- 15 (d) to arrange for the provision of administrative, managerial, educational and other services to registered housing co-operatives, secondary co-operatives and registered housing associations to ensure so far as practicable that they perform their activities efficiently and effectively;
- 20 (e) to undertake, commission or sponsor research, educational and training programmes relating to co-operative or community housing;
- (f) to publicise the activities of housing co-operatives and housing associations and disseminate information and statistics on co-operative and community housing;
- 25 (g) to develop links and encourage communication between housing co-operatives, housing associations and other bodies or organisations that are interested in the activities of the co-operative and community housing sector;
- 30 (h) to promote the active involvement of people in the development of co-operative and community housing.
- (2) The Minister must prepare and publish guidelines to assist housing co-operatives that are registered under this Act (and the members of such co-operatives) to understand their rights and responsibilities under this Act.
- 35 (3) The Minister has such powers as are contemplated by this Act or necessary or expedient for the effective performance of the Minister's powers.

24—Amendment of section 7—Power of Minister to delegate

- (1) Section 7(1)(a)—delete "the Authority" and substitute:

40 SAHT

(2) Section 7(2)—after paragraph (a) insert:

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

25—Repeal of Part 2 Division 2

5 Part 2 Division 2—delete Division 2

26—Substitution of heading

Heading to Part 2 Division 3—delete the heading to Division 3 and substitute:

Division 3—Functions and powers of SAHT

27—Amendment of section 16—Functions and powers of SAHT

10 (1) Section 16(1)—delete "The functions of the Authority are as follows" and substitute:

The functions of SAHT include—

(2) Section 16(1)(a)—delete paragraph (a) and substitute:

(a) to assist the Minister in connection with the administration of this Act and to exercise statutory powers conferred by this Act;

15 (3) Section 16(1)(c)—delete paragraph (c)

(4) Section 16(1)(d)—delete "the Authority" and substitute:

SAHT

(5) Section 16(1)(e), (f) and (g)—delete paragraphs (e), (f) and (g)

(6) Section 16(1)(h)—delete "the Authority's control" and substitute:

20 SAHT's control in connection with the operation of this Act

(7) Section 16(1)(i) and (j)—delete paragraphs (i) and (j)

(8) Section 16(1)(l) and (m)—delete paragraphs (l) and (m)

(9) Section 16(1)(n)—delete "the Authority" and substitute:

SAHT

25 (10) Section 16(2)—delete "the Authority" and substitute:

SAHT

(11) Section 16(2)—after "functions" insert:

under this Act

(12) Section 16(3)—delete subsection (3) and substitute:

30 (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.

(13) Section 16(4)—delete "the Authority" and substitute:

SAHT

(14) Section 16(4)(d)—delete "the Authority" and substitute:

SAHT in connection with the operation of this Act

(15) Section 16(4)(e)—delete "the Authority's functions" and substitute:

SAHT's functions under this Act

5 (16) Section 16(5)—delete subsection (5) and substitute:

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

28—Amendment of section 17—Delegation

10 (1) Section 17(1)—delete "The Authority" and substitute:

SAHT

(2) Section 17(1)—delete "the Authority's" and substitute:

SAHT's

(3) Section 17(1)(a) and (b)—delete paragraphs (a) and (b)

15 (4) Section 17(2)—after paragraph (a) insert:

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

(5) Section 17(2)(b)—delete "the Authority" and substitute:

SAHT

20 (6) Section 17(2)(c)—delete "the Authority" and substitute:

SAHT

(7) Section 17(3) and (4)—delete subsections (3) and (4)

29—Repeal of section 18

Section 18—delete the section

30—Amendment of section 18A—Transfer of property, etc.

(1) Section 18A(1)(a)—delete "the Authority" and substitute:

SAHT

(2) Section 18A(1)(b)—delete "the Authority" and substitute:

SAHT

30 (3) Section 18A(1)(b)(iii)—delete subparagraph (iii)

(4) Section 18A(3)—delete "the Authority" and substitute:

SAHT under this Act

31—Amendment of section 18B—Tax and other liabilities

(1) Section 18B(1)—delete "the Authority" and substitute:

35 SAHT

- (2) Section 18B(1)—delete "the Authority does not pay to the Commonwealth" and substitute:

SAHT does not pay to the Commonwealth in connection with its activities under this Act

- 5 (3) Section 18B(2)—delete "the Authority" and substitute:

SAHT

32—Amendment of section 18C—Dividends

- (1) Section 18C(1)—delete subsection (1) and substitute:

10 (1) If the Minister requires SAHT to comply with this section, SAHT must, before the end of each financial year, recommend to the Minister that SAHT pay a specified dividend, or not pay a dividend, for that financial year in connection with its activities under this Act, as SAHT considers appropriate.

- (2) Section 18C(2)—delete "the Authority" and substitute:

15 SAHT

- (3) Section 18C(2)(a)—delete "the Authority" and substitute:

SAHT

- (4) Section 18C(3)—delete "the Authority" wherever occurring and substitute, in each case:

20 SAHT

- (5) Section 18C(4)—delete "the Authority" and substitute:

SAHT

- (6) Section 18C(5)—delete "the Authority" and substitute:

SAHT itself

33—Substitution of sections 19 and 20

Section 19 and 20—delete the sections and substitute:

19—Accounts and audit

- (1) SAHT must establish and maintain effective internal auditing of its operations under this Act.
- 30 (2) SAHT must keep proper accounting records of its financial affairs under this Act, and must have annual statements of accounts prepared in respect of each financial year.
- (3) Subject to subsection (4), the accounts of SAHT under this Act (and related financial information) may be included as part of the accounts of SAHT under the *South Australian Housing Trust Act 1995*.
- 35 (4) The accounting records and statements of accounts must comply with any applicable instructions of the Treasurer under section 41 of the *Public Finance and Audit Act 1987*.

- (5) The Auditor-General may at any time audit the accounts of SAHT and must audit the annual statement of accounts (which may, if relevant, be undertaken as part of the annual audit of accounts under the *South Australian Housing Trust Act 1995*).

5 **20—Annual report**

- (1) The Minister must on or before 30 September in each year cause a report to be prepared on the operation and administration of this Act for the financial year ending on the preceding 30 June.
- 10 (2) The report must incorporate the audited accounts and financial statements of SAHT that are relevant to the operation of this Act (which may be combined with the accounts and financial statements of SAHT under the *South Australian Housing Trust Act 1995*).
- (3) The report may be combined with the annual report of the Minister under the *South Australian Housing Trust Act 1995*.
- 15 (4) The Minister must have copies of the report laid before both Houses of Parliament within 12 sitting days after the report is prepared.

34—Amendment of section 21—Registers and inspection

- (1) Section 21(1)—delete "the Authority must keep" and substitute:

the Minister must keep, or cause to be kept

- 20 (2) Section 21(1)(b)—delete "the Authority" and substitute:

the Minister

- (3) Section 21(2)(a)—delete "kept by the Authority"

- (4) Section 21(2)(b)—delete "the Authority" and substitute:

the Minister

- 25 (5) Section 21(2)(c)—delete "the Authority" and substitute:

the Minister

- (6) Section 21(2)(c)(iii)—delete "the Authority" and substitute:

the Minister

- (7) Section 21(3)—delete "the Authority" and substitute:

30 the Minister

- (8) Section 21(3)(a)—delete "the Authority" and substitute:

the Minister

35—Amendment of section 22—Registration

- (1) Section 22(1)—delete "the Authority" and substitute:

35 the Minister

- (2) Section 22(3)—delete "the Authority" wherever occurring and substitute, in each case:

the Minister

(3) Section 22(3)—delete "it" and substitute:
the Minister

(4) Section 22(4)—delete "the Authority" wherever occurring and substitute, in each case:
the Minister

5 (5) Section 22(5)—delete "The Authority" and substitute:
The Minister

(6) Section 22(5)—delete "in its" and substitute:
in the Minister's

36—Amendment of section 25—Amalgamation

10 (1) Section 25(1)(b)—delete "the Authority" and substitute:
the Minister

(2) Section 25(3)—delete "the Authority" wherever occurring and substituting, in each case:
the Minister

15 (3) Section 25(3)—delete "it" and substitute:
the Minister

(4) Section 25(4)—delete "the Authority" wherever occurring and substituting, in each case:
the Minister

20 (5) Section 25(5)—delete "The Authority" and substitute:
The Minister

(6) Section 25(5)—delete "in its opinion" and substitute:
in the Minister's opinion

37—Amendment of section 27—Alteration of rules

25 (1) Section 27(2)—delete "the Authority" and substitute:
the Minister

(2) Section 27(3)(a)—delete "the Authority" and substitute:
the Minister

(3) Section 27(4)—delete "the Authority" and substitute:
30 the Minister

(4) Section 27(5)—delete "The Authority" and substitute:
The Minister

(5) Section 27(5)—delete "in its opinion" and substitute:
in the Minister's opinion

- (6) Section 27(5)(b)—delete "the Authority" and substitute:
the Minister

38—Amendment of section 28—Powers of a registered housing co-operative

- Section 28(1)(d)—delete "the Authority" and substitute:
the Minister

39—Amendment of section 31—Abolition of doctrine of constructive notice in relation to registered housing co-operatives

- Section 31—delete "the Authority" and substitute:
the Minister

40—Amendment of section 32—Application for membership

- Section 32(2)—delete "the Authority" and substitute:
the Minister

41—Amendment of section 33—Voting rights of members

- (1) Section 33(2)—delete "the Authority" and substitute:
the Minister
- (2) Section 33(3)—delete "the Authority" and substitute:
the Minister

42—Amendment of section 36—Control of payments to members etc

- Section 36(1)—delete "the Authority" and substitute:
the Minister

43—Amendment of section 39—Qualification of a committee member and vacation of office

- (1) Section 39(5)—delete "the Authority" and substitute:
the Minister
- (2) Section 39(6)—delete "the Authority" and substitute:
the Minister

44—Amendment of section 47—Preparation of accounts and audit

- (1) Section 47(3)(e)—delete "the Authority" and substitute:
the Minister
- (2) Section 47(7)(a)(iii)—delete "between the Authority and the co-operative"
- (3) Section 47(7)—delete "to the Authority" and substitute:
to the Minister

- (4) Section 47(11), definition of *the approved accounting standards*—delete "the Authority" and substitute:

the Minister

45—Amendment of section 48—Accounts and reports to be laid before annual general meeting

Section 48(2)—delete "the Authority" and substitute:

the Minister

46—Amendment of section 49—Returns and other information

- (1) Section 49(1)—delete "the Authority" and substitute:

the Minister

- (2) Section 49(2)—delete "the Authority" wherever occurring and substitute, in each case:

the Minister

- (3) Section 49(3)—delete "The Authority" and substitute:

The Minister

- (4) Section 49(3)—delete "the Authority" and substitute:

the Minister

47—Amendment of section 50—Right of inspection

Section 50(1)(d)—delete "the Authority" and substitute:

the Minister

48—Amendment of section 51—Issue of investment shares

Section 51(2)(b)—delete "the Authority" and substitute:

the Minister

49—Amendment of section 52—Share capital account

- (1) Section 52(3)(a)—delete "the Authority" and substitute:

SAHT (to be held by SAHT in an appropriate account)

- (2) Section 52(3)(b)—delete "the Authority" wherever occurring and substitute, in each case:

SAHT

- (3) Section 52(4)—delete "the Authority" and substitute:

the Minister

50—Amendment of section 56—Loss or destruction of certificates

Section 56(1)—delete "the Authority" and substitute:

the Minister

51—Amendment of section 57—Redemption of investment shares

- (1) Section 57(2)(a)(ii)—delete "the Authority" wherever occurring and substitute, in each case:

the Minister

- (2) Section 57(3)(c)(ii)—delete "the Authority" wherever occurring and substitute, in each case:

the Minister

- (3) Section 57(3)(c)(ii)—delete "its"

- (4) Section 57(4)(a)—delete "the Authority" and substitute:

the Minister

- (5) Section 57(7)—delete "the Authority" wherever occurring and substitute, in each case:

SAHT

52—Amendment of section 58—Cancellation of shares

- (1) Section 58(1)—delete "the Authority" and substitute:

the Minister

- (2) Section 58(2)(a)(ii)—delete "the Authority" wherever occurring and substitute, in each case:

the Minister

- (3) Section 58(4)—delete "the Authority" wherever occurring and substitute, in each case:

SAHT

53—Amendment of section 62—Interpretation

Section 62, definition of *subsidised premises*—delete "the Authority" and substitute:

—

- (a) the South Australian Community Housing Authority (before the amendment of this section by the *Statutes Amendment (Affordable Housing) Act 2006*); or

- (b) SAHT.

54—Repeal of Part 7 Division 2

Part 7 Division 2—delete Division 2

55—Amendment of section 64—Financial transactions

- (1) Section 64(1)—delete "The Authority" and substitute:

SAHT

- (2) Section 64(1)—delete "the Authority" wherever occurring and substitute, in each case:

SAHT

(3) Section 64(2)(b)—delete "the Authority" and substitute:

SAHT

(4) Section 64(3)—delete "the Authority" wherever occurring and substitute, in each case:

SAHT

5 (5) Section 64(4)—delete "the Authority" wherever occurring and substitute, in each case:

SAHT

56—Amendment of section 65—Creation of charge

(1) Section 65(1)—delete "The Authority" and substitute:

SAHT

10 (2) Section 65(2)—delete "the Authority" and substitute:

SAHT

(3) Section 65(9)—delete "The Authority" and substitute:

SAHT

15 (4) Section 65(10)—delete "the Authority" wherever occurring and substitute, in each case:

SAHT

57—Amendment of section 66—Enforcement of charge

(1) Section 66(1)—delete "the Authority" wherever occurring and substitute, in each case:

SAHT

20 (2) Section 66(2)(a)(i)—delete "the Authority" and substitute:

SAHT

(3) Section 66(2)(a)(iv)—delete subparagraph (iv)

(4) Section 66(5)—delete "the Authority" wherever occurring and substitute, in each case:

SAHT

25 (5) Section 66(6)(e)—delete "the Authority" and substitute:

SAHT

(6) Section 66(6)(f)—delete "the Fund" and substitute:

SAHT

(7) Section 66(12)—delete "the Authority" and substitute:

30 SAHT

58—Amendment of section 67—Creation of option

(1) Section 67(1)—delete "the Authority" and substitute:

SAHT

(2) Section 67(2)—delete "the Authority" and substitute:

SAHT

(3) Section 67(3)—delete "The Authority" and substitute:

SAHT

5 (4) Section 67(4)—delete "the Authority" and substitute:

SAHT

(5) Section 67(5)—delete "the Authority" and substitute:

SAHT

(6) Section 67(6)—delete "the Authority" wherever occurring and substitute, in each case:

10 SAHT

59—Amendment of section 68—Paying out the charge

(1) Section 68(1)(c)—delete "the Authority" and substitute:

SAHT

(2) Section 68(1)(c)—delete "in the Fund"

15 (3) Section 68(1)(d)—delete "the Authority" and substitute:

SAHT

(4) Section 68(1)(e)—delete "the Authority" and substitute:

SAHT

(5) Section 68(1)(g)—delete "the Authority" and substitute:

20 SAHT

(6) Section 68(1)(h)—delete "the Authority" and substitute:

the Minister

60—Amendment of section 70—Powers of investigation

25 Section 70(1), definition of *prescribed matter*, (b)—delete "the Authority" and substitute:

SAHT

61—Amendment of section 71—Grounds for intervention

(1) Section 71(1)—delete "The Authority" and substitute:

The Minister

30 (2) Section 71(2)—delete "the Authority" and substitute:

the Minister

(3) Section 71(2)(k)—delete "the Authority" and substitute:

SAHT

(4) Section 71(2)(l)—delete "between the Authority and the co-operative"

- (5) Section 71(2)(n)—delete "the Authority" and substitute:
the Minister
- (6) Section 71(3)—delete "the Authority" wherever occurring and substitute, in each case:
the Minister
- 5 (7) Section 71(5)—delete "Where the Authority" and substitute:
Where the Minister
- (8) Section 71(5)—delete "the Authority may" and substitute:
the Minister may
- (9) Section 71(5)(a)—delete "the Authority" and substitute:
10 the Minister
- (10) Section 71(5)(h)—delete "with the approval of the Minister" and substitute:
as the Minister thinks fit
- (11) Section 71(5)(i)(i)—delete "of the Authority" and substitute:
of the Department
- 15 (12) Section 71(5)(i)(ii)—delete "the Authority" and substitute:
the Minister
- (13) Section 71(5)(j)—delete "the Authority" and substitute:
the Minister
- (14) Section 71(5)(k)—delete paragraph (k) and substitute:
20 (k) determine to initiate steps to wind up the co-operative;
- (15) Section 71(6)(b)—delete "the Authority may itself" and substitute:
the Minister may himself or herself
- (16) Section 71(6)(b)—delete "of the Authority" and substitute:
of the Minister
- 25 (17) Section 71(7)—delete "of the Authority" and substitute:
of the Minister
- (18) Section 71(7)—delete "to the Authority" and substitute:
to the Minister or SAHT
- (19) Section 71(8)—delete "Where the Authority" and substitute:
30 If the Minister
- (20) Section 71(8)—delete "the Authority may, of its" and substitute:
the Minister may, of his or her

62—Amendment of section 72—Appointment of administrator

- (1) Section 72(1)—delete "the Authority" wherever occurring and substitute, in each case:
35 the Minister

(2) Section 72(2)—delete "the Authority" and substitute:
the Minister

(3) Section 72(7)—delete "the Authority" and substitute:
the Minister

5 (4) Section 72(8)—delete "the Authority" and substitute:
the Minister

(5) Section 72(10)—delete "the Authority" wherever occurring and substitute, in each case:
the Minister

10 **63—Amendment of section 74—Winding up**

Section 74(8)(a)—delete paragraph (a) and substitute:

(a) that the Minister has, pursuant to Part 9, determined to initiate steps to wind up the co-operative; or

64—Amendment of section 77—Distribution of assets on winding up

15 (1) Section 77(2)(a)(i)—delete "the Authority" and substitute:
the Minister or to SAHT

(2) Section 77(4), definition of *surplus assets*—delete "the Authority" and substitute:
the Minister, SAHT

65—Amendment of section 78—Defunct co-operatives

20 (1) Section 78(1)—delete "the Authority" and substitute:
the Minister

(2) Section 78(1)—delete "it may" and substitute:
the Minister may

(3) Section 78(2)—delete "the Authority" and substitute:
25 the Minister

(4) Section 78(2)—delete "it may" and substitute:
the Minister may

(5) Section 78(3)—delete "the Authority" wherever occurring and substitute, in each case:
the Minister

30 **66—Amendment of section 79—Outstanding property of former co-operative**

Section 79(1)—delete "the Authority" and substitute:
SAHT

67—Amendment of section 80—Disposal of outstanding property

- (1) Section 80(1)—delete "the Authority" wherever occurring and substitute, in each case:
SAHT
- (2) Section 80(2)—delete "the Authority" wherever occurring and substitute, in each case:
5 SAHT
- (3) Section 80(3)—delete "the Authority" wherever occurring and substitute, in each case:
SAHT

68—Amendment of section 82—Offences

Section 82—delete "the Authority" and substitute:
10 the Minister

69—Amendment of section 83—Assistance to tenants

Section 83—delete "the Authority" and substitute:
SAHT

70—Amendment of section 84—Appeals

- 15 (1) Section 84(a1)—delete the definition of *relevant appeal authority* and substitute:
Appeal Panel means the Housing Appeal Panel constituted under Part 3A of
the *South Australian Housing Trust Act 1995*.
- (2) Section 84(1)(c)—delete "the Authority" and substitute:
SAHT or the Minister
- 20 (3) Section 84(2)—delete "and be addressed to the relevant appeal authority"
- (4) Section 84(3)—delete subsection (3) and substitute:
(3) An application under subsection (1)(a) or (b) will be made to the
Appeal Panel and an application under subsection (1)(c) will be
made, at first instance, to the Chief Executive of the Department.
- 25 (5) Section 84(6)—delete "where the Authority is the relevant appeal authority" and
substitute:
where the Appeal Panel is acting on an application under subsection 1(a) or
(b)
- (6) Section 84(6)(a)—delete "the Authority" wherever occurring and substitute, in each
30 case:
the Appeal Panel
- (7) Section 84(6)(b)—delete paragraph (b)
- (8) Section 84(6)(c)—delete "the Authority" wherever occurring and substitute, in each
35 case:
the Appeal Panel

- (9) Section 84(6)(d)—delete "the Authority" wherever occurring and substitute, in each case:

the Appeal Panel

- (10) Section 84(7), (8) and (9)—delete subsections (7), (8) and (9) and substitute:

- 5 (7) If an application is made under subsection (1)(a) or (b) and the Appeal Panel is satisfied that an interim order is justified by the urgent circumstances of the case, the Appeal Panel may make an interim order to safeguard the position of a person pending the final resolution of the matter.
- 10 (8) An interim order under subsection (7)—
- (a) has effect for such period, not exceeding 2 months, as the Appeal Panel may determine and specifies in the order, and may be renewed by the Appeal Panel for a further period of up to 2 months;
- 15 (b) unless sooner revoked, ceases to have effect on the determination or resolution of the relevant matter under this section.
- (9) The following provisions apply where an application is made under subsection (1)(c):
- 20 (a) the matter must first be considered under a review system that is the same as the review system that applies under section 32C of the *South Australian Housing Trust Act 1995*, subject to the qualification that a proposal arising from the review to vary or revoke a decision made personally by the Minister should be referred to the Minister (and the Minister may then take such action as the Minister thinks fit, including to affirm, vary or revoke his or her original decision, or to substitute a new decision);
- 25 (b) except where a matter is referred to the Minister under paragraph (a), a housing co-operative may apply to the Appeal Panel for review of a decision that applies to the housing co-operative at the conclusion of a review under paragraph (a), subject to the qualification that the application must be made within—
- 30 (i) the prescribed period after the day on which a written statement setting out the outcome of the relevant review is furnished to the housing co-operative under the review system; or
- 35 (ii) such longer period as the Appeal Panel may allow;
- 40 (c) on an appeal—

- 5
- (i) the question to be determined by the Appeal Panel is whether the decision that has been made is correct and preferable taking into account any policy that applies in the relevant case and such other matters that appear to the Appeal Panel to be appropriate in the circumstances; and
- 10
- (ii) the Appeal Panel must, after hearing the appeal and conducting such inquiries as the Appeal Panel thinks fit, formulate a recommendation to the Minister as to whether the decision to which the proceedings relate should—
- (A) be affirmed; or
- (B) be varied or revoked; or
- (C) be substituted with a new decision;
- 15
- (d) on a referral to the Minister under paragraph (c)—
- (i) the Minister may, after taking into account the terms of the recommendation—
- (A) affirm the relevant decision; or
- (B) vary or revoke the relevant decision; or
- 20
- (C) substitute a new decision for the relevant decision,
- (and the Minister's decision will then have effect in accordance with its terms); and
- (ii) the Minister, in acting on the referral—
- 25
- (A) is not required to conduct a hearing or to invite submissions; and
- (B) should not depart from the terms of a recommendation of the Appeal Panel except for cogent reasons.
- 30
- (11) Section 84(11)—delete "The relevant authority" and substitute:
A person or body with authority to act under this section
- (12) Section 84—after subsection (11) insert:
- 35
- (11a) In addition, the Appeal Panel may decline to hear a matter, or may suspend any hearing or other consideration of a matter, if the Appeal Panel considers or is satisfied that—
- (a) the applicant should have sought to resolve the matter through a mediation or conciliation process; or
- (b) 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
- 40

- (c) the matter is not suitable for consideration, or further consideration, by the Appeal Panel for some other reason.

71—Amendment of section 88—Persons under disability

Section 88(d)—delete "the Authority" and substitute:

5 the Minister

72—Amendment of section 92—Power to reject documents etc

- (1) Section 92(1)—delete "the Authority" wherever occurring and substitute, in each case:

the Minister

- (2) Section 92(2)—delete "The Authority" and substitute:

10 The Minister

- (3) Section 92(2)—delete "the Authority" wherever occurring and substitute, in each case:

the Minister

- (4) Section 92(2)—delete "it should" and substitute:

he or she should

- 15 (5) Section 92(3)—delete "the Authority" wherever occurring and substitute, in each case:

the Minister

- (6) Section 92(3)—delete "the Authority's" and substitute:

the Minister's

73—Amendment of section 93—False or misleading statements

- 20 (1) Section 93(1)—delete "the Authority" and substitute:

the Minister

- (2) Section 93(3)—delete "the Authority" and substitute:

the Minister

74—Amendment of section 94—General power to grant extensions and exemptions

- 25 (1) Section 94(1)—delete "The Authority" and substitute:

The Minister

- (2) Section 94(1)(b)—delete "with the approval of the Minister,"

- (3) Section 94(2)—delete "the Authority" wherever occurring and substitute, in each case:

30 the Minister

- (4) Section 94(3)—delete "The Authority" and substitute:

the Minister

- (5) Section 94(4)—delete "the Authority" and substitute:

the Minister

75—Amendment of section 95—Ability of Minister to convene special meetings of co-operatives

- (1) Section 95(1)—delete "The Authority" and substitute:

The Minister

- 5 (2) Section 95(1)—delete "its" and substitute:

his or her

- (3) Section 95(2)—delete "the Authority" and substitute:

the Minister

- (4) Section 95(3)—delete "the Authority" and substitute:

10 (4) Section 95(3)—delete "the Authority" and substitute:
the Minister

- (5) Section 95(4)—delete "The Authority" and substitute:

The Minister

- (6) Section 95(6)—delete "the Authority" wherever occurring and substitute, in each case:

the Minister

- 15 (7) Section 95(7)—delete "the Authority" and substitute:

the Minister

- (8) Section 95(8)—delete "the Authority" and substitute:

the Minister

76—Amendment of section 96—Evidentiary provision

- 20 (1) Section 96(1)—delete "the Authority" and substitute:

the Minister

- (2) Section 96(2)—delete "the Authority" and substitute:

the Minister

- (3) Section 96(5)—delete "the Authority" and substitute:

25 (3) Section 96(5)—delete "the Authority" and substitute:
the Minister

77—Amendment of section 98—Failure to supply appropriate information

- Section 98(a)—delete "the Authority" and substitute:

the Minister

78—Amendment of section 102—Proceedings for offences

- 30 (1) Section 102(6)(a)(i)—delete "the Authority" and substitute:

the Minister

- (2) Section 102(6)(a)(ii)—delete "the Authority" and substitute:

the Department

- (3) Section 102(8)(d)—delete "the Authority" and substitute:
the Department

79—Amendment of section 103—Government guarantee

- (1) Section 103(1)—delete "the Authority" and substitute:
5 the Minister or SAHT
- (2) Section 103(1)—delete "the Fund" and substitute:
funds made available for the purposes of this Act
- (3) Section 103(3)—delete "The Authority" and substitute:
SAHT

80—Amendment of section 104—Remissions from taxes etc

- (1) Section 104(4)(a)—delete paragraph (a) and substitute:
(a) SAHT, in connection with any matter or circumstance arising under
this Act;
- (2) Section 104(4)(b)—delete "the Authority" and substitute:
15 the Minister, SAHT
- (3) Section 104(4)(c)—delete "the Authority" and substitute:
the Minister, SAHT

81—Amendment of section 105—Fees in respect of lodging documents

- (1) Section 105(1)—delete "the Authority" wherever occurring and substitute, in each
20 case:
the Minister
- (2) Section 105(2)—delete "the Authority" and substitute:
the Minister

82—Amendment of section 106—Rule against perpetuities

- 25 Section 106—delete "the Authority" and substitute:
the Minister or SAHT

83—Amendment of section 107—Regulations

- (1) Section 107(2)—delete "the Authority" wherever occurring and substitute, in each
30 case:
the Minister
- (2) Section 107(2)(p)—after "registered housing co-operatives" insert:
or SAHT and registered housing co-operatives
- (3) Section 107(3)—delete "the Authority" and substitute:
the Minister

- (4) Section 107(4)—delete "the Authority" and substitute:
the Minister

84—Amendment of Schedule 1—Housing associations

- 5 (1) Schedule 1, clause 2(1)—delete "the Authority" and substitute:
the Minister
- (2) Schedule 1, clause 2(3)—delete "the Authority" wherever occurring and substitute, in each case:
the Minister
- 10 (3) Schedule 1, clause 2(3)—delete "it" and substitute:
the Minister
- (4) Schedule 1, clause 2(4)—delete "the Authority" wherever occurring and substitute, in each case:
the Minister
- 15 (5) Schedule 1, clause 2(6)—delete "The Authority" and substitute:
The Minister
- (6) Schedule 1, clause 2(6)—delete "in its" and substitute:
in the Minister's
- (7) Schedule 1, clause 4(2)(a)—delete "the Authority" and substitute:
the Minister
- 20 (8) Schedule 1, clause 4(4)(a)(iii)—delete "between the Authority and the housing association"
- (9) Schedule 1, clause 4(4)(a)(iii)—delete "between the Authority and an associated land owner"
- (10) Schedule 1, clause 4(4)—delete "to the Authority" and substitute:
25 to the Minister
- (11) Schedule 1, clause 4(6)—delete "the Authority" and substitute:
the Minister
- (12) Schedule 1, clause 8(6)—delete "the Authority" and substitute:
SAHT
- 30 (13) Schedule 1, clause 10(1)—delete "The Authority" and substitute:
The Minister
- (14) Schedule 1, clause 10(2)—delete "the Authority" and substitute:
the Minister
- 35 (15) Schedule 1, clause 10(2)(h)—delete "between the Authority and the housing association"

(16) Schedule 1, clause 10(2)(ha)—delete "between the Authority and an associated land owner"

(17) Schedule 1, clause 10(2)(j)—delete "the Authority" and substitute:
the Minister

5 (18) Schedule 1, clause 10(3)—delete "the Authority" wherever occurring and substitute, in each case:

the Minister

(19) Schedule 1, clause 10(5)—delete "If the Authority" and substitute:

If the Minister

10 (20) Schedule 1, clause 10(5)—delete "the Authority may" and substitute:

the Minister may

(21) Schedule 1, clause 10(5)(a)—delete "the Authority" and substitute:

the Minister

(22) Schedule 1, clause 10(5)(h)—delete "with the approval of the Minister" and substitute:

15 as the Minister thinks fit

(23) Schedule 1, clause 10(5)(i)(i)—delete "of the Authority" and substitute:

of the Department

(24) Schedule 1, clause 10(5)(i)(ii)—delete "the Authority" and substitute:

the Minister

20 (25) Schedule 1, clause 10(5)(j)—delete "the Authority" and substitute:

the Minister

(26) Schedule 1, clause 10(5)(k) and (l)—delete paragraphs (k) and (l) and substitute:

(k) cancel the registration of the housing association under this Act;

(l) determine to initiate steps to wind up the co-operative;

25 (27) Schedule 1, clause 10(8)—delete "to the Authority" and substitute:

to the Minister or SAHT

(28) Schedule 1, clause 10(9)(a)(i)—delete subparagraph (i) and substitute:

(i) to the Minister or SAHT; or

30 (29) Schedule 1, clause 10(10)—delete "the Authority" wherever occurring and substitute, in each case:

the Minister

(30) Schedule 1, clause 11(2)—delete subclause (2) and substitute:

(2) The ground on which the Minister may issue a certificate for the winding up of a registered housing association is that the Minister has, pursuant to this schedule, determined to initiate steps to wind up the housing association.

(31) Schedule 1, clause 16(c)—delete "the Authority" and substitute:
the Minister

(32) Schedule 1, clause 16(d)—delete "the Authority" and substitute:
the Minister and registered housing associations or SAHT

5 **85—Amendment of Schedule 2—Associated land owners**

(1) Schedule 2, clause 1(1)—delete "The Authority" and substitute:
SAHT

(2) Schedule 2, clause 1(1)—delete "the Authority" and substitute:
SAHT

10 (3) Schedule 2, clause 1(2)(b)—delete "the Authority" and substitute:
SAHT

(4) Schedule 2, clause 2(1)—delete "The Authority" and substitute:
SAHT

15 (5) Schedule 2, clause 2(2)—delete "the Authority" and substitute:
SAHT

(6) Schedule 2, clause 2(6)(c)—delete "the Authority" and substitute:
SAHT

(7) Schedule 2, clause 2(9)—delete "The Authority" and substitute:
SAHT

20 (8) Schedule 2, clause 2(10)—delete "the Authority" wherever occurring and substitute, in
each case:
SAHT

(9) Schedule 2, clause 2(11), definition of *subsidised premises*—delete "the Authority"
and substitute:

25 —
(a) the South Australian Community Housing Authority (before the
amendment of this clause by the *Statutes Amendment (Affordable
Housing) Act 2006*); or
(b) SAHT.

30 (10) Schedule 2, clause 3(1)—delete "the Authority" wherever occurring and substitute, in
each case:
SAHT

(11) Schedule 2, clause 3(2)(a)(i)—delete "the Authority" and substitute:
SAHT

35 (12) Schedule 2, clause 3(2)(a)(iii)—delete subparagraph (iii)

- (13) Schedule 2, clause 3(5)—delete "the Authority" wherever occurring and substitute, in each case:

SAHT

- (14) Schedule 2, clause 3(6)(e)—delete "the Authority" and substitute:

5

SAHT

- (15) Schedule 2, clause 3(6)(f)—delete "the Fund" and substitute:

SAHT

- (16) Schedule 2, clause 3(12)—delete "the Authority" and substitute:

SAHT

10

- (17) Schedule 2, clause 4(1)—delete "the Authority" and substitute:

SAHT

- (18) Schedule 2, clause 4(2)—delete "the Authority" and substitute:

SAHT

- (19) Schedule 2, clause 4(3)—delete "The Authority" and substitute:

15

SAHT

- (20) Schedule 2, clause 4(4)—delete "the Authority" and substitute:

SAHT

- (21) Schedule 2, clause 4(5)—delete "the Authority" and substitute:

SAHT

20

- (22) Schedule 2, clause 4(6)—delete "the Authority" wherever occurring and substitute, in each case:

SAHT

- (23) Schedule 2, clause 6—delete "the Authority" and substitute:

SAHT

25

- (24) Schedule 2, clause 7(2)—delete "the Authority" and substitute:

SAHT

- (25) Schedule 2, clause 11(a)—delete "the Authority" and substitute:

the Minister or SAHT

- (26) Schedule 2, clause 11(b)—delete "the Authority" and substitute:

30

SAHT

Part 4—Amendment of *Housing and Urban Development (Administrative Arrangements) Act 1995*

86—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *Department*—delete the definition and substitute:

Department means the administrative unit designated from time to time by the Minister by notice in the Gazette as being the Department primarily responsible for assisting the Minister in the administration of this Act;

- (2) Section 3(1), definition of *SACHA*—delete the definition

87—Amendment of section 5—Functions

- (1) Section 5(a)—delete "provide" and substitute:

facilitate the provision of

- (2) Section 5(c) and (d)—delete paragraphs (c) and (d) and substitute:

(c) to promote planning and development systems that support sustainable and affordable housing outcomes within the community;

(d) to support the undertaking of development that is consistent with achieving the housing outcomes that apply under paragraph (c), including by participating in the scheme established by section 37 of the *Development Act 1993* (to the extent prescribed by regulations under that section);

- (3) Section 5(e)—after "developments" insert:

that affect housing outcomes

- (4) Section 5(h)—delete paragraph (h) and substitute:

(h) to ensure that property or other resources within the Minister's portfolio are managed responsibly and in accordance with the policies of the Government;

88—Repeal of sections 12 and 13

Sections 12 and 13—delete the sections

89—Amendment of section 14—Validity of acts

Section 14(2), (3) and (4)—delete subsections (2), (3) and (4)

90—Amendment of section 17—Staff

Section 17(1)—delete "*Government Management and Employment Act 1985*" and substitute:

Public Sector Management Act 1995

91—Amendment of section 21—Specific powers

Section 21(3)(b)—delete ", SAHT or SACHA" and substitute:

or SAHT

92—Amendment of section 23—Transfer of property etc

Section 23(1)(b)(iii)—delete "or SACHA"

Part 5—Amendment of *Residential Tenancies Act 1995*

93—Amendment of section 5—Application of Act

5 (1) Section 5—after subsection (1) insert:

(1a) The regulations may exclude prescribed classes of agreements that relate to land owned (wholly or in part) by the South Australian Housing Trust, or by a subsidiary of the South Australian Housing Trust, from the operation of subsection (1)(e).

10 (2) Section 5(2)—delete "the South Australian Aboriginal Housing Authority" and substitute:

a subsidiary of the South Australian Housing Trust

(3) Section 5(2)—delete "related tenancy disputes" and substitute:

related disputes

15 **94—Amendment of section 24—Jurisdiction of Tribunal**

Section 24(1)(b)—after the "South Australian Housing Trust" insert:

or a subsidiary of the South Australian Housing Trust, or arising under agreements collateral to such tenancies (including such agreements that may involve a third party)

20 **Part 6—Amendment of *Housing Improvement Act 1940***

95—Insertion of section 6

After section 5 insert:

6—Delegation

25 (1) The housing authority may, with the approval of the Minister, delegate a power or function vested in or conferred on the housing authority under this Act—

(a) to a specified person; or

(b) to a person occupying a specified office or position.

(2) A delegation under this section—

30 (a) may be made subject to conditions and limitations specified in the instrument of delegation; and

(b) is revocable at will and does not prevent the housing authority from acting itself in a matter.

35 (3) In addition, a delegation must be revoked at the direction of the Minister.

Part 7—Amendment of *Development Act 1993*

96—Amendment of section 3—Objects

Section 3—after paragraph (e) insert:

- 5 (ea) to promote or support initiatives to improve housing choice and access to affordable housing within the community; and

97—Amendment of section 23—Development Plans

Section 23(3)(a)—after subparagraph (vi) insert:

- (vii) the provision of affordable housing within the community;

98—Amendment of section 30—Strategic Directions Reports

10 Section 30(1)(c)—after paragraph (iii) insert:

- (iiia) implementing affordable housing policies set out in the Planning Strategy within its area; and

99—Amendment of section 101A—Councils to establish strategic planning and development policy committees

15 Section 101A(2)(b)—after subparagraph (iii) insert:

- (iiia) the implementation of affordable housing policies set out in the Planning Strategy within the area of the council; and

Schedule 1—Transitional provisions

1—Interpretation

20 In this Schedule, unless the contrary intention appears—

asset includes—

- (a) a present, contingent or future legal or equitable estate or interest in real or personal property; or
(b) a present, contingent or future right, power, privilege or immunity;

25 *liability* includes a present, contingent or future liability or obligation (including a non-pecuniary obligation);

SACHA means the South Australian Community Housing Authority;

SAHT means the South Australian Housing Trust.

2—Public Housing Appeal Panel

- 30 (1) A person who, immediately before the commencement of this clause, holds office as a member of the *Public Housing Appeal Panel* (being the panel of that name established by the Minister for Housing, Urban Development and Local Government Relations in 1995) will be taken to have been appointed as a member of the Housing Appeal Panel established under Part 3A of the *South Australian Housing Trust Act 1995* (as inserted
35 by this Act) for the balance of his or her term of appointment to the Public Housing Appeal Panel (and on the same conditions of appointment).

- (2) Any proceedings—
- (a) before the Public Housing Appeal Panel; or
 - (b) before a relevant appeal authority under Part 11 of the *South Australian Co-operative and Community Housing Act 1991* (as it applies immediately before the commencement of this clause),
- 5 will be continued and completed before the Housing Appeal Panel as if they had been commenced before the Housing Appeal Panel.
- (3) The Housing Appeal Panel may make any order or determination in connection with the operation of subclause (2).

10 **3—Property—SACHA**

- (1) Subject to subclause (2), all assets, rights and liabilities of SACHA (including under any funding agreement or statutory charge under the *South Australian Co-operative and Community Housing Act 1991*), and all assets and rights arising from the South Australian Community Housing Development Fund, are transferred to SAHT.
- 15 (2) Subclause (1) does not apply to an asset, right or liability transferred by the Minister, by notice in the Gazette, to—
- (a) the Crown; or
 - (b) the Minister; or
 - (c) a subsidiary of SAHT; or
 - 20 (d) another agency or instrumentality of the Crown.
- (3) The transfer of assets, rights and liabilities under this clause operates by force of this clause and despite the provisions of any other law.
- (4) The Registrar-General or another authority required or authorised under a law of the State to register or record transactions affecting assets, rights or liabilities, or
- 25 documents relating to such transactions, must, on application under this clause, register or record in an appropriate manner a transfer and vesting under this clause.
- (5) No fee is payable in respect of an application under subclause (4).

4—References—SACHA

- (1) Subject to subclause (2), all references in any instrument or contract, agreement or
- 30 other document to SACHA will have effect as if it were a reference to—
- (a) SAHT; or
 - (b) if the Minister so determines by notice in the Gazette—the Minister.
- (2) Subclause (1) does not apply to any reference excluded by the Minister by notice in the Gazette.
- 35 (3) Subclause (1) has effect despite the provisions of any other law or instrument.

5—Procedures and proceedings—SACHA

Any procedure or proceedings commenced by SACHA before the commencement of this clause but which had not been finally determined at the commencement of this clause may be continued or completed by the Minister or by SAHT.

6—Other provisions

- (1) Nothing done under this Schedule—
- (a) constitutes a breach of, or default under, an Act or other law; or
 - 5 (b) constitutes a breach of, or default under, a contract, agreement, understanding or undertaking; or
 - (c) constitutes a breach of a duty of confidence (whether arising by contract, in equity or by custom or in any other way); or
 - (d) constitutes a civil or criminal wrong; or
 - 10 (e) terminates an agreement or obligation or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy; or
 - (f) releases a surety or other obligee wholly or in part from an obligation.
- (2) The Governor may, by regulation, make any other provision of a saving or transitional nature consequent on the enactment of this Act.
- 15 (3) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Schedule, apply with respect to the amendments effected by this Act.