

South Australia

South Australian Housing Trust Act 1995

An Act to provide for the continuation of the South Australian Housing Trust and to define its functions and powers; and for other purposes.

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Legislative history

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 Act 1995*.

3—Interpretation

- (1) In this Act, unless the contrary intention appears—

board means the board of management of SAHT;

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

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;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

liability includes contingent liability;

Minister means the Minister to whom the administration of this Act is committed, as constituted as a body corporate under the *Administrative Arrangements Act 1994*;

relative in relation to a person, means the spouse, domestic partner, parent or remoter linear ancestor, son, daughter or remoter issue or brother or sister of the person;

relevant interest has the same meaning as in the *Corporations Law*;

right includes a right of action;

SAHT means the *South Australian Housing Trust*;

spouse—a person is the spouse of another if they are legally married;

statutory corporation means a body established under the *Housing and Urban Development (Administrative Arrangements) Act 1995*;

subsidiary of SAHT—see Part 3.

- (2) For the purposes of this Act, a person is an associate of another person if—

- (a) the other person is a relative of the person or of the person's spouse or domestic partner; or

- (b) the other person—

- (i) is a body corporate; and

- (ii) the person or a relative of the person or of the person's spouse or domestic partner has, or two or more such persons together have, a relevant interest or relevant interests in shares in the body corporate the nominal value of which is not less than 10 per cent of the nominal value of the issued share capital of the body corporate; or

- (c) the other person is a trustee of a trust of which the person, a relative of the person or of the person's spouse or domestic partner or a body corporate referred to in paragraph (b) is a beneficiary; or
- (d) the person is an associate of the other person within the meaning of the regulations.

Part 2—The South Australian Housing Trust

Division 1—Continuation of SAHT

4—Continuation of SAHT

- (1) The *South Australian Housing Trust* (SAHT) continues in existence.
- (2) SAHT continues as a body corporate.

5—Functions of SAHT

- (1) The functions of SAHT include—
 - (a) to assist people to secure and maintain affordable and appropriate housing by—
 - (i) acting as a landlord of public housing in the State; and
 - (ii) managing various forms of public housing in the State; and
 - (iii) providing private rental assistance; and
 - (iv) providing advice and referral on housing options and housing related issues; and
 - (v) supporting initiatives (within the various sectors) to increase the supply of affordable housing;
 - (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;
 - (f) to carry out any other functions conferred on SAHT by or under this Act or other Acts, by the Minister or by delegation under an Act.
- (2) SAHT will be the principal property and tenancy manager of public housing in the State.
- (3) SAHT should—
 - (a) provide affordable, secure and appropriate housing that meets the needs of its clients; and

- (b) ensure that rental housing provided by SAHT is well located, of adequate size and condition, and meets reasonable standards of health, safety and security; and
 - (c) ensure that housing built by or for SAHT after the commencement of this Act incorporates modern standards of energy efficiency; and
 - (d) aim to provide housing that provides reasonable access to community services.
- (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).
- (5) In addition, in conducting its affairs, SAHT must establish consultative arrangements with groups and organisations with an interest in the housing sector, including (but not limited to) groups or organisations that represent the interests of tenants or the providers of community or Aboriginal housing.

6—General power of SAHT

Subject to a limitation imposed by or under an Act, SAHT has all the powers of a natural person together with the powers specifically conferred on it by or under this Act or other Acts.

7—Specific powers of SAHT

- (1) In addition to the powers conferred on SAHT by or under this Act or other Acts, SAHT may—
- (a) lease houses from an agent or instrumentality of the Crown or any other person;
 - (b) let houses under its ownership, management or control for such periods as SAHT thinks fit, and exercise in relation to those houses the powers of a landlord;
 - (c) subject to this Act (or any other Act), fix the terms, covenants and conditions on which houses are let by it;
 - (d) pay bonuses or allowances to tenants who show special diligence and care;
 - (e) divide, or subdivide, land for the development of houses;
 - (f) build, alter, enlarge, repair and improve houses or enter into contracts under which houses will be built, altered, enlarged, repaired or improved on behalf of SAHT;
 - (g) convert buildings into houses;
 - (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;
 - (i) initiate, facilitate or participate in joint developments;

- (j) provide advisory, consultative, managerial, support or other forms of service, within the areas of SAHT's expertise, to other entities involved in the division, development or management of land or housing;
 - (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;
 - (l) receive and administer funds on behalf of third parties, on an agency basis.
- (2) If SAHT sells an interest in residential property, the net proceeds of sale received by SAHT must be applied towards a purpose or purposes associated with the provision of housing within the State.
- (3) The assistance that may be provided under subsection (1)(k) may include—
- (a) the provision of support or payments of money—
 - (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);
 - (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.

Division 2—Ministerial control

8—Ministerial control

SAHT is subject to the control and direction of the Minister.

Division 3—Board of SAHT

9—Constitution of board of management

- (1) SAHT is managed by a board of management.
- (2) The board consists of seven members appointed by the Governor.
- (3) At least one member of the board must be a woman and at least one member must be a man.
- (4) The Governor must appoint a member of the board as the board's presiding member.
- (5) The Governor may appoint a suitable person to be the deputy of a member of the board and to act as a member of the board during a period of absence of the member (and a reference in this Act to a member of the board will be taken to include, unless the contrary intention appears, a reference to a deputy while acting as a member of the board).

10—Conditions of membership

- (1) A member of the board is appointed on conditions determined by the Governor and for a term, not exceeding three years, determined by the Governor and, at the expiration of the term of appointment, is eligible for reappointment.
- (2) The Governor may remove a member of the board from office—
 - (a) for breach of, or non-compliance with, a condition of appointment, or on any other basis specified in the instrument of appointment or under an agreement between the Minister and the member; or
 - (b) for misconduct; or
 - (c) for failure or incapacity to carry out official duties satisfactorily; or
 - (d) if serious irregularities have occurred in the conduct of the board's affairs or the board has failed to carry out its functions satisfactorily and the board's membership should, in the opinion of the Governor, be reconstituted for that reason.
- (3) The office of a member of the board 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 (2).
- (4) On the office of a member of the board becoming vacant, the Governor may appoint a person to the vacant office.

11—Allowances and expenses

A member of the board is entitled to remuneration, allowances and expenses determined by the Governor.

12—Disclosure of interest

- (1) A member of the board who has a direct or indirect personal or pecuniary interest in a matter under consideration by the board—
 - (a) must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the board; and
 - (b) must refrain from taking part in the deliberations or a decision of the board on the matter; and
 - (c) must comply with any requirements prescribed by the regulations.Maximum penalty: \$10 000 or imprisonment for 2 years.
- (2) If a member of the board discloses an interest in a contract or proposed contract and complies with the other requirements of this section—
 - (a) the contract is not liable to be avoided; and
 - (b) the member is not liable to account for profits derived from the contract.

- (3) If a member of the board fails to make a disclosure of interest or fails to comply with the other requirements of this section in respect of a proposed contract, the contract is liable to be avoided by the board or by the Minister.
- (4) A contract may not be avoided under subsection (3) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.
- (5) If a member of the board has or acquires a personal or pecuniary interest, or is or becomes the holder of an office, such that it is reasonably foreseeable that a conflict might arise with his or her duties as a member of the board, the member must, as soon as reasonably practicable, disclose full and accurate details of the interest or office to the board.
Maximum penalty: \$10 000.
- (6) If, in the Minister's opinion, a particular interest is not consistent with the proper discharge of the duties of a member of the board, the Minister may direct the member either to divest himself or herself of the interest or to resign from the board (and non-compliance with the direction constitutes misconduct and hence a ground for removal of the member from the board).
- (7) Without limiting the effect of this section, a member of the board will be taken to have an interest in a matter for the purposes of this section if an associate of the member has an interest in the matter.
- (8) A disclosure under this section must be recorded in the minutes of the board.
- (9) The annual report must include any disclosure made during the relevant financial year by a member of the board of an interest in a matter under consideration by the board.

13—Members' duties of honesty, care and diligence

- (1) A member of the board must act honestly in the performance of official functions.
Maximum penalty: \$20 000 or imprisonment for 4 years.
- (2) A member of the board must exercise a reasonable degree of care and diligence in performing official functions.
Maximum penalty: \$20 000.
- (3) A member or former member of the board must not make improper use of information acquired because of his or her official position to gain, directly or indirectly, a personal advantage for himself, herself or another, or to cause detriment to the board.
Maximum penalty: \$20 000 or imprisonment for 4 years.
- (4) A member of the board must not make improper use of his or her official position to gain, directly or indirectly, a personal advantage for himself, herself or another, or to cause detriment to the board.
Maximum penalty: \$20 000 or imprisonment for 4 years.
- (5) This section—
 - (a) operates both inside and outside the State; and
 - (b) is in addition to, and does not limit, other laws.

14—Validity of acts and immunities of members

- (1) An act or proceeding of the board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.
- (2) A member of the board 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 board's functions, duties or powers under this Act.
- (3) The immunity conferred by subsection (2) does not extend to culpable negligence.
- (4) A civil liability that would, but for this section, attach to a member attaches instead to the Crown.

15—Proceedings

- (1) The member appointed to chair meetings of the board will preside at meetings of the board or, in the absence of that member, a member chosen by those present will preside.
- (2) A quorum of the board consists of four members (and no business may be transacted at a meeting of the board unless a quorum is present).
- (3) A decision carried by a majority of votes cast by members at a meeting of the board is a decision of the board.
- (4) Each member present at a meeting of the board has one vote on a question arising for decision and, if the votes are equal, the member presiding at the meeting has a second or casting vote.
- (5) A resolution of the board—
 - (a) of which prior notice was given to members of the board in accordance with procedures determined by the board; and
 - (b) in which at least the majority of members of the board expressed their concurrence in writing,will be taken to be a decision of the board made at a meeting of the board.
- (6) The board must have accurate minutes kept of its proceedings.
- (7) Subject to this Act, the board may determine its own procedures.

16—General management duties of board

- (1) The board 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 public housing; and
 - (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 justice objectives and the fulfilment of SAHT's community service obligations.

- (2) Without limiting the effect of subsection (1), the board must for that purpose ensure as far as practicable—
- (a) that appropriate strategic and operational plans and targets are established; and
 - (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
 - (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
 - (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
 - (e) that the Minister receives regular reports on the performance of SAHT (and any subsidiary), and on the initiatives of the board; and
 - (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.

Division 4—Use of services

17—Use of services

- (1) SAHT may, by arrangement with the appropriate authority, make use of the services, facilities or staff of a government department, agency or instrumentality.
- (2) SAHT may, with the approval of the Minister, engage agents or consultants, and enter into other forms of contract for the provision of services.

Division 5—Committees and delegations

18—Committees

- (1) SAHT must establish—
 - (a) a committee (to be called the *South Australian Affordable Housing Trust Board of Management* or "SAAHT") 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.
- (1a) SAAHT—
 - (a) will be constituted by persons with experience and knowledge directly relevant to housing, local government or urban or regional planning; and
 - (b) will have functions that include providing advice directly to the Minister and to SAHT; and

- (c) will be capable of acting as a delegate of the Minister, SAHT or the Chief Executive under this or any other Act.
- (2) SAHT may establish such other committees (including advisory committees or subcommittees) as SAHT thinks fit.
- (3) Subject to a direction of the Minister (and to the operation of subsection (1a)), the membership of a committee will be determined by SAHT.
- (4) The procedures to be observed in relation to the conduct of the business of a committee will be—
 - (a) as determined by the Minister or SAHT; or
 - (b) insofar as the procedure is not determined under paragraph (a), as determined by the committee.

19—Delegations

- (1) The board may delegate a function or power conferred on or vested in the board or SAHT under this or any other 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 board (or SAHT) from acting itself in a matter.

Division 6—Operational, property and financial matters

20—Common seal

SAHT must have a common seal and if a document appears to bear the common seal of SAHT, it will be presumed in the absence of proof to the contrary that the common seal of SAHT was properly affixed to the document.

21—Further specific powers of SAHT

- (1) Without limiting another provision of this Act, but subject to a limitation or condition imposed by the Minister in relation to SAHT, SAHT may—
 - (a) sue and be sued;
 - (b) acquire, hold, deal with and dispose of real and personal property (or an interest in real or personal property), and grant or hold a lease or licence;
 - (c) with the approval of the Minister or as authorised by regulation—acquire, hold, deal with and dispose of shares in, or securities issued by, another body corporate, or participate in the formation of another body;
 - (d) with the approval of the Minister or as authorised by regulation—borrow money and obtain other forms of financial accommodation;

- (e) establish and operate ADI accounts and invest money;
 - (f) enter into any kind of contract or arrangement;
 - (g) exercise other powers conferred by regulation;
 - (h) exercise other powers that are necessary, expedient or incidental to the functions of SAHT.
- (2) SAHT must not establish a trust scheme or a partnership or other scheme or arrangement for sharing of profits or joint venture with another person or undertake an operation or transaction pursuant to such a scheme or arrangement.
- (3) However, subsection (2) does not apply if—
- (a) SAHT is acting with the approval of the Minister; or
 - (b) the other party to the scheme or arrangement is a statutory corporation; or
 - (c) the scheme or arrangement is within a class prescribed by the regulations for the purposes of this provision.
- (4) The Minister must obtain the concurrence of the Treasurer before giving an approval under subsection (1)(d).

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;
 - (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;
 - (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

- (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.
- (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).
- (5) The owner of land and SAHT may, by instrument in writing executed by both parties—
 - (a) vary a covenant by registration of an instrument of variation; or
 - (b) discharge a covenant by registration of an instrument of discharge,(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)—
 - (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.

22—Property to be held on behalf of Crown

SAHT holds its property on behalf of the Crown.

23—Transfer of property etc

- (1) The Minister may with the concurrence 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—
 - (i) to the Minister; or
 - (ii) to a statutory corporation; or
 - (iii) to a subsidiary of SAHT; or
 - (iv) to the Crown, or to another agent or instrumentality of the Crown; or
 - (v) 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) 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.

24—Securities

- (1) SAHT may, with the approval of the Minister—
- (a) grant a mortgage or charge over an asset of SAHT; or
 - (b) enter into a contract of guarantee or indemnity; or
 - (c) issue debentures or promissory notes that are charged over the assets of SAHT generally, or over specified assets of SAHT; or
 - (d) issue inscribed debenture stock in accordance with a scheme prescribed by the regulations.
- (2) The Minister must obtain the concurrence of the Treasurer before giving an approval under subsection (1).
- (3) A liability of SAHT incurred with the concurrence of the Treasurer is guaranteed by the Treasurer.

25—Tax and other liabilities

- (1) The Treasurer may require SAHT (or SAHT in the undertaking of specified activities) to pay all or specified rates, duties, taxes and imposts, and to assume other liabilities and duties (either generally or of a specified kind), as would apply under the law of the State if SAHT were a public company.
- (2) The Treasurer may require SAHT to pay to the Treasurer, for the credit of the Consolidated Account, such amounts as the Treasurer from time to time determines to be equivalent in effect to either (or both) of the following—
- (a) income tax and other taxes or imposts that SAHT does not pay to the Commonwealth but would be liable to pay under the law of the Commonwealth if it were constituted and organised in such manner as the Treasurer determines to be appropriate for the purposes of this subsection as a public company or, if one or more subsidiaries or divisions of SAHT are involved, as two or more public companies; and
 - (b) council rates that SAHT would be liable to pay to a council if SAHT were a public company.
- (3) Amounts determined to be payable under subsection (2) must be paid by SAHT at the times and in the manner determined by the Treasurer.

26—Dividends

- (1) If SAHT is required 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, as SAHT considers appropriate.
- (2) The Minister may, in consultation with the Treasurer, by notice to SAHT—
- (a) approve a recommendation of SAHT under subsection (1); or
 - (b) determine that a specified dividend be paid, or that no dividend be paid, as the Minister and the Treasurer consider appropriate.

- (3) SAHT must, if so required by the Minister at any time during a financial year, recommend to the Minister that a specified interim dividend or specified interim dividends be paid by SAHT for that financial year, or that no such dividend or dividends be paid by SAHT, as SAHT considers appropriate.
- (4) The Minister may, in consultation with the Treasurer, by notice to SAHT—
 - (a) approve a recommendation of SAHT under subsection (3); or
 - (b) determine that an interim dividend or interim dividends be paid, or that no interim dividend be paid,as the Minister and the Treasurer consider appropriate.
- (5) If a dividend or interim dividend or dividends is or are to be paid by SAHT, the dividend or interim dividend or dividends must be paid by SAHT to the Minister in the manner and at the time or times determined by the Minister in consultation with the Treasurer.
- (6) If the Minister receives an amount from SAHT under this section, the amount must be applied towards a purpose or purposes associated with the provision of housing within the State.
- (7) A recommendation under this section must be made by SAHT itself and may not be made by a person or committee pursuant to a delegation.
- (8) SAHT is required to comply with this section if directed to do so by the Minister in consultation with the Treasurer.

27—Accounts and audit

- (1) SAHT must establish and maintain effective internal auditing of its operations.
- (2) SAHT must keep proper accounting records in relation to its financial affairs, and must have annual statements of accounts prepared in respect of each financial year.
- (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.
- (3) 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*.
- (4) The Auditor-General may at any time audit the accounts of SAHT and must audit the annual statement of accounts.

Division 7—Performance and reporting obligations

28—Objectives

- (1) The Minister may, after consultation with SAHT, prepare a statement setting various objectives, targets or goals that SAHT is to pursue over the period specified in the statement and dealing with such other matters as the Minister considers appropriate.
- (2) SAHT must review the statement whenever it is necessary to do so on account of a direction of the Minister under this Act, and in any event at least once in every twelve month period.

- (3) The Minister may, after consultation with SAHT, amend a statement issued in relation to SAHT at any time.
- (4) The Minister must consult with the Treasurer if SAHT is to be set financial objectives, targets or goals.

29—Provision of information and reports to the Minister

- (1) SAHT must, at the request of the Minister, furnish the Minister with such information or records in the possession or control of SAHT as the Minister may require in such manner and form as the Minister may require.
- (2) If a record in the possession or control of SAHT is furnished to the Minister under this section, the Minister may make, retain and deal with copies of the record as the Minister thinks fit.
- (3) If SAHT considers that information or record furnished under this section contains matters that should be treated for any reason as confidential, SAHT may advise the Minister of that opinion giving the reason for the opinion, and the Minister may, subject to subsection (4), act on that advice as the Minister thinks fit.
- (4) If the Minister is satisfied on the basis of SAHT's advice under subsection (3) that SAHT owes a duty of confidence in respect of a matter, the Minister must ensure the observance of that duty in respect of the matter, but this subsection does not prevent the Minister from disclosing the matter as required in the proper performance of ministerial functions or duties.

Part 3—Subsidiaries

32—Formation of subsidiaries

- (1) The Governor may, by regulation, establish a subsidiary of SAHT.
- (2) Regulations establishing a subsidiary—
 - (a) must name the body; and
 - (b) must provide for the constitution of a board of management as the body's governing body; and
 - (c) must specify the functions of the body; and
 - (d) may limit the powers of the body; and
 - (e) may specify procedures that will be followed in the event of a proposal to dissolve the body; and
 - (f) may make other provisions (not inconsistent with this Act) that in the opinion of the Governor are necessary or expedient for the purposes of the body.
- (3) A subsidiary—
 - (a) is a body corporate; and
 - (b) subject to a limitation imposed by or under an Act or the regulations, has all the powers of a natural person together with the powers specifically conferred on SAHT, or on the subsidiary specifically, by or under this Act or other Acts.

- (4) The Governor may, by regulation—
 - (a) alter the name of a subsidiary; or
 - (b) vary the constitution of the board of management of a subsidiary; or
 - (c) alter the functions of a subsidiary; or
 - (d) alter or limit the powers of a subsidiary; or
 - (e) make other provisions (not inconsistent with this Act) that in the opinion of the Governor are necessary or expedient for the purposes of the subsidiary.
- (5) The Governor may, by regulation—
 - (a) dissolve a body established under this section; and
 - (b) transfer the assets, rights and liabilities of a body dissolved under this provision (either as a whole or in separate parcels specified by regulation)—
 - (i) to the Minister; or
 - (ii) to SAHT or another subsidiary of SAHT; or
 - (iii) to a statutory corporation; or
 - (iv) to the Crown, or to another agent or instrumentality of the Crown (not established under this Act); or
 - (v) with the agreement with the person or body—to a person or body that is not an agent or instrumentality of the Crown; and
 - (c) make other provisions that in the opinion of the Governor are necessary or expedient in connection with the dissolution of the body.
- (6) However, if a regulation is in force under paragraph (e) of subsection (2) in respect of the subsidiary, a subsidiary must not be dissolved unless the Governor is satisfied that any relevant procedure prescribed under that paragraph has been followed.
- (7) If a regulation establishing a subsidiary under this section is disallowed by either House of Parliament, the assets, rights and liabilities of the subsidiary become assets, rights and liabilities of SAHT.
- (8) Unless the contrary intention appears and subject to such modifications or exclusions as may be necessary for the purpose, or as may be prescribed, a reference in the other Parts of this Act to SAHT will be taken to include a reference to a subsidiary of SAHT.

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.
- (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).
- (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.
- (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.
- (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.
- (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,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.
- (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.

- (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

- (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.
- (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

- (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—
- (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.
- (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
 - (b) proceedings have been commenced before the Residential Tenancies Tribunal, or before a court or other tribunal constituted by law; or
 - (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.
- (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 may, after hearing an appeal under this section and conducting such inquiries as the Appeal Panel thinks fit—
- (a) confirm, vary or revoke the decision to which the proceedings relate;
 - (b) refer the matter back to SAHT or the Chief Executive, with such suggestions as the Appeal Panel thinks fit;
 - (c) make incidental and ancillary orders.

- (6) The Appeal Panel must ensure that the applicant and SAHT are provided with a written statement setting out the Appeal Panel's decision and the reasons for the decision.
- (7) 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—
 - (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 prescribes a class or classes of decisions that will take effect or apply despite an application (and related proceedings) under this section.
- (8) A decision on a matter that has been the subject of a review under section 32C which constitutes an administrative act within the meaning of the *Ombudsman Act 1972* may be investigated by the Ombudsman under that Act despite the fact that this section provides a right of review (and section 13(3) of the Act will not apply in such a case).

Part 4—Miscellaneous

33—Acquisition of land

SAHT may, with the consent of the Minister, acquire land for a purpose associated with the performance of its functions under and in accordance with the *Land Acquisition Act 1969*.

34—Power to enter land

- (1) A person authorised in writing by the Minister to do so may enter land (other than residential property occupied by a tenant of SAHT) and conduct a survey, valuation, test or examination that the Minister considers necessary or expedient for the purposes of this Act.
- (2) A person must not enter land under subsection (1) unless the person has given reasonable notice of his or her intention to do so to the occupier of the land.
- (3) A person authorised by SAHT may enter residential property occupied by a tenant of SAHT if (and only if)—
 - (a) the entry is made in an emergency; or
 - (b) the tenant has been given written notice stating the purpose and specifying the date and time of the proposed entry not less than seven days and not more than 14 days before the entry is made; or
 - (c) the entry is made at a time previously arranged with the tenant (but not more frequently than once in every four weeks) for the purpose of inspecting the property; or
 - (d) the entry is made for the purpose of carrying out necessary repairs or maintenance at a reasonable time of which the tenant has been given at least 48 hours written notice; or
 - (e) the entry is made with the consent of the tenant given at, or immediately before, the time of entry.

- (4) A person must not, without reasonable excuse, hinder a person in the exercise of a power under this section.
Maximum penalty: \$2 500.
- (5) This section does not limit a power conferred by or under an agreement or mortgage, or by or under another Act or law.

35—Satisfaction of Treasurer's guarantee

A liability of the Treasurer arising by virtue of a guarantee under this Act is to be paid out of the Consolidated Account (which is appropriated to the necessary extent).

36—Effect of transfers

- (1) The transfer of an asset, right or liability under this Act operates by force of this Act and despite the provisions of another law.
- (2) The transfer of a liability under this Act operates to discharge the body from which the liability was transferred from the liability.

37—Registering authorities to note transfer

- (1) 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 documents relating to such transactions, must, on application under this section, register or record in an appropriate manner the transfer to the Minister or another body of an asset, right or liability by regulation, proclamation or notice under this Act.
- (2) An instrument relating to an asset, right or liability that has transferred to the Minister or a body by regulation, proclamation or notice under this Act must, if the instrument is executed by the Minister or the body and is otherwise in an appropriate form, be registered or recorded by the Registrar-General or another appropriate authority despite the fact that the Minister or the body has not been registered or recorded as the proprietor of the property under subsection (1).
- (3) The vesting of property by regulation, proclamation or notice under this Act, and an instrument evidencing or giving effect to that vesting, are exempt from stamp duty.

38—Restriction on letting

SAHT must not let a house to a person who, at the time of applying for a lease, owns (or partly owns) a residential property, unless—

- (a) the person owns (or partly owns) the residential property pursuant to an agreement with SAHT; or
- (b) the person is in circumstances of genuine need; or
- (c) SAHT is acting with the approval of the Minister; or
- (d) SAHT would be letting the house to the person in circumstances described by regulations made for the purposes of this section.

39—Rents

SAHT may let houses at rents determined by SAHT from time to time and, despite the provisions of any other Act, SAHT may from time to time vary those rents.

39A—Redevelopment of residential property

Where—

- (a) SAHT is the landlord of residential property; and
- (b) SAHT requires possession of the residential property for redevelopment or renovations,

SAHT must take reasonable steps—

- (c) to consult with any tenants occupying the residential property (the *tenants*) about their housing options; and
- (d) to arrive at an outcome that is fair and reasonable in the circumstances after paying particular attention to the age, health and any special needs or circumstances of the tenants and to the nature and availability of housing (being an outcome which may include relocating the tenants to other premises on an ongoing basis or proceeding on the basis that the tenants will return to the same site or locality after the redevelopment or renovations are completed).

40—Power to carry out conditions of gifts

- (1) SAHT may accept any gift made to SAHT.
- (2) If a gift is affected by a trust, SAHT is empowered to carry out the terms of the trust.
- (3) However, if the trust is subject to a condition or stipulation that SAHT cannot give effect to by reason of another provision of this Act, SAHT may, despite that condition or stipulation, give effect to the trust, condition or stipulation if it is otherwise in accordance with law.

41—Offences

- (1) Subject to subsection (2), a prosecution for a summary offence against this Act may be commenced within two years after the date of the alleged commission of the offence or, with the authorisation of the Attorney-General, at a later time within five years after the date of the alleged commission of the offence.
- (2) A prosecution for an offence against the regulations that is expiable (if any) may be commenced within six months after the date of the alleged commission of the offence.
- (3) An apparently genuine document purporting to be signed by the Attorney-General and to authorise the commencement of proceedings for an offence against this Act will be accepted in legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.

42—Approvals by Minister or Treasurer

A matter under this Act for which the approval of the Minister or the Treasurer is required will be regarded as having that approval—

- (a) whether the approval is given in respect of that particular matter or a class of matters to which it belongs; and
- (b) whether the approval is given by the Minister or Treasurer or by a person acting with the authority of the Minister or Treasurer.

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 include a report on the operations of SAHT for the relevant financial year.
- (3) The report must incorporate the audited accounts and financial statements of SAHT.
- (4) The report may be combined with an annual report of the Minister under another Act that is also administered by the Minister.
- (5) The Minister must have copies of the report laid before both Houses of Parliament within 12 sitting days after the report is prepared.

43—Triennial review

- (1) The Minister must once in every three years cause a report to be prepared on the operations and administration of SAHT.
- (2) The report must be prepared by a person who is independent of SAHT.
- (3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

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.

44—Regulations

- (1) The Governor may make regulations that are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
 - (a) make provision for, or in relation to, the form or content of any agreement between SAHT and another party;
 - (b) make provision in relation to the operations of SAHT;

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- (c) make provision for matters relevant to landlord and tenant issues arising from the provision of public housing including a scheme for dealing with (and disposing of) goods that are left on premises after the end of a tenancy (including a scheme that provides for the passing of title to those goods);
 - (d) make provision in relation to the constitution, activities or dissolution of a subsidiary of SAHT, or in relation to the application of this Act to a subsidiary of SAHT;
 - (e) prescribe penalties, not exceeding \$500, for a breach of a regulation.
- (3) The regulations may—
- (a) be of general or limited application; and
 - (b) apply to existing agreements, leases or circumstances; and
 - (c) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (d) provide that a matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, SAHT, or a prescribed person or authority.

Schedule 2—Transitional provisions

1—Staff

- (1) This Act does not affect—
- (a) the conditions of employment of a person who was a member of the staff of SAHT immediately before the repeal of the *South Australian Housing Trust Act 1936*; or
 - (b) a process commenced for variation of those conditions.
- (2) However, subject to the operation of subclause (1), the Governor may, by proclamation, transfer the employment of a person who is an employee of SAHT to—
- (a) the Department; or
 - (b) a statutory corporation.

2—Transfer of property etc

- (1) The Governor may, by proclamation, vest an asset, right or liability of SAHT in—
- (a) the Crown; or
 - (b) the Minister; or
 - (c) an agent or instrumentality of the Crown; or
 - (d) a statutory corporation or SACHA.
- (2) The vesting of property by this clause, and an instrument evidencing or giving effect to that vesting, are exempt from stamp duty.

- (3) 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 documents relating to such transactions, must, on application under this clause, register or record in an appropriate manner a vesting under this clause.
- (4) An instrument relating to an asset, right or liability that has vested in a body under this clause must, if the instrument is executed by the body and is otherwise in an appropriate form, be registered or recorded by the Registrar-General or another appropriate authority despite the fact that the body has not been registered or recorded as the proprietor of the property under subclause (3).

3—Code of practice and charter

SAHT must prepare the code of practice and charter required by section 30 within six months after the commencement of this Act.

4—Water rates

A regulation under section 30 of the *South Australian Housing Trust Act 1936* in force immediately before the repeal of that Act will continue in force on and after that repeal for the purposes of tenancy agreements to which that section applied (and the regulation may, until revoked, be varied by the Governor from time to time).

5—Regulations

The regulations may contain other provisions of a saving or transitional nature consequent on the enactment of this Act.

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation repealed by principal Act

The *South Australian Housing Trust Act 1995* repealed the following:

Country Housing Act 1958

South Australian Housing Trust Act 1936

Legislation amended by principal Act

The *South Australian Housing Trust Act 1995* amended the following:

Housing and Urban Development (Administrative Arrangements) Act 1995

Housing Improvement Act 1940

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1995	109	<i>South Australian Housing Trust Act 1995</i>	21.12.1995	1.1.1996 (<i>Gazette 21.12.1995 p1759</i>)
1999	33	<i>Financial Sector Reform (South Australia) Act 1999</i>	17.6.1999	Sch (item 50)—1.7.1999 being the date specified under s 3(16) of the <i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i> of the Commonwealth as the transfer date for the purposes of that Act: s 2(2)
2006	43	<i>Statutes Amendment (Domestic Partners) Act 2006</i>	14.12.2006	Pt 79 (s 194)—1.6.2007 (<i>Gazette 26.4.2007 p1352</i>)
2007	20	<i>Statutes Amendment (Affordable Housing) Act 2007</i>	14.6.2007	Pt 2 (ss 4—20) & Sch 1—1.7.2007 (<i>Gazette 28.6.2007 p2826</i>)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 138 (ss 314—317)—1.2.2010 (<i>Gazette 28.1.2010 p320</i>)

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 3		
s 3(1)		
Chief Executive	inserted by 20/2007 s 4(1)	1.7.2007
Department	substituted by 20/2007 s 4(2)	1.7.2007
domestic partner	inserted by 43/2006 s 194(1)	1.6.2007
relative	amended by 43/2006 s 194(2)	1.6.2007
SACHA	<i>deleted by 20/2007 s 4(3)</i>	1.7.2007
spouse	substituted by 43/2006 s 194(3)	1.6.2007
s 3(2)	amended by 43/2006 s 194(4)	1.6.2007
Pt 2		
Pt 2 Div 1		
s 5		
s 5(1)	amended by 20/2007 s 5(1), (2) (e) deleted by 20/2007 s 5(2)	1.7.2007 1.7.2007
s 5(3)	amended by 20/2007 s 5(3)—(5)	1.7.2007
s 5(4) and (5)	inserted by 20/2007 s 5(6)	1.7.2007
s 7		
s 7(1)	amended by 20/2007 s 6(1)—(3)	1.7.2007
s 7(3) and (4)	inserted by 20/2007 s 6(4)	1.7.2007
s 16		
s 16(1)	amended by 20/2007 s 7	1.7.2007
Pt 2 Div 4	substituted by 20/2007 s 8	1.7.2007
Pt 2 Div 5		
s 18		
s 18(1)	substituted by 20/2007 s 9(1)	1.7.2007
s 18(1a)	inserted by 20/2007 s 9(1)	1.7.2007
s 18(2) and (3)	substituted by 20/2007 s 9(1)	1.7.2007
s 18(4)	amended by 20/2007 s 9(2)	1.7.2007
s 19		
s 19(1)	amended by 20/2007 s 10(1)	1.7.2007
s 19(2)	amended by 20/2007 s 10(2)	1.7.2007
Pt 2 Div 6		
s 21		

s 21(1)	amended by 33/1999 Sch (item 50)	1.7.1999
s 21(3)	amended by 20/2007 s 11	1.7.2007
s 21A	inserted by 20/2007 s 12	1.7.2007
s 23		
s 23(1)	amended by 20/2007 s 13(1)	1.7.2007
s 23(3)	substituted by 20/2007 s 13(2)	1.7.2007
s 26		
s 26(7)	amended by 20/2007 s 14	1.7.2007
s 27		
s 27(2a)	inserted by 20/2007 s 15	1.7.2007
Pt 2 Div 7		
ss 30 and 31	deleted by 20/2007 s 16	1.7.2007
Pt 3A	inserted by 20/2007 s 17	1.7.2007
Pt 4		
s 39A	inserted by 20/2007 s 18	1.7.2007
s 42A	inserted by 20/2007 s 19	1.7.2007
s 43A	inserted by 20/2007 s 20	1.7.2007
Sch 1	omitted under Legislation Revision and Publication Act 2002	

Transitional etc provisions associated with Act or amendments

Statutes Amendment (Affordable Housing) Act 2007, Sch 1—Transitional provisions

1—Interpretation

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;

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

- (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 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),

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).

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.
- (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
 - (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 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 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.
- (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
 - (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
 - (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.
- (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.

Historical versions

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