

South Australia

South Australian Housing Trust Regulations 2010

under the *South Australian Housing Trust Act 1995*

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1—Short title

These regulations may be cited as the *South Australian Housing Trust Regulations 2010*.

2—Commencement

These regulations will come into operation on 1 September 2010.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *South Australian Housing Trust Act 1995*;

Commonwealth Department means an Agency within the meaning of the *Public Service Act 1999* of the Commonwealth.

4—Criteria—affordable housing

The Minister may, by notice in the *Gazette*, determine criteria that are to be applied for the purpose of determining whether a policy, strategy, program, application or other matter falls within the concept of *affordable housing*.

5—Financial accommodation

Pursuant to section 21(1)(d) of the Act, SAHT is authorised to borrow money or obtain other forms of financial accommodation—

- (a) from another agent or instrumentality of the Crown; or

- (b) from a Commonwealth Department or instrumentality; or
- (c) under the terms of an intergovernmental agreement to which the State is a party.

6—Joint ventures

The following are prescribed for the purposes of section 21(3) of the Act:

- (a) a scheme or arrangement involving land owned or occupied by SAHT;
- (b) a scheme or arrangement that does not require SAHT to contribute (in total) more than \$1.1 million in money or resources.

7—Registration of covenants—prescribed fee

The amount prescribed from time to time by the *Real Property Regulations 2009* as the fee for the registration of an encumbrance under the *Real Property Act 1886* is prescribed for the purposes of section 21A(6)(c) of the Act.

8—Appeals—prescribed periods

For the purposes of section 32D(2)(a) of the Act, the following periods are prescribed:

- (a) in the case of an application that relates to—
 - (i) a decision of SAHT not to renew a tenancy; or
 - (ii) a decision of SAHT to terminate a tenancy; or
 - (iii) a decision of SAHT on an application to SAHT to transfer a tenancy to the spouse, partner or other family member of the tenant or former tenant; or
 - (iv) a decision of SAHT on an application to SAHT for rent assistance, or in relation to a bond, where the landlord is not SAHT—
7 days;
- (b) in any other case—30 days.

9—Responsibility for payment of water rates

Where SAHT is the landlord of premises subject to a tenancy agreement, SAHT and the tenant under the tenancy agreement are responsible for water rates payable under Part 5 of the *Waterworks Act 1932* in respect of the premises as follows:

- (a) SAHT is responsible for payment of the supply charge for the right to a supply of water to the premises;
- (b) the tenant is responsible—
 - (i) if a separate meter is fitted to the premises to measure the quantity of water supplied to the premises—for all water rates (other than the supply charge) payable in respect of the premises;
 - (ii) if no such separate meter is fitted to the premises—for the proportion (as determined by SAHT in respect of each financial year) of all water rates (other than the supply charge) payable in respect of the premises.

10—Mandatory provision in conditions of tenancy agreement

An agreement between SAHT and a tenant setting out the conditions of the tenancy must contain a provision in a form approved from time to time by the Minister that allows SAHT to charge, as a component of the rent payable under the agreement, a premium if the income of the tenant exceeds an amount determined by SAHT from time to time and the tenant does not meet eligibility criteria determined by SAHT (from time to time)¹.

Note—

- 1 A provision inserted in an agreement under this regulation will not apply to a tenant who last applied for SAHT housing before 25 February 1998.

11—Goods left on premises

- (1) The following provisions apply if goods are left on residential premises after the end of a tenancy where SAHT is the landlord:
 - (a) SAHT may, when at least 2 days have passed after taking possession of the premises, remove, and destroy or dispose of, the goods if—
 - (i) they are perishable foodstuffs; or
 - (ii) they are left on residential premises that have been left in an insanitary or hazardous condition; or
 - (iii) their value is less than a fair estimate of the cost of their removal, storage and sale;
 - (b) SAHT must store the goods in a safe place and manner for at least 60 days if the goods are not liable to destruction or disposal under paragraph (a).
- (2) SAHT must, within 7 days after storing goods or having goods stored under this regulation—
 - (a) give notice of the storage of the goods to—
 - (i) if the tenant has left a forwarding address—the tenant; and
 - (ii) if another person has, to the knowledge of SAHT, an interest in the goods and the person's name and address are known to, or reasonably ascertainable by, SAHT—that person; and
 - (b) publish notice of the storage of the goods in a newspaper circulating generally throughout the State.
- (3) A notice must be in the form approved by the Minister for the purposes of this regulation.
- (4) A person who is entitled to possession of goods stored under this regulation may reclaim the goods after paying to SAHT—
 - (a) the reasonable costs of their removal and storage; and
 - (b) the reasonable costs of giving notice under subregulation (2)(b); and
 - (c) any other reasonable costs incurred by SAHT as a result of the goods being left on the premises.

- (5) Unless SAHT is satisfied that there are reasonable grounds for storing the goods for a period longer than 60 days, SAHT must, if the goods are not reclaimed within that period, have the goods sold by public auction as soon as practicable after the end of that period.
- (6) On the sale of the goods by public auction, SAHT—
- (a) may retain out of the proceeds of sale—
 - (i) the reasonable costs of removing, storing and selling the goods; and
 - (ii) the reasonable costs of giving notice under subregulation (2)(b); and
 - (iii) any other reasonable costs incurred by SAHT as a result of the goods being left on the premises; and
 - (iv) any amounts owed to SAHT under a tenancy agreement relating to the premises; and
 - (b) must pay the balance (if any) to the owner or, if the identity and address of the owner are not known to or reasonably ascertainable by SAHT, to the credit of the Consolidated Account.
- (7) If goods are sold by public auction under this regulation, the purchaser acquires a good title to the goods which defeats—
- (a) the tenant's interest in the goods; and
 - (b) the interests of others (apart from the tenant) unless the purchaser has actual notice of the interest before purchasing the goods.
- (8) In this regulation, residential premises are in an *insanitary or hazardous condition* if—
- (a) the condition of the premises gives rise to a risk to health or safety; or
 - (b) the premises are so filthy or neglected that there is a risk of infestation by rodents or other pests; or
 - (c) offensive or hazardous material or odours are emitted from the premises; or
 - (d) in the opinion of SAHT—the premises are for some other reason in an insanitary or hazardous condition.

Schedule 1—Revocation of regulations

1—Revocation of regulations

- (1) The *South Australian Housing Trust (General) Regulations 1995* are revoked.
- (2) The *South Australian Housing Trust (Goods Left on Premises) Regulations 2008* are revoked.
- (3) The *South Australian Housing Trust (Water Rates) Regulations 1995* are revoked.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 29 July 2010

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