

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.

Contents

Part 1—Preliminary

- 1 Short title
- 3 Interpretation

Part 2—The South Australian Housing Trust

Division 1—Continuation of SAHT

- 4 Continuation of SAHT
- 5 Functions of SAHT
- 6 General power of SAHT
- 7 Specific powers of SAHT

Division 2—Ministerial control

- 8 Ministerial control

Division 3—Board of SAHT

- 9 Constitution of board of management
- 10 Conditions of membership
- 11 Allowances and expenses
- 12 Disclosure of interest
- 13 Members' duties of honesty, care and diligence
- 14 Validity of acts and immunities of members
- 15 Proceedings
- 16 General management duties of board

Division 4—Staff etc

- 17 Staff

Division 5—Committees and delegations

- 18 Committees
- 19 Delegations

Division 6—Operational, property and financial matters

- 20 Common seal
- 21 Further specific powers of SAHT

- 22 Property to be held on behalf of Crown
- 23 Transfer of property etc
- 24 Securities
- 25 Tax and other liabilities
- 26 Dividends
- 27 Audit and accounts

Division 7—Performance and reporting obligations

- 28 Objectives
- 29 Provision of information and reports to the Minister
- 30 Code of practice and charter
- 31 Annual report

Part 3—Subsidiaries

- 32 Formation of subsidiaries

Part 4—Miscellaneous

- 33 Acquisition of land
- 34 Power to enter land
- 35 Satisfaction of Treasurer's guarantee
- 36 Effect of transfers
- 37 Registering authorities to note transfer
- 38 Restriction on letting
- 39 Rents
- 40 Power to carry out conditions of gifts
- 41 Offences
- 42 Approvals by Minister or Treasurer
- 43 Triennial review
- 44 Regulations

Schedule 2—Transitional provisions

- 1 Staff
- 2 Transfer of property etc
- 3 Code of practice and charter
- 4 Water rates
- 5 Regulations

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;

Department means the department of the Minister to whom the administration of this Act is committed;

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;

SACHA means the *South Australian Community Housing Authority*;

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;
 - (b) to provide houses to meet public and community housing requirements;
 - (c) to manage public housing assets so as to ensure acceptable rates of return and to protect the value of the assets over the long term through—
 - (i) developing and supplying public housing; and
 - (ii) managing and maintaining public housing assets in the State;
 - (d) to undertake programs for the improvement of community housing within the State, and to support various housing programs;
 - (e) to report to the Minister on public housing issues, and on such other matters 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 public 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 public housing built by or for SAHT after the commencement of this Act incorporates modern standards of energy efficiency; and
 - (d) aim to provide public housing that provides reasonable access to community services.

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) participate in strata corporations under the *Strata Titles Act 1988* as a unit owner;
 - (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 organisations involved in the division, development or management of land or housing;
 - (k) provide financial, and other, assistance in the public and community housing sectors;
 - (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.

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) protecting the long term viability of SAHT and the Crown's financial and other interests in SAHT; 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—Staff etc

17—Staff

- (1) The Minister will, after consultation with the Chief Executive of the Department and SAHT, determine the staffing arrangements for SAHT (or any subsidiary) (and such staff will, subject to this Act or unless the Minister otherwise determines, be persons who are appointed and hold office under the *Public Sector Management Act 1995*).
- (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.
- (3) SAHT may, by arrangement with the appropriate authority, make use of the services, facilities or staff of a government department, agency or instrumentality.

Division 5—Committees and delegations

18—Committees

- (1) The board must establish such committees (including advisory committees or subcommittees) as the Minister may require.
- (2) The board may establish such other committees (including advisory committees or subcommittees) as the board thinks fit.

- (3) Subject to a direction of the Minister, the membership of a committee will be determined by the board that established the committee and may, but need not, consist of, or include, members of the board.
- (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 the board; 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 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 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 SACHA; 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).

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 SACHA; 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) However—
- (a) the Minister must not act under subsection (1)(b) unless he or she has first given, by notice in the Gazette, preliminary notice of the proposed transfer at least two months before the publication of the relevant notice under that subsection; and
 - (b) the Minister must not act under subsection (1)(b) if to do so would contravene an express agreement entered into by the Minister that limits the Minister's powers in relation to SAHT.

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 the board of SAHT 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—Audit and accounts

- (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.
- (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.

30—Code of practice and charter

- (1) SAHT must prepare—
 - (a) a code of practice; and
 - (b) a charter.
- (2) The code of practice and charter must conform with any requirements of a current Commonwealth/State Housing Agreement but otherwise the content and form of the code of practice and charter will be determined by SAHT after consultation with the Minister and housing consumer groups nominated by the Minister.
- (3) SAHT may, with the approval of the Minister, amend the code of practice or charter at any time.
- (4) On the code of practice or charter, or an amendment to the code of practice or charter, coming into force, the Minister must, within 12 sitting days, have copies of the code of practice or charter, or the code of practice or charter in its amended form, as the case may be, laid before both Houses of Parliament.

31—Annual report

- (1) SAHT must, on or before 30 September in each year, prepare and present to the Minister a report on the operations of SAHT during the financial year that ended on the preceding 30 June.
- (2) The report must incorporate the audited accounts and financial statements 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.

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 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.

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.

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.

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;
 - (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>)

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)		
domestic partner	inserted by 43/2006 s 194(1)	1.6.2007
relative	amended by 43/2006 s 194(2)	1.6.2007
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		
s 21		
s 21(1)	amended by 33/1999 Sch (item 50)	1.7.1999
<i>Sch 1</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	

Historical versions

Reprint No 1—1.7.1999