

Authorised Version No. 078

Housing Act 1983

No. 10020 of 1983

Authorised Version incorporating amendments as at
30 March 2022

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Housing Act 1983

No. 10020 of 1983

Authorised Version incorporating amendments as at
30 March 2022

An Act to modernize housing law, to improve housing administration in Victoria, to repeal the **Housing Act 1958** and the **Home Finance Act 1962** and certain other Acts, to make consequential amendments to various Acts and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

Part I—Preliminary

**Division 1—Commencement, repeals,
interpretations**

1 Short title

This Act may be cited as the **Housing Act 1983**.

2 Commencement

This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

3 Repeals and savings

- (1) The Acts mentioned in Schedule 1 to the extent thereby expressed to be amended or repealed are hereby amended or repealed accordingly.

- (2) Except as in this Act expressly or by necessary implication provided all persons, things and circumstances appointed done or created by or under any Act which is amended or repealed by this Act or existing or continuing under any such Act immediately before the commencement of this Act shall be under and subject to this Act continue to have the same status, operation and effect as they would have had if this Act had not been enacted.

4 Definitions

- (1) In this Act unless inconsistent with the context or subject-matter—

S. 4(1) def. of
Agreement
repealed by
No. 10259 s. 8.

* * * *

S. 4(1) def. of
applicant
inserted by
No. 75/2016
s. 4.

applicant (other than in Schedule 3) means an individual who applies for, or has entered into, a tenancy in social housing;

S. 4(1) def. of
authorised person
inserted by
No. 75/2016
s. 4.

authorised person means—

- (a) a person authorised by the Director under section 142G to access the Victorian Housing Register; and
- (b) a person belonging to a class of person authorised by the Director under section 142G to access the Victorian Housing Register;

building includes a structure or a part of a structure;

Commonwealth means Commonwealth of Australia;

construct, in relation to a building, includes—

- (a) build, re-build, erect or re-erect the building;
- (b) make structural alterations to the building;
- (c) enlarge or extend the building; and
- (d) place or re-locate the building on land;

co-operative has the same meaning that it has in the Co-operatives National Law (Victoria);

S. 4(1) def. of *co-operative* inserted by No. 106/2004 s. 3, amended by No. 9/2013 s. 42(Sch. 2 item 11(1)).

Department means the Department of Human Services established under the **Public Administration Act 2004**;

S. 4(1) def. of *Department* inserted by No. 106/2004 s. 3, amended by No. 106/2004 s. 13(1).

designated service provider means an agency, a body or a person providing services under any of the following for the purposes of assisting disadvantaged individuals to access social housing—

S. 4(1) def. of *designated service provider* inserted by No. 75/2016 s. 4.

- (a) a State contract or any other contract or agreement between the agency, body or person and the Director, the Department or any other Department of the State;
- (b) a contract or agreement between the agency, body or person and a Department of the Commonwealth;

S. 4(1) def. of
development
amended by
No. 53/1988
s. 45(Sch. 2
item 13).

development in relation to land, means—

- (a) the construction or demolition of a building on the land;
- (b) the carrying out of works in, on, over or under the land;
- (c) the making of a change in the use of the land;
- (d) the division of the land into two or more parts each capable of being separately occupied, used or disposed of or the resubdivision of land into different parts each capable of being separately occupied, used or disposed of;
- (e) the redevelopment of the land;

Director means the body corporate established under section 9;

S. 4(1) def. of
Director of Housing
amended by
No. 46/1998
s. 7(Sch. 1).

Director of Housing means the Director of Housing appointed under section 9(1);

S. 4(1) def. of
eligible applicant
inserted by
No. 75/2016
s. 4.

eligible applicant means an applicant who meets the eligibility criteria for a tenancy in social housing;

S. 4(1) def. of
eligibility criteria
inserted by
No. 75/2016
s. 4.

eligibility criteria means the criteria determined by the Director under section 142E(1)(a);

governing body, in relation to a registered agency, means—

S. 4(1) def. of
*governing
body*
inserted by
No. 106/2004
s. 3.

- (a) the board of directors of the registered agency; or
- (b) the committee of management of the registered agency; or
- (c) any other body responsible for the management of the registered agency;

Government agency means—

S. 4(1) def. of
*Government
agency*
inserted by
No. 106/2004
s. 3.

- (a) the Crown;
- (b) a Government Department;
- (c) a public authority;
- (d) the Director;
- (e) a municipal council;

health information has the same meaning that it has in the **Health Records Act 2001**;

S. 4(1) def. of
*health
information*
inserted by
No. 75/2016
s. 4.

hirer means a person who enters into a hiring agreement with the Director;

hiring agreement means an agreement entered into under section 18(1) for the hiring by any person of a movable unit from the Director;

house means any building (whether temporary or permanent) or any part of a building which is or at any time has been used or is intended to be used as a dwelling and includes—

- (a) a flat;

- (b) any out-buildings, fences and other appurtenances to a house or flat;
- (c) any house to be erected or in the course of erection; and
- (d) any land on which the house is situated or is to be erected or is in the course of erection;

S. 4(1) def. of *household member* inserted by No. 75/2016 s. 4.

household member, of an applicant, means an individual who resides, or intends to reside, with the applicant in social housing;

S. 4(1) def. of *incorporated association* inserted by No. 106/2004 s. 3, amended by No. 20/2012 s. 226(Sch. 5 item 16(1)).

incorporated association means an association incorporated under the **Associations Incorporation Reform Act 2012**;

S. 4(1) def. of *inspector* inserted by No. 106/2004 s. 3.

inspector, in Part VIII, means—

- (a) the Registrar of Housing Agencies; or
- (b) an inspector appointed under that Part;

land includes buildings and other structures, land covered with water and any interest (including any leasehold interest), easement or right in or over land;

movable unit means a house capable of being transferred from place to place;

S. 4(1) def. of *municipality* repealed by No. 12/1989 s. 4(1)(Sch. 2 item 61.1).

* * * * *

non-profit body means—

S. 4(1) def. of
*non-profit
body*
inserted by
No. 106/2004
s. 3.

- (a) a corporation limited by shares or by guarantee that by its constitution is prohibited from carrying on its business for profit; or
- (b) a body that—
 - (i) is not carried on for the purposes of profit or gain to its individual members; and
 - (ii) is, by its constitution or rules, prohibited from making any distribution, whether in money, property or otherwise, to its members—

but does not include a Government agency;

owner means the person for the time being entitled to receive the rent of the land in connexion with which the word is used (whether on that person's own account or as the agent of or as trustee for any other person) or who would be entitled to receive the rent if the land were let at a rent;

S. 4(1) def. of
owner
amended by
No. 26/1987
s. 21.

participating designated service provider means a designated service provider that is declared by the Director under section 142F(2)(a) to be a participating designated service provider;

S. 4(1) def. of
*participating
designated
service
provider*
inserted by
No. 75/2016
s. 4.

participating registered agency means a registered agency that is declared by the Director under section 142F(2)(b) to be a participating registered agency;

S. 4(1) def. of
*participating
registered
agency*
inserted by
No. 75/2016
s. 4.

S. 4(1) def. of
*performance
standards*
inserted by
No. 106/2004
s. 3.

performance standards, in Part VIII, means
performance standards determined under
that Part;

S. 4(1) def. of
*personal
details*
inserted by
No. 75/2016
s. 4.

personal details, of an applicant or a household
member of an applicant, has the meaning
given by section 142C(2);

S. 4(1) def. of
*personal
information*
inserted by
No. 75/2016
s. 4.

personal information has the same meaning that
it has in the **Privacy and Data Protection
Act 2014**;

S. 4(1) def. of
police officer
inserted by
No. 37/2014
s. 10(Sch.
item 81.1).

police officer has the same meaning that it has in
the **Victoria Police Act 2013**;

S. 4(1) def. of
*prescribed
registration
criteria*
inserted by
No. 106/2004
s. 3.

prescribed means prescribed by the regulations;
prescribed registration criteria, in Part VIII,
means—

- (a) the criteria set out in Schedule 7; and
- (b) any other registration criteria prescribed
by the regulations for the purposes of
Part VIII;

S. 4(1) def. of
*priority
category*
inserted by
No. 75/2016
s. 4.

priority category means a category determined by
the Director under section 142E(1)(b);

public housing means non-profit housing in the
public sector;

<i>registered agency</i> means a registered housing association or a registered housing provider;	S. 4(1) def. of <i>registered agency</i> inserted by No. 106/2004 s. 3.
<i>registered housing association</i> means a rental housing agency registered as a registered housing association under Part VIII;	S. 4(1) def. of <i>registered housing association</i> inserted by No. 106/2004 s. 3.
<i>registered housing provider</i> means a rental housing agency registered as a registered housing provider under Part VIII;	S. 4(1) def. of <i>registered housing provider</i> inserted by No. 106/2004 s. 3.
<i>Registrar</i> means the body corporate established under Part VIII;	S. 4 def. of <i>registrar</i> repealed by No. 84/1996 s. 467(Sch. 6 item 8.1), new def. of <i>Registrar</i> inserted by No. 106/2004 s. 3.
<i>Registrar of Housing Agencies</i> means the Registrar of Housing Agencies appointed under Part VIII;	S. 4(1) def. of <i>Registrar of Housing Agencies</i> inserted by No. 106/2004 s. 3.
<i>relevant documents</i> in Part VIII, means records or other documents, however compiled, recorded or stored, that relate to the incorporation and management of a registered agency, including accounts, accounting records, and documents relating	S. 4(1) def. of <i>relevant documents</i> inserted by No. 106/2004 s. 3.

S. 4(1) def. of
*relevant
information*
inserted by
No. 75/2016
s. 4.

to transactions, dealings, business or
property of the registered agency;
relevant information (other than in section 90)
has the meaning given by section 142I;

S. 4(1) def. of
*relevant
person*
inserted by
No. 75/2016
s. 4.

relevant person has the meaning given by
section 142I;

S. 4(1) def. of
*rental housing
agency*
inserted by
No. 106/2004
s. 3.

rental housing agency means—
(a) a corporation limited by shares or by
guarantee that is a non-profit body and
that provides or is established to
provide rental housing; or
(b) an incorporated association or non-
trading co-operative that is a non-profit
body and that provides or is established
to provide rental housing;

sale includes any contract of sale subject to terms
as to the repayment of purchase moneys over
time;

S. 4(1) def. of
Secretary
inserted by
No. 106/2004
s. 3.

Secretary means the Secretary to the Department;

S. 4(1) def. of
*sensitive
information*
inserted by
No. 75/2016
s. 4.

sensitive information has the same meaning that
it has in the **Privacy and Data Protection
Act 2014**;

social housing means—

- (a) public housing; and
- (b) housing owned, controlled or managed by a participating registered agency;

S. 4(1) def. of *social housing* inserted by No. 75/2016 s. 4.

State contract has the same meaning that it has in the **Privacy and Data Protection Act 2014**;

S. 4(1) def. of *State contract* inserted by No. 75/2016 s. 4.

street includes any street, road, lane, footway, square, court, alley, or right-of-way, whether a thoroughfare or not;

Treasurer means Treasurer of Victoria;

unique identifier has the same meaning that it has in the **Privacy and Data Protection Act 2014**;

S. 4(1) def. of *unique identifier* inserted by No. 75/2016 s. 4.

vehicle means a conveyance designed to be propelled or drawn by any means;

Victorian Housing Register means the register of applicants established and administered under section 142A;

S. 4(1) def. of *Victorian Housing Register* inserted by No. 75/2016 s. 4.

works means any operation carried out in, on, over or under land and, without limiting the generality of the foregoing, includes the construction of streets, the setting apart of any land for gardens, parks, open spaces or places of recreation and any alteration made to the natural condition or topography of land.

- (2) Where a word or phrase is given a particular meaning in this Act, other parts of speech and grammatical forms of that word or phrase have,

unless the contrary intention appears,
corresponding meanings.

5 Act binds the Crown

This Act binds the Crown, not only in right of the State of Victoria but also, so far as the legislative power of Parliament permits, the Crown in all other capacities.

Division 2—Objects

6 Objects

(1) The objects of this Act are—

- (a) to ensure that every person in Victoria has adequate and appropriate housing at a price within his or her means by encouraging—
 - (i) the provision of well maintained public housing of suitable quality and location;
 - (ia) the participation of non-profit bodies in the provision of well maintained, affordable rental housing of suitable quality and location;
 - (ii) the distribution, according to need, of Government housing financial assistance;
 - (iii) the promotion of the orderly planning, assembly and development of land;
- (b) to expand and develop the role of the public sector in the provision of housing;
- (c) to promote cost effectiveness in the provision of housing;
- (d) to promote the integration of public and private housing;

S. 6(1)(a)(ia)
inserted by
No. 106/2004
s. 4(1).

S. 6(1)(a)(ii)
substituted by
No. 106/2004
s. 4(2).

- (e) to provide in the public sector a variety of housing types in various locations;
- (ea) to provide a regulatory framework to encourage the development of rental housing agencies serving the housing needs of low-income tenants by providing for the registration of those rental housing agencies and the regulation and monitoring of registered agencies;

S. 6(1)(ea)
inserted by
No. 106/2004
s. 4(3).
- (f) to promote security and variety of tenure;
- (g) to seek the participation of tenants and other community groups in the management of public housing and non-distributing co-operatives engaged in the provision of rental housing to their members;

S. 6(1)(g)
amended by
Nos 84/1996
s. 467(Sch. 6
item 8.2),
9/2013
s. 42(Sch. 2
item 11(2)).
- (h) to promote consultation on major housing policy issues with all persons and groups of persons involved in housing;
- (i) to monitor the house building and housing finance industries in both the public and private sectors and to assist those industries to achieve growth and stability;
- (j) to co-ordinate the provision of all necessary community services and amenities ancillary to public housing;

S. 6(1)(j)
amended by
No. 26/1987
s. 3.
- * * * *
- * * * *
- (l) to maximize employment opportunities in the housing sectors;
- (m) to give due regard to the environmental impact of the activities of the public housing sector;

S. 6(1)(k)
repealed by
No. 20/1996
s. 4.

- (n) to provide a safe and satisfying work environment for persons employed in the public housing sector; and
 - (o) to promote public awareness of the role and functions of the public housing sector.
- (2) It is the intention of the Parliament that the provisions of this Act shall be interpreted so as to further the objects set out in subsection (1) and that every power, authority, discretion, jurisdiction and duty conferred or imposed by this Act shall be exercised and performed so as by design and intent to promote and achieve those objects.

Part II—Administration

Division 1—The Minister

7 Minister to have powers etc. under agreement

The Minister shall have the powers, authorities, functions and discretions and be subject to the duties conferred or imposed on the Minister by or under any agreement between the Commonwealth, the States and the Northern Territory of Australia relating to housing that is in force in respect of the State of Victoria.

S. 7
amended by
Nos 10259
s. 9(1),
26/1987 s. 21.

8 Advisory committees

- (1) The Minister may establish committees (in this section referred to as "advisory committees") consisting of such numbers of persons as the Minister thinks fit to advise the Minister on such matters as the Minister refers to the committees.
- (2) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member of an advisory committee in respect of the office of member.
- (3) The Minister may at any time remove any member of an advisory committee from office.
- (4) A member of an advisory committee may at any time resign that office in writing addressed to the Minister.
- (5) Subject to subsection (6), the Minister shall determine the terms and conditions of the appointment of each member of an advisory committee.

S. 8(2)
amended by
No. 46/1998
s. 7(Sch. 1),
substituted by
Nos 108/2004
s. 117(1)
(Sch. 3
item 100.1),
80/2006
s. 26(Sch.
item 51.1).

S. 8(4)
amended by
No. 26/1987
s. 21.

- (6) Each member shall receive such salary and allowance (if any) as may be determined from time to time for statutory appointees by the Governor in Council.

Division 2—The Director of Housing

9 Director of Housing

- (1) There shall be a Director of Housing to whom the following provisions shall apply—

(a) the Director of Housing—

- (i) shall be appointed by the Governor in Council and may at any time be removed from office by the Governor in Council;

- (ii) is in respect of that office subject to the **Public Administration Act 2004** (other than Part 3 of that Act);

- (iii) subject to this Act, shall be entitled to hold office for the term (not exceeding seven years) for which he or she is appointed but shall be eligible for re-appointment; and

- (iv) shall hold office on such terms and conditions and be entitled to receive such salary and allowances as are from time to time fixed by the Governor in Council.

S. 9(1)(a)(ii)
amended by
Nos 26/1987
s. 21, 46/1998
s. 7(Sch. 1),
substituted by
Nos 108/2004
s. 117(1)
(Sch. 3
item 100.2),
80/2006
s. 26(Sch.
item 51.2).

S. 9(1)(a)(iii)
amended by
No. 26/1987
s. 21.

- | | |
|--|--|
| (b) where a person who is not an employee in the public service within the meaning of the Public Administration Act 2004 ; is appointed as Director of Housing, a term or condition fixed by the Governor in Council under subsection (1)(a)(iv) may provide that— | S. 9(1)(b)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 100.3). |
| (i) where that person is removed from office prior to the expiration of the term of appointment, he or she shall be entitled— | S. 9(1)(b)(i)
amended by
No. 26/1987
s. 21. |
| (A) to such compensation as is specified in the term or condition;
or | |
| (B) notwithstanding anything in the Public Administration Act 2004 , to be employed in some position in the public service with such designation as is specified in the term or condition; | S. 9(1)(b)(i)(B)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 100.3). |
| (ii) where that person is not appointed to a further term at the expiration of the term of appointment, he or she shall be entitled, despite anything in the Public Administration Act 2004 , to be employed in some position in the public service with such designation as is specified in the term or condition; | S. 9(1)(b)(ii)
amended by
Nos 26/1987
s. 21, 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 100.3). |
| (c) the Director of Housing shall not, during his or her continuance in office, engage directly or indirectly in any paid employment outside the duties of that office without the consent of the Governor in Council; | S. 9(1)(c)
amended by
No. 26/1987
s. 21. |
| (d) the Director of Housing may resign that office by writing under his or her hand addressed to the Governor in Council; | S. 9(1)(d)
amended by
No. 26/1987
s. 21. |

S. 9(1)(e)
amended by
No. 26/1987
s. 21.

(e) the office of Director of Housing shall become vacant if the Director of Housing becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, or compounds with his or her creditors or makes an assignment of remuneration for their benefit; and

S. 9(1)(f)
amended by
Nos 26/1987
s. 21, 50/1988
s. 93(2)(Sch. 2
Pt 2 item 24).

(f) if the Director of Housing was immediately prior to appointment an officer within the meaning of the **State Superannuation Act 1988** or any corresponding previous enactment, he or she shall, notwithstanding that appointment, be deemed to continue to be an officer within the meaning of, and subject to, that Act.

S. 9(2)
amended by
No 26/1987
s. 21.

(2) The Director of Housing and his or her successors in office shall, subject to this Act, be a body corporate under the name of the "Director of Housing" and shall, by that name, have perpetual succession and a corporate seal and be capable in law of suing and being sued and of acquiring, holding and disposing of real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer and that are necessary for or incidental to the purposes of this Act.

(3) For the purposes of this Act, the Director shall have and may exercise the powers, discretions, functions and authorities and shall discharge the duties conferred or imposed on it by or under this or any other Act.

(4) The Director shall not, for the purposes of any Act, be regarded as representing the Crown in any capacity whatsoever.

S. 9(5)
repealed by
No. 46/1998
s. 7(Sch. 1).

* * * * *

10 Director to be subject to the direction and control of Minister

- (1) In the exercise of the powers, discretions, functions and authorities and in the discharge of the duties conferred or imposed upon the Director by or under this or any other Act, the Director shall be subject to the direction and control of the Minister.
- (2) The Director shall furnish the Minister with such reports, documents, papers, minutes and other information as may be required by Parliament pursuant to any Act or pursuant to any order of either House of Parliament.
- (3) The Director shall also provide the Minister with regular reports on all business of the Director and shall furnish the Minister with any information which the Minister may require.

11 Director to be successor to Housing Commission and Home Finance Trust

- (1) In this section—
 - (a) *appointed day* means the day on which this Act comes into operation;
 - (b) *Commission* means the Housing Commission established by the **Housing Act 1958**; and
 - (c) *Trust* means the Home Finance Trust constituted under the **Home Finance Act 1962**.
- (2) On the appointed day—
 - (a) all rights, property and assets that, immediately before that day, were vested in the Commission or the Trust are, by force of this subsection, vested in the Director;

- (b) all debts, liabilities and obligations of the Commission or the Trust existing immediately before that day, become, by force of this subsection, debts, liabilities and obligations of the Director;
- (c) the Director shall, by force of this subsection, be substituted as a party to any proceedings pending in any court to which the Commission or the Trust was a party immediately before that day;
- (d) the Director shall, by force of this subsection, be substituted as a party to any arrangement or contract entered into by or on behalf of the Commission or the Trust as a party and in force immediately before that day; and
- (e) any reference to the Commission or the Trust in any Act or in any proclamation, Order in Council, rule, regulation, order, agreement, instrument, deed or other document whatsoever shall, so far as it relates to any period after that day and if not inconsistent with the context or subject-matter, be construed as a reference to the Director.

S. 12
amended by
No. 26/1987
s. 21,
repealed by
No. 75/1994
s. 15.

* * * * *

Part III—Powers of Director as to property

13 Ministerial control

Without derogating from the generality of section 10(1), the Director shall be subject to the direction and control of the Minister in exercising the powers, discretions, functions and authorities and discharging the duties conferred or imposed upon the Director by or under this Part.

14 Power to acquire and dispose of land

(1) The Director may for the purposes of this Act—

- (a) except as otherwise provided by this section, purchase or compulsorily acquire any land;
- (b) with the consent of the Minister administering the **Crown Land (Reserves) Act 1978**, purchase or acquire any Crown land;
- (c) purchase or acquire from a municipal council or public statutory corporation any land vested in the municipal council or corporation other than land reserved under section 4 of the **Crown Land (Reserves) Act 1978**;
- (d) upon such terms and conditions and subject to such restrictions, exceptions and reservations as the Director thinks fit, exchange any land of the Director (other than land granted to the Director by the Crown without consideration) for any other land and give or receive consideration in respect of that exchange;

S. 14(1)(b)
amended by
No. 46/1998
s. 7(Sch. 1).

S. 14(1)(c)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 61.2).

S. 14(1)(g)
amended by
No. 109/1997
s. 533(Sch. 2
item 4.1(a)).

S. 14(1)(h)
amended by
No. 109/1997
s. 533(Sch. 2
item 4.1(b)).

- (e) sell to any person any land vested in the Director on such terms and conditions (including terms and conditions as to repayment or the use or development of the land or any part thereof) as the Director thinks fit;
 - (f) make grants of any land vested in the Director free of consideration to any person and subject to such terms and conditions as the Director thinks fit;
 - (g) subject to the **Residential Tenancies Act 1997**, lease any land vested in the Director to any person of not less than fifteen years of age or to any body corporate for such period and on such terms and conditions as the Director thinks fit;
 - (h) subject to the **Residential Tenancies Act 1997**, sub-lease any land in respect of which the Director has a leasehold interest to any person of not less than fifteen years of age or to any body corporate in accordance with the terms of the head lease; and
 - (i) buy and sell mortgages.
- (2) Part I of Schedule 2 has effect for the purposes of this section.

15 Power to develop and manage land

S. 15(1)(a)
amended by
No. 106/2004
s. 7(2)(a).

S. 15(1)(b)
amended by
No. 106/2004
s. 7(2)(b).

- (1) The Director may for the purposes of this Act and for all purposes ancillary to those purposes—
- (a) develop any land which is vested in the Director or in respect of which the Director has a leasehold estate; and
 - (b) generally control, manage or use any land which is vested in or leased to or subject to any mortgage or security in favour of the Director; and

- (c) maintain and repair and generally control, manage or use any houses and buildings situated on any such land as is referred to in paragraph (b); and
- (ca) at the request of the Secretary, and on terms and conditions agreed between the Director and the Secretary—

S. 15(1)(ca)
inserted by
No. 106/2004
s. 7(1).

 - (i) develop any land which is vested in the Secretary or in respect of which the Secretary has a leasehold estate;
 - (ii) generally control, manage or use any land which is vested in or leased to or subject to any mortgage or security in favour of the Secretary;
 - (iii) maintain and repair and generally control, manage or use any houses and buildings situated on land referred to in subparagraph (ii); and
- (cb) at the request of a registered agency, and on terms and conditions agreed between the Director and the registered agency—

S. 15(1)(cb)
inserted by
No. 106/2004
s. 7(1).

 - (i) develop any land which is vested in the agency or in respect of which the agency has a leasehold estate;
 - (ii) generally control, manage or use any land which is vested in or leased to or subject to any mortgage or security in favour of the agency;
 - (iii) maintain and repair and generally control, manage or use any houses and buildings situated on land referred to in subparagraph (ii); and

S. 15(1)(d)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 61.3).

- (d) with the consent of the Governor in Council and at the request and on behalf of, or in association with, and at the expense of the Commonwealth or the State of Victoria or any public department or authority of the Commonwealth or the State of Victoria or any municipal council—
 - (i) develop any land whether or not it is vested in the Director;
 - (ii) generally control, manage or use any such land; and
 - (iii) maintain and repair and generally control, manage or use any houses and buildings situated on any such land.
- (2) In subsection (1) the words *for all purposes ancillary to those purposes* include the provision of all necessary community services and amenities.

16 Power to create and extinguish easements etc.

- (1) The Director may for the purposes of this Act—
 - (a) grant to or create in favour of any person any easement over land vested in the Director for such payment and on such terms and conditions as the Director thinks fit; and
 - (b) where the Director is of the opinion that, for the proper planning and development of any area in which the Director has developed, or is developing, land, it is expedient that any street or any part of a street should be closed or that any easement or restrictive covenant should be extinguished, the Director may, subject to Part II of Schedule 2, recommend to the Governor in Council that such street or part thereof be closed or that such easement or restrictive covenant be extinguished and the Governor in Council may by Order close

such street or part thereof or extinguish such easement or restrictive covenant.

- (2) Notwithstanding paragraph (a) of subsection (1), in any case where—
- (a) by reason of the acquisition of any land by the Director or the vesting of any land in the Director or the operation of any Order of the Governor in Council made pursuant to this Act, it is desirable that an easement of way or of drainage or for the supply of water, gas or electricity or for sewerage services or for underground telephone services should be created appurtenant to any land not acquired by or vested in the Director (which land is hereunder called the "dominant tenement") whether or not such easement would be in substitution for any express or implied easement which is extinguished; and
 - (b) the Director certifies that provision exists or will be made for means of way or of drainage or for any such supply or services as is mentioned in paragraph (a) (as the case requires) on, over or under any land vested in the Director and in respect of which a plan of subdivision is lodged with the Registrar of Titles under section 97 of the **Transfer of Land Act 1958**—

then without any further or other authority than this subsection an easement of way or of drainage or for such supply or services as is mentioned in paragraph (a) (as the case requires), so far as is necessary for the reasonable enjoyment of the dominant tenement, shall on and from the deposit of the Director's certificate with the Registrar of Titles be deemed to exist in favour of and appurtenant to the dominant tenement on, over or

S. 16(3)
amended by
Nos 26/1987
s. 4, 53/1988
s. 45(Sch. 3
item 20) (as
amended by
No. 47/1989
s. 23(2)).

under the land appropriated or set apart for the appropriate purpose on that plan of subdivision.

- (3) Where any dominant tenement referred to in subsection (2) lies within or abuts on the boundaries of the land subdivided and to which the deposited plan relates, that dominant tenement may be numbered consecutively with the allotment or lot in that subdivision as though it were included therein and for the purposes of section 97(4) of the **Transfer of Land Act 1958** shall be deemed to be an allotment in that subdivision.
- (4) On the publication of any Order closing a street or part thereof under paragraph (b) of subsection (1) such street or part thereof (whether it is the property of the Crown or not) shall cease to be a street and thereupon all rights and interests existing or claimed as regards the land comprised therein either by the public or any person or body of persons shall cease and determine and the land shall be vested in the Director freed and discharged from all trusts, encumbrances, limitations or restrictions whatsoever.
- (5) On the publication of any Order extinguishing an easement or restrictive covenant under paragraph (b) of subsection (1) such easement or restrictive covenant shall cease and determine.
- (6) Subject to subsection (2), any owner of land who is substantially affected by the carrying into effect of a recommendation of the Director made under paragraph (b) of subsection (1) shall be entitled to such compensation as is agreed between the Director and that owner or in default of agreement as is determined under Part XLIV of the **Local Government Act 1958** and that Part shall with such adaptations as are necessary extend and apply for the purposes of this section.

- (7) Part II of Schedule 2 has effect for the purposes of this section.

17 Power to accept donations etc.

- (1) The Director may for the purposes of this Act—
- (a) subject to paragraph (b), accept any absolute donation, gift, devise or bequest of real or personal property; or
 - (b) with the consent of the Governor in Council, accept any donation, gift, devise or bequest of real or personal property subject to any trust the objects of which are not substantially different from those of this Act and carry out and give effect to the objects of any such trust.
- (2) Part III of Schedule 2 has effect for the purposes of this section.

18 Provision of movable units

- (1) The Director may for the purposes of this Act enter into an agreement with any person for the sale or letting out on hire to that person of a movable unit on such terms and conditions as the Director thinks fit.
- (2) For the purposes of this section the Director may purchase, acquire or manufacture movable units.
- (3) Where any person is accommodated in a movable unit owned by the Director after a hiring agreement is determined, the Director may give notice in writing to the person requiring him or her to yield up possession of the unit and Part 7 of the **Residential Tenancies Act 1997** shall apply to and in relation to any person served with a notice under this subsection as if such notice were a notice to vacate under section 91ZZC of the **Residential Tenancies Act 1997**.

S. 18(1)
amended by
No. 26/1987
s. 5(1).

S. 18(3)
amended by
Nos 26/1987
ss 5(2)(a)(b),
21, 109/1997
s. 533(Sch. 2
item 4.2(a)(b)),
45/2018
s. 375(1).

S. 18(3A)
inserted by
No. 26/1987
s. 5(3).

- (3A) For the purpose of inspecting or removing a movable unit owned by the Director after a hiring agreement is determined, a person authorised in that behalf by the Director has power to enter at any reasonable time the land on which the unit is situated and the unit itself.
- (4) It shall be an offence to hinder or obstruct any person removing a movable unit owned by the Director from any land if that person is duly authorized by the Director in that behalf.
- Penalty: 2 penalty units.
- (5) Part IV of Schedule 2 has effect for the purposes of this section.

Part IV—Powers of the Director as to finance

Division 1—General

19 Ministerial control

Without derogating from the generality of section 10(1), the Director shall be subject to the direction and control of the Minister in exercising the powers, discretions, functions and authorities and discharging the duties conferred or imposed upon the Director by or under this Part.

20 Power to borrow money

- (1) The Director may obtain financial accommodation subject to and in accordance with the **Borrowing and Investment Powers Act 1987**¹.

S. 20(1)
amended by
No. 26/1987
s. 21,
substituted by
No. 99/1993
s. 16(1).

* * * * *

S. 20(2)
repealed by
No. 99/1993
s. 16(1).²

- (3) Without limiting the generality of subsection (1), the Director may³—

S. 20(3)
inserted by
No. 26/1987
s. 6,
amended by
No. 99/1993
s. 16(2).

- (a) contract with a corporation that is declared to be a recognised institution under section 3A(4) of the **Trustee Act 1958**, in respect of mortgages in which the Director has an interest; and
- (b) for the purpose of performing or facilitating the performance of such a contract, enter into any other contract or arrangement with any person.

21 Power to lend money

For the purposes of this Act the Director may lend to any person such sums of money as the Director thinks fit and any such loans may be on such security (if any) and on such terms and conditions as the Director thinks fit.

22 Investment of surplus funds⁴

S. 22(1)
substituted by
No. 99/1993
s. 16(3).

- (1) The Director may invest money standing to the credit of the general fund in accordance with powers conferred on the Director by the **Borrowing and Investment Powers Act 1987**⁵.

S. 22(2)
repealed by
No. 18/1994
s. 66(Sch. 2
item 8(b)).

* * * * *

S. 23
amended by
No. 26/1987
s. 7.

23 Death and disability benefits

For the purposes of this Act the Director may agree with a purchaser or mortgagor to forgo the payment of the whole or any part of the balance of the purchase or mortgage money that may be owing to the Director on the death or disability of the purchaser or mortgagor.

24 Power to make grants of money

- (1) For the purposes of this Act the Director may, on such terms and conditions and for such periods as it thinks fit, make grants of money to any person.
- (2) Without limiting the generality of subsection (1), the Director may make grants of money to any person for any of the following purposes—
- (a) the reduction in rental payments owed by that person to any other person;
 - (b) the reduction in payments of money owed by that person to any other person under any contract of sale or under any mortgage;

- (c) the provision of services relating to housing by any person;
 - (d) the carrying out of research relating to housing by any person; and
 - (e) to assist the establishment and operation of any housing or housing finance scheme carried on by any person.
- (3) Nothing in this section requires the Director to make a grant of money to any person even if the Director has previously made a grant of money to that person under this section.

S. 24(3)
inserted by
No. 106/2004
s. 8.

25 The general fund

- (1) The Director shall maintain a fund to be called the "general fund".
- (2) All moneys whatever received by the Director (including moneys raised by loan under this Act) shall be carried to the credit of the general fund.
- (3) The general fund shall be applied by the Director for and towards the costs and expenses (including the administrative expenses) of carrying out the objects of this Act.
- (4) The Director shall keep such accounts with an authorised deposit-taking institution within the meaning of the Banking Act 1959 of the Commonwealth as are approved by the Treasurer and shall pay into these accounts all moneys received by the Director.

S. 25(4)
amended by
No. 11/2001
s. 3(Sch.
item 36).

* * * * *

S. 26
amended by
No. 26/1987
s. 21,
repealed by
No. 99/1993
s. 16(4).⁶

S. 26A
inserted by
No. 26/1987
s. 8.

26A Guarantee and indemnity by Director⁷

S. 26A(1)
amended by
No. 99/1993
s. 16(5).

- (1) The Director may, with the approval of the Treasurer, execute a guarantee in favour of any person approved by the Director guaranteeing the repayment of any amount.
- (2) The Director may, with the approval of the Treasurer, provide an indemnity in favour of any person, and in respect of any liability, approved by the Director, whether or not that liability is incurred in the carrying out of the objects of this Act or in achieving its purposes.
- (3) A guarantee executed or an indemnity provided by the Director under subsection (1) or (2) is subject to any terms and conditions that the Director thinks appropriate.
- (4) Any amounts that from time to time become due and payable under a guarantee or an indemnity authorized by this section shall be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly).

27 Preparation of annual budgets by Director

S. 27(2)
amended by
No. 46/1998
s. 7(Sch. 1).

- (1) Before such date as may be fixed by the Minister, the Director shall submit to the Minister an operating budget and a capital works budget for the relevant financial year.
- (2) The budgets shall be in such form and contain such matter as is required by the Minister after consultation with the Minister administering Part 7 of the **Financial Management Act 1994**.

S. 27(3)
amended by
No. 26/1987
s. 21.

- (3) The Minister shall consider the budgets submitted by the Director and shall, as soon as practicable, advise the Director as to whether the Minister

approves the budgets or approves the budgets as amended by the Minister.

- (4) The Director shall operate within the budgets as approved by the Minister for the Director for the relevant year.
- (5) Where, during the course of a financial year, a change has occurred in the budgetary situation of the Director which, in the view of the Director or of the Minister is judged to be a significant change, or where the Minister deems it necessary, the Director shall submit to the Minister on the Director's own initiative or at the Minister's direction, a revised budget for the remainder of the year and the Minister shall consider that revised budget and shall, as soon as practicable, advise the Director as to whether the Minister approves the revised budget or approves a revised budget as amended by the Minister.
- (6) The Director shall operate within the revised budget, if any, from the date that the revised budget is approved by the Minister for the remainder of the financial year.
- (7) The Director shall provide to the Minister, in such form and containing such matter and within such time or times as the Minister directs, such information as the Minister may request from time to time relating to the budgetary position, finances, cash position, manpower position or other factors relevant to the Director's operations or capital works programme for the year or for any ensuing year or years.
- (8) Before the Minister approves any budget or revised budget pursuant to this section, the Minister shall—

S. 27(5)
amended by
No. 26/1987
s. 21.

S. 27(8)
amended by
No. 26/1987
s. 21.

S. 27(8)(a)
amended by
No. 26/1987
s. 21.

- (a) submit the budget the Minister proposes to approve for the Director for the whole financial year to the Treasurer for the Treasurer's consideration and approval; and
- (b) submit to the Treasurer any proposed revised budget for a portion of a financial year for the Treasurer's consideration and approval.

S. 28
amended by
No. 26/1987
s. 21,
repealed by
No. 93/1997
s. 28(Sch.
item 16).

* * * *

Pt 4 Div. 2
(Heading)
substituted by
No. 10259
s. 9(2).

Division 2—Commonwealth–State–Northern Territory Housing Agreements

S. 28A
inserted by
No. 10259 s. 4.

28A Definitions

In this Division—

1981 Agreement means the Commonwealth–State–Northern Territory Housing Agreement 1981, a copy of which is set out in Schedule 3;

1984 Agreement means the Agreement between the Commonwealth of Australia, the States and the Northern Territory relating to Housing (1984–1993), a copy of which is set out in Schedule 3A.

29 Ratification of Commonwealth–State–Northern Territory Housing Agreement 1981

S. 29(1)
amended by
No. 10259
s. 9(3).

- (1) The execution on 23 December 1981 by the then Premier of the State of Victoria for and on behalf of the State of Victoria of the 1981 Agreement is hereby ratified and the 1981 Agreement is hereby approved.

- (2) Schedule 4 has effect with respect to the agreements referred to in clause 1 of that Schedule.

29A Ratification of 1984 Agreement

S. 29A
inserted by
No. 10259 s. 5.

The execution on 12 March 1985 by the Premier of the State of Victoria for and on behalf of the State of Victoria of the 1984 Agreement is hereby ratified and the 1984 Agreement is hereby approved.

30 Director appointed agent for performance of Agreement

S. 30
amended by
No. 10259
ss 6(a), 9(3).

- (1) In accordance with clause 43 of the 1981 Agreement, the Director is hereby appointed the agency for the performance of the 1981 Agreement on behalf of the State of Victoria.
- (2) In accordance with clause 39 of the 1984 Agreement, the Director is hereby appointed the agency for the performance of the 1984 Agreement on behalf of the State of Victoria.

S. 30(2)
inserted by
No. 10259
s. 6(b).

31 Payment of money to Director

- (1) All money advanced to the State of Victoria by the Commonwealth under the 1981 Agreement or the 1984 Agreement shall be paid to the Director who shall have the supervision and control of that money.
- (2) The Director shall cause to be kept in the Director's books of account an account to be called the Home Purchase Assistance Account into which shall be paid all money advanced to the State of Victoria by the Commonwealth under Part IX of the 1981 Agreement or Part IX of the 1984 Agreement.

S. 31(1)
amended by
No. 10259
ss 7(a), 9(3).

S. 31(2)
amended by
Nos 10259
ss 7(b), 9(3),
26/1987 s. 21.

Housing Act 1983
No. 10020 of 1983
Part IV—Powers of the Director as to finance

S. 31(3)
amended by
No. 10259
s. 9(3).

(3) The Director is hereby declared to be a lending authority of the State approved by the Minister for the purposes of clause 25(1)(d)(ii) of the 1981 Agreement.

S. 31(3A)
inserted by
No. 10259
s. 7(c).

(3A) The Director is hereby declared to be a lending authority of the State approved by the Minister for the purposes of clause 26(1)(d)(ii) of the 1984 Agreement.

S. 31(4)
amended by
No. 10259
ss 7(d), 9(3).

(4) All money which is or may become payable by the State of Victoria to the Commonwealth of Australia under the 1981 Agreement or the 1984 Agreement shall be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly).

Part V—General

Division 1—Other powers of Director

32 Ministerial control

Without derogating from the generality of section 10(1), the Director shall be subject to the direction and control of the Minister in exercising the powers, discretions, functions and authorities and discharging the duties conferred or imposed upon the Director by or under this Part.

33 Director may enter into agreements

- (1) For the purposes of this Act and save as otherwise provided in subsection (2), the Director may enter into an agreement with any person or body corporate on such terms and conditions as the Director thinks fit.
- (2) Where an agreement under subsection (1) relates to the provision of services, the agreement shall be subject to any conditions that may be imposed by the Governor in Council from time to time.
- (3) Save with the approval of the Minister, the Director shall not enter into any agreement under subsection (1) where the sum of money required to be expended by the Director under that agreement in any one financial year exceeds the sum which is, from time to time, determined by the Minister.

34 Agreements with municipal councils, regional housing councils and non-trading co-operative

- (1) For the purposes of this Act, the Director may enter into an arrangement or agreement with a municipal council, a regional housing council (which has been recognized by the Minister and is incorporated under any Act) or a non-trading co-operative, whereby the municipal council,

S. 34(1)
amended by
Nos 12/1989
s. 4(1)(Sch. 2
item 61.4),
84/1996
s. 467(Sch. 6
item 8.3).

council or co-operative shall carry out any works, perform any functions or provide any services which the Director has power to carry out, perform or provide under this Act and such arrangement or agreement shall be on such terms and conditions as are agreed upon between the parties.

(2) Without limiting the generality of subsection (1), an arrangement or an agreement under this section may provide for—

(a) the whole or any part of the cost of carrying out the arrangement or agreement, including the cost of purchasing any land required therefor, to be paid by the Director;

(b) the transfer of any land for the purposes of carrying out the arrangement or agreement from the Director to the municipal council, regional housing council or non-trading co-operative;

(c) a loan to be made by the Director to meet the whole or any part of the cost of carrying out the arrangement or agreement, including the cost of purchasing any land required therefor; or

(d) the Director to pay the costs of providing any service during a specified period.

(3) Any municipal council, regional housing council or non-trading co-operative is hereby authorized and empowered to enter into arrangements or agreements for the purposes of this Act with the Director and may do or suffer any thing necessary or expedient for carrying any such arrangement or agreement into effect.

S. 34(2)(b)
amended by
Nos 12/1989
s. 4(1)(Sch. 2
item 61.5),
84/1996
s. 467(Sch. 6
item 8.3).

S. 34(3)
amended by
Nos 12/1989
s. 4(1)(Sch. 2
item 61.6),
84/1996
s. 467(Sch. 6
item 8.3).

- (4) With the prior approval of the Minister, the Director may enter into an arrangement or agreement of the kind referred to in subsection (1) with any body of persons where a substantial number of those persons are occupiers of houses owned or leased by the Director.

35 Delegation

- (1) With the prior approval of the Minister, the Director may delegate to any employee of the Department or to any other person or body any of the powers, discretions, functions or authorities of the Director under this or any other Act, except this power of delegation.

S. 35(1)
substituted by
No. 106/2004
s. 9,
amended by
No. 75/2016
s. 10(1).

* * * * *

S. 35(1A)
inserted by
No. 106/2004
s. 9,
repealed by
No. 75/2016
s. 10(2).

- (2) A delegate shall not exercise any power, discretion, function or authority delegated under this section until the Minister has approved the instrument of delegation concerned.

- (3) Where the exercise or performance by the Director of a power, discretion, function or authority is dependent upon the opinion, belief or state of mind of the Director in relation to a matter and the power, discretion, function or authority is delegated under this section, the delegate may, unless the contrary intention appears, exercise or perform the power, discretion, function or authority upon his or her own opinion, belief or state of mind (as the case may require) in relation to the matter.

S. 35(3)
amended by
No. 26/1987
s. 21.

- (4) Where the Minister has approved an instrument of delegation under subsection (2), the Minister may subsequently withdraw that approval and the

S. 35(4)
amended by
No. 26/1987
s. 21.

delegation shall thereupon be revoked but that revocation shall not affect in any way anything lawfully done under the delegated authority.

- (5) A delegation under this section may at any time be revoked by the Director, in whole or in part, but that revocation shall not affect in any way anything lawfully done under the delegated authority.
- (6) A delegation under this section does not prevent the exercise or performance by the Director of any of the powers, discretions, functions and authorities conferred on the Director by or under this Act.

S. 35(6)
amended by
No. 26/1987
s. 21.

36 Parking of vehicles

Schedule 5 shall have effect with respect to the parking of vehicles on any land vested in or held under lease by the Director.

S. 36A
inserted by
No. 26/1987
s. 9.

36A Insurance⁸

- (1) The Director may require the purchaser, mortgagor or owner of any land that is included in a contract of sale or a mortgage or other security held by the Director to insure the land and, while any money remains payable to the Director by that person, keep it insured against any loss or damage, and for any amount, that the Director determines.
- (2) The Director may contract with the purchaser, mortgagor or owner for the insurance of the land, on any terms and conditions that the Director thinks appropriate.
- (3) The Director's power to undertake insurance extends to undertaking insurance of any land that has been proposed in an application to the Director as security for a mortgage or other advance or loan.

- (4) The Director may require the insurance to be effected—
 - (a) with the Director; or
 - (b) with an insurer approved by the Director.
- (5) If the insurance is effected other than with the Director, the purchaser, mortgagor or owner must, immediately after the policy is issued, deliver the policy to the Director.
- (6) The Director must return the policy to the owner, mortgagor or purchaser immediately after all money due to the Director under the contract of sale or mortgage or other security has been paid.
- (7) The Director may re-insure any risk insured by the Director, on any terms and conditions that the Director thinks appropriate, with any person or body carrying on the business of insurance in the State.
- (8) For the purposes of this section—
 - (a) the Director is not an insurance company within the meaning of the **Fire Rescue Victoria Act 1958** and the **Country Fire Authority Act 1958**; and S. 36A(8)(a)
amended by
No. 20/2019
s. 179(a).
 - (b) any land insured with the Director under this section is uninsured within the meaning of those Acts; and
 - (c) the Director must pay any expenses and charges incurred by a fire brigade of Fire Rescue Victoria or of the Country Fire Authority in attending a fire on land insured with the Director. S. 36A(8)(c)
amended by
No. 20/2019
s. 179(b).

Division 2—Enforcement and miscellaneous provisions

37 Execution of documents

- (1) Where it is required that the Director give or issue any notice, declaration, certificate, direction or order or execute any document, this shall be done—

S. 37(1)(a)
amended by
No. 26/1987
s. 21.

- (a) under the corporate seal of the Director affixed by the Director of Housing who shall attest by his or her signature the fact and date of the affixing of the seal;

S. 37(1)(b)
amended by
Nos 26/1987
s. 21, 106/2004
s. 10(1).

- (b) under the corporate seal of the Director affixed by a person to whom for the time being the Director has delegated power for the purpose and who shall attest by his or her signature the fact and date of the affixing of the seal; or

S. 37(1)(c)
amended by
No. 106/2004
s. 10(1).

- (c) under the signature of the Director of Housing or of a person to whom for the time being the Director has delegated power for the purpose.

- (2) All courts and persons acting judicially—

- (a) shall take judicial notice of the seal of the Director affixed to any notice, declaration, certificate, direction, order or document; and
(b) shall, until the contrary is proved, presume that the seal was properly affixed.

- (3) All courts and persons acting judicially—

S. 37(3)(a)
amended by
No. 106/2004
s. 10(2).

- (a) shall take judicial notice of the signature affixed to any notice, declaration, certificate, direction, order or document of the Director of Housing or any person to whom for the time being the Director has delegated power

to sign such notice, declaration, certificate, direction, order or document; and

- (b) shall, until the contrary is proved, presume that the signature was properly affixed.

38 Improper interest in contracts

S. 38
substituted by
No. 106/2004
s. 11.

- (1) A prescribed person who is in any way improperly concerned or interested in any contract or agreement made by or on behalf of the Director is guilty of an offence and is liable to a penalty not exceeding 60 penalty units.
- (2) In this section *prescribed person* means—
- (a) the Director of Housing;
 - (b) the Registrar of Housing Agencies;
 - (c) an employee of the Department;
 - (d) a delegate of the Director.

39 Personal liability of officers

S. 39
amended by
Nos 26/1987
s. 21, 106/2004
s. 12(1).

The Director of Housing, an employee of the Department or any other person acting on behalf of the Director shall not be subject personally to any claim, action, liability or demand in respect of any action or step taken or not taken by that person on behalf of the Director, provided that in taking or not taking that action or step the person acted in good faith for the purpose of executing this Act or the regulations.

40 Giving false information

- (1) Where, pursuant to this Act or the regulations, a person is required to give information to any person (whether orally or in writing), the first-mentioned person shall not wilfully give information that is untrue in any particular.

Penalty: 21 penalty units.

- (2) A person shall not, in any application or other instrument made under or for the purposes of this Act or the regulations, wilfully give information that is untrue in any particular.

Penalty: 21 penalty units.

41 Offences

Any person who is guilty of an offence for which no penalty is provided elsewhere in this Act is liable to a penalty of not more than 10 penalty units and in the case of a continuing offence to a penalty of not more than 1 penalty unit for every day during which the offence continues after conviction.

42 Directions as to prosecutions

- (1) The Director may direct either generally or in any particular case that proceedings be taken in respect of breaches of or offences against this Act or the regulations wherever committed.
- (2) Any person authorized in that behalf by the Director may prosecute for any breach of or offence against this Act or the regulations.
- (3) No fee shall be payable on the filing of a charge-sheet or issue of a summons for the purposes of any such prosecution or proceedings.

S. 42(3)
amended by
Nos 57/1989
s. 3(Sch.
item 97.1),
68/2009
s. 97(Sch.
item 67.1).

43 Service of documents

- (1) Unless it is otherwise expressly provided, every notice, declaration, direction, order or other document which by or under this Act or the regulations is authorized or required to be given to the owner or occupier of any building or land shall be addressed to the owner or to the occupier of that building or land, and shall—

- | | |
|---|--|
| (a) if the owner or occupier and the place of residence of the owner or occupier are known to the person giving the notice, be served on such owner or occupier or left with some adult person at the place of residence of the owner or occupier; | S. 43(1)(a)
amended by
No. 26/1987
s. 21. |
| (b) if the owner and the place of residence of the owner are not known to the person giving the notice, be served on the occupier (if any) of the building or land or left with some adult person at the premises, or if there is no occupier, be put up on some conspicuous part of the building or land; or | S. 43(1)(b)
amended by
No. 26/1987
s. 21. |
| (c) if the occupier and the place of residence of the owner are not known to the person giving the notice, be put up on some conspicuous part of such building or land. | S. 43(1)(c)
amended by
No. 26/1987
s. 21. |
- (2) Any notice, declaration, direction, order or other document referred to in subsection (1) may also be served by post by pre-paid letter addressed to the owner or occupier and in proving service it shall be sufficient to prove that the notice, declaration, direction, order or other document was addressed to the usual or last-known place of residence or of business of the owner or occupier and was put into the post.
- (3) Any notice, declaration, direction, order or other document referred to in subsection (1) may be addressed by the description of "the owner" or "the occupier" of the building or land (naming it) in respect of which the notice, declaration, direction or order had been served on the last-mentioned owner or occupier respectively.

(4) Any document may be given to or served on the Director—

S. 43(4)(a)
amended by
No. 106/2004
s. 12(2).

- (a) by delivering it to an employee of the Department duly authorized in that behalf by the Director; or
- (b) by forwarding it by post in a pre-paid letter addressed to the Director.

44 Presumptions

In any prosecution or other legal proceeding under this Act no proof shall be required—

S. 44(c)
amended by
No. 26/1987
s. 21.

- (a) of any order or authority to prosecute;
- (b) of the powers of the Director; or
- (c) of the authority of any person to whom the Director has delegated any powers, functions, authorities or discretions under this Act.

45 Jurisdiction of courts

Save as otherwise expressly provided—

S. 45(a)
amended by
No. 16/1986
s. 30,
repealed by
No. 57/1989
s. 3(Sch.
item 97.2).

* * * * *

- (b) all money costs and expenses made payable or recoverable by or under this Act may be recovered in any court of competent jurisdiction.

Pt 6
(Heading and
ss 46–61)
amended by
No. 26/1987
s. 21,
repealed by
No. 84/1996
s. 465.

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Part VII—Standards of habitation

62 Definitions⁹

In this Part unless inconsistent with the context or subject-matter—

S. 62
amended by
No. 20/1996
s. 5(a).

Council means the council (as defined in section 3(1) of the **Local Government Act 2020**) in the municipal district of which a house the subject of a declaration is situated;

S. 62 def. of
Council
inserted by
No. 20/1996
s. 5(b),
amended by
No. 9/2020
s. 390(Sch. 1
item 54.1).

declaration means a declaration made under section 64 of this Act, section 56 of the **Housing Act 1958**, or section 8 of the **Slum Reclamation and Housing Act 1938**;

S. 62 def. of
declaration
inserted by
No. 20/1996
s. 5(b).

demolish, in the case of a house, includes the clearing away and removal from the land on which the house was situated of the resulting building debris;

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S. 62 def. of
Permanent head
repealed by
No. 26/1987
s. 11(1).

regulations means regulations made under section 63(1) as in force immediately before the commencement of the **Housing (Amendment) Act 1996**;

S. 62 def. of
regulations
amended by
No. 20/1996
s. 5(c).

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S. 62 def. of
step
repealed by
No. 20/1996
s. 5(d).

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S. 62(2)
repealed by
No. 26/1987
s. 12.

Ss 63–66
repealed.¹⁰

* * * *

67 Alterations or demolition of house by Council

S. 67(1)
amended by
No. 26/1987
s. 14(a),
substituted by
No. 20/1996
s. 7(1).

- (1) Subject to section 68A, if an owner fails to comply with a direction under section 66 (or any corresponding previous enactment), within the period specified for compliance, the Council may¹¹—
 - (a) do all or any of the acts or things which the Council considers necessary to make the house comply with the regulations or to give effect to any direction made under section 66 (or any corresponding previous enactment) notwithstanding that the direction had not required some or any of those acts to be done; or
 - (b) demolish the house (where the case so requires).

S. 67(2)
amended by
Nos 26/1987
s. 14(a),
20/1996
s. 7(2).

- (2) The Council may recover from the owner any expenses incurred under subsection (1) and any such expenses shall be, as from such date as the Council determines, and until paid to the Council shall remain, a first charge on the land in respect of which or on which is situated the house in respect of which the expenses were incurred¹².

S. 67(2A)
inserted by
No. 26/1987
s. 14(b).

- (2A) Any such expenses bear interest from the date determined under subsection (2) until payment at the rate for the time being fixed under section 2 of the **Penalty Interest Rates Act 1983**¹³.

S. 67(3)
amended by
Nos 26/1987
s. 14(a),
20/1996
s. 7(3).

- (3) The Council may sell or dispose of any material taken from any house in the course of carrying out any operation under subsection (1) and shall apply the proceeds of any such sale for and towards the expenses incurred by the Council in respect of that

operation and shall pay the surplus (if any) to the owner.

68 Council may give notice requiring house to be and to remain unoccupied or requiring the occupier to vacate house

- (1) Where a direction has been made under section 66 (or any corresponding previous enactment), the Council may serve a notice in writing on the occupier (if any) of the house to which the direction relates and affix a copy of the notice to that house requiring, as on and from a specified date (being a date not less than fourteen days after the service of that notice) ¹⁴—

S. 68(1)
amended by
Nos 26/1987
ss 11(2), 21,
20/1996
s. 8(1)(a)–(c).

- (a) that house to be and to remain unoccupied;
or
(b) the occupier of that house to vacate that house—

unless (in the case where the direction has required that house to be made to comply with the regulations in whole or part) that house is to the satisfaction of the Council made to comply with the regulations in whole or as to such part before that specified date.

- (2) Every person who after the expiration of the period specified in any notice served under subsection (1) inhabits or occupies the house to which that notice relates or permits or authorizes any person to inhabit or occupy that house shall, unless the Council has issued a certificate of clearance in writing certifying that the house has been made to comply with the regulations or revoked the declaration to which the notice applies under section 68A, be guilty of an offence.

S. 68(2)
amended by
Nos 26/1987
s. 11(2),
20/1996
s. 8(2)(a)(b).

S. 68A
inserted by
No. 20/1996
s. 9.

68A Revocation of declaration^{15, 16}

- (1) A Council may, by notice in writing served on the owner and the occupier (if any) of the house the subject of the declaration, revoke a declaration even though the Council is not satisfied that the house complies with the regulations.
- (2) The Council may revoke a declaration under this section only if it is satisfied that—
 - (a) the owner has made every reasonable endeavour to comply with the regulations; or
 - (b) it would cause the owner undue hardship to comply with the regulations.
- (3) Any directions under section 66 (or any corresponding previous enactment) in force immediately before the revocation of a declaration cease to have effect on the revocation of that declaration.
- (4) This section does not limit the circumstances in which a declaration may cease to operate.

S. 69
amended by
No. 26/1987
ss 11(2), 21,
repealed by
No. 20/1996
s. 10.¹⁷

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S. 70
amended by
No. 26/1987
s. 15(1)–(3),
repealed by
No. 20/1996
s. 10.^{18, 19}

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71 Powers of entry

- | | |
|--|---|
| (1) For the purpose of ascertaining whether a house complies with the regulations or in the course of carrying out or exercising any of the functions or powers of the Council under this Part or the regulations, a person authorized in that behalf by the Council shall have power— | S. 71(1)
amended by
Nos 26/1987
s. 16(1)(a)–(c),
20/1996 s. 11. |
| (a) to enter any house between the hours of eight o'clock in the morning and six o'clock in the evening or any other building or land at any reasonable time; and | S. 71(1)(a)
amended by
No. 26/1987
s. 16(1)(d). |
| (b) to conduct such inspections and carry out such works as are necessary. | S. 71(1)(b)
amended by
No. 26/1987
s. 16(1)(e). |
| (2) A person referred to in subsection (1) shall not, except with the consent of any resident or where otherwise provided, enter any house in which any person resides until after the expiration of 24 hours' notice given for that purpose to any resident. | S. 71(2)
amended by
No. 26/1987
s. 16(2)(a)–(c). |
| (3) Notwithstanding anything in this section, a person authorized in that behalf by the Council shall have the power to enter any building or land at any time where the safety of the public or any resident is at risk. | S. 71(3)
amended by
Nos 26/1987
s. 16(3)(a)(b),
20/1996 s. 11. |
| (4) It shall be an offence to hinder or obstruct any person entering any house, building or land if that person is duly authorized by the Council in that behalf under subsection (1). | S. 71(4)
amended by
Nos 26/1987
s. 16(4),
20/1996 s. 11. |
| (5) A person who is duly authorized by the Council under subsection (1) to enter premises may, unless the premises are a house in which any person | S. 71(5)
inserted by
Nos 26/1987
s. 16(5),
20/1996 s. 11. |

resides, use any reasonable force that is necessary
to enter the premises.

S. 71A
inserted by
No. 26/1987
s. 17,
repealed by
No. 20/1996
s. 12.²⁰

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72 Incorporation of Schedule 6

Schedule 6 shall have effect for the purposes of
this Part.

Part VIII—The Registrar and rental housing agencies

Division 1—Introductory

73 Object of Part

The object of this Part is to provide a regulatory framework to encourage the development of rental housing agencies serving the housing needs of low-income tenants by providing for—

- (a) the registration of rental housing agencies; and
- (b) the regulation and monitoring of registered agencies.

Division 2—The Registrar of Housing Agencies

74 The Registrar of Housing Agencies

- (1) There shall be a Registrar of Housing Agencies.
- (2) The Registrar of Housing Agencies is to be appointed by the Governor in Council, on the recommendation of the Minister.

75 Term and conditions of appointment

- (1) Subject to this Part, the Registrar of Housing Agencies is entitled to hold office for the term, not exceeding 7 years, set out in the instrument of appointment.
- (2) The Registrar of Housing Agencies may be re-appointed.

Pt 8
(Heading and
s. 73)
amended by
Nos 26/1987
ss 18, 21,
84/1996
s. 467(Sch. 6
item 8.4),
substituted as
Pt 8
(Heading and
ss 73–142) by
No. 106/2004
s. 5.

S. 73
substituted by
No. 106/2004
s. 5.

S. 74
inserted by
No. 106/2004
s. 5.

S. 75
inserted by
No. 106/2004
s. 5.

S. 75(6)
amended by
No. 106/2004
s. 13(2).

S. 75(7)
substituted by
Nos 106/2004
s. 13(3),
80/2006
s. 26(Sch.
item 51.3).

- (3) The Registrar of Housing Agencies holds office on the terms and conditions from time to time fixed by the Governor in Council.
- (4) The Registrar of Housing Agencies is entitled to the salary and allowances (if any) from time to time fixed by the Governor in Council.
- (5) The Registrar of Housing Agencies must not, during his or her continuance in office, engage directly or indirectly in any paid employment outside the duties of that office without the consent of the Governor in Council.
- (6) Despite subsection (5), a person employed under Part 3 of the **Public Administration Act 2004** may also hold the office of Registrar of Housing Agencies but is not entitled to any salary or allowances for holding that office.
- (7) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to the Registrar of Housing Agencies in respect of that office.
- (8) If the Registrar of Housing Agencies was, immediately prior to appointment to that office, an officer within the meaning of the **State Superannuation Act 1988**, he or she is, despite that appointment, deemed to continue to be an officer within the meaning of, and subject to, that Act.

S. 76
inserted by
No. 106/2004
s. 5.

76 Termination of appointment

- (1) The Governor in Council may at any time remove the Registrar of Housing Agencies from office.
- (2) The Registrar of Housing Agencies may resign that office by writing under his or her hand addressed to the Minister.

- (3) The office of Registrar of Housing Agencies becomes vacant if the Registrar of Housing Agencies becomes bankrupt.

77 Acting Registrar of Housing Agencies

S. 77
inserted by
No. 106/2004
s. 5.

- (1) The Minister may appoint a person to act as Registrar of Housing Agencies in the event of a vacancy (including an initial vacancy) in that office or the absence of the holder of that office.
- (2) The Acting Registrar of Housing Agencies may be appointed for a period not exceeding 6 months and may be re-appointed.
- (3) The Acting Registrar of Housing Agencies shall, while so acting, have all the powers and may exercise any of the functions of the Registrar of Housing Agencies as if he or she were the Registrar of Housing Agencies.
- (4) The Acting Registrar of Housing Agencies holds office on the terms and conditions from time to time fixed by the Minister.
- (5) The Acting Registrar of Housing Agencies is entitled to the salary and allowances (if any) from time to time fixed by the Minister.
- (6) A person employed under Part 3 of the **Public Administration Act 2004** may also hold the office of Acting Registrar of Housing Agencies but is not entitled to any salary or allowances for holding that office.

S. 77(6)
amended by
No. 106/2004
s. 13(4).

78 Creation of Registrar as body corporate

S. 78
inserted by
No. 106/2004
s. 5.

The Registrar of Housing Agencies and his or her successors in office shall, subject to this Act be a body corporate under the name of the "Registrar of Housing Agencies" and shall, by that name—

- (a) have perpetual succession and a corporate seal; and

- (b) be capable in law of suing and being sued and of acquiring, holding and disposing of real and personal property; and
- (c) be capable in law of doing and suffering all acts and things that bodies corporate may by law do and suffer.

S. 79
inserted by
No. 106/2004
s. 5.

79 Functions of Registrar

The functions of the Registrar are—

- (a) to register rental housing agencies under this Part;
- (b) to establish and maintain the Register of Housing Agencies;
- (c) to recommend to the Minister the making of regulations for the purposes of this Part;
- (d) to recommend to the Minister the making of performance standards to be met by registered agencies;
- (e) to monitor compliance by registered agencies with the performance standards, this Part and the regulations under this Part;
- (f) to provide the Minister with any information and reports about the carrying out of the functions of the Registrar as the Minister may request;
- (g) any other functions conferred on the Registrar by this Act or the regulations.

S. 80
inserted by
No. 106/2004
s. 5.

80 Registrar to be subject to direction and control of Minister

The Registrar is subject to the direction and control of the Minister in carrying out any function under this Part or the regulations.

Division 3—Registration of rental housing agencies

81 Application for registration

S. 81
inserted by
No. 106/2004
s. 5.

- (1) A rental housing agency may apply to the Registrar to be registered under this Part.
- (2) An application must be in the form approved by the Registrar.
- (3) An application must identify all land in which the rental housing agency has a legal or equitable interest.
- (4) An application must be accompanied by a copy of any existing agreement referred to in section 107(2) that relates to land of the rental housing agency.
- (5) An application must be accompanied by a copy of the constitution or rules of the rental housing agency.
- (6) An application must be accompanied by the following declarations by the rental housing agency—
 - (a) a declaration that the rental housing agency has complied with the financial and other reporting requirements of the Act under which it is incorporated; and
 - (b) a declaration that the rental housing agency has complied with any taxation reporting requirements of the Australian Taxation Office applicable to the agency; and
 - (c) unless the Registrar has given an approval under section 82(1), a declaration that the rental housing agency does not act as a trustee for any person (other than a registered agency) in relation to any land or other assets; and

- (d) unless the Registrar has given an approval under section 82(2), a declaration that the rental housing agency is not a subsidiary of any body other than a registered agency.
- (7) A declaration under subsection (6) must be in a form approved by the Registrar.
- (8) An application must be accompanied by the relevant prescribed fee (if any).

S. 82
inserted by
No. 106/2004
s. 5.

82 Approval for other functions

- (1) The Registrar may approve the registration of a rental housing agency that acts as trustee if the Registrar is satisfied that the role of trustee will not adversely affect the ability of the agency to comply with the prescribed registration criteria and the performance standards.
- (2) The Registrar may approve the registration of a rental housing agency that is a subsidiary of a body other than a registered agency if the Registrar is satisfied that its status as a subsidiary will not adversely affect the ability of the agency to comply with the prescribed registration criteria and the performance standards.

S. 83
inserted by
No. 106/2004
s. 5.

83 Further information

- (1) The Registrar may require a rental housing agency to provide any further information that the Registrar considers appropriate to an application by that agency.
- (2) The Registrar may refuse an application for registration if the rental housing agency does not provide the further information required within a reasonable time after the requirement is made.

84 Registration

The Registrar may register a rental housing agency if the Registrar is satisfied that—

- (a) the application complies with this Part; and
- (b) the relevant prescribed fee (if any) has been paid; and
- (c) having regard to the prescribed registration criteria and any other relevant matter, registration is appropriate.

S. 84
inserted by
No. 106/2004
s. 5.

85 Category of registration

- (1) The Registrar may register a rental housing agency as a registered housing association or a registered housing provider.
- (2) The Registrar must have regard to the prescribed registration criteria in determining the category of registration appropriate for the rental housing agency.

S. 85
inserted by
No. 106/2004
s. 5.

86 Refusal of registration

- (1) If the Registrar is not satisfied that the requirements for registration in section 84 have been met, the Registrar must refuse to register the rental housing agency.
- (2) The Registrar must give the rental housing agency a written statement of the reasons for the decision to refuse to register the rental housing agency under this Part.
- (3) A statement of reasons may be given personally or by post.

S. 86
inserted by
No. 106/2004
s. 5.

87 Change of category of registration

- (1) The Registrar may change the category of registration of a registered agency if the circumstances of the registered agency change.

S. 87
inserted by
No. 106/2004
s. 5.

- (2) The Registrar must give written notice to a registered agency of any change in its category of registration under this Part.
- (3) The notice must include a written statement of the reasons for the decision to change the category of registration of the rental housing agency.
- (4) The notice may be given personally or by post.

S. 88
inserted by
No. 106/2004
s. 5.

88 Application for review

- (1) A rental housing agency may apply to VCAT for review of a decision by the Registrar to refuse to register it or to change its category of registration under this Part.
- (2) An application for review under this section must be made within 28 days after the day on which the statement of reasons is given under section 86 or the notice is given under section 87.

Division 4—Register of Housing Agencies

S. 89
inserted by
No. 106/2004
s. 5.

89 Establishment of Register

The Registrar must establish a Register of Housing Agencies.

S. 90
inserted by
No. 106/2004
s. 5.

90 What information is to be included in the Register?

The Registrar must include in the Register of Housing Agencies in respect of each registered agency—

- (a) the relevant information required by Part 1 of Schedule 8; and
- (b) any other information that is prescribed for the purposes of this section.

S. 91
inserted by
No. 106/2004
s. 5,
amended by
No. 13/2022
s. 33.

91 Changes to information recorded in the Register

A registered agency must notify the Registrar in writing within 28 days if there is any change to the information recorded in the Register of

Housing Agencies in respect of the registered agency.

Penalty: 10 penalty units.

92 Searches of the Register

S. 92
inserted by
No. 106/2004
s. 5.

- (1) The Registrar must make prescribed information in the Register of Housing Agencies available to any person on payment of the prescribed fee (if any).
- (2) The prescribed information is—
 - (a) the information set out in Part 2 of Schedule 8; and
 - (b) any other information that is prescribed for the purposes of this section.

Division 5—Duties and functions of registered agencies

Subdivision 1—Performance standards

93 Performance standards

S. 93
inserted by
No. 106/2004
s. 5.

- (1) The Minister may from time to time determine performance standards to be met by registered agencies.
- (2) The Minister may determine different performance standards for different categories of registered agencies.
- (3) The Minister must ensure that each performance standard is published in the Government Gazette.
- (4) A performance standard takes effect—
 - (a) on the day that is 30 days after the day that the performance standard is published in the Government Gazette; or
 - (b) if a later day is specified in the determination, on that later day.

- (5) The Minister may, by determination published in the Government Gazette, amend or revoke a performance standard.
- (6) A determination of an amendment or revocation of a performance standard takes effect—
 - (a) on the day that is 30 days after the day that the determination is published in the Government Gazette; or
 - (b) if a later day is specified in the determination, on that later day.

S. 94
inserted by
No. 106/2004
s. 5.

94 What can performance standards provide for?

Performance standards may be made in respect of any matter relating to the operation of registered agencies including, but not limited to—

- (a) governance of the agency;
- (b) management of the agency;
- (c) probity;
- (d) financial viability;
- (e) tenancy management;
- (f) housing management and maintenance;
- (g) allocation of housing;
- (h) affordability of rents;
- (i) risk management.

S. 95
inserted by
No. 106/2004
s. 5.

95 Registered agency to comply with performance standards

A registered agency must comply with the relevant performance standards applicable to that agency.

Subdivision 2—Dispute resolution

96 Application to complaints

- (1) This Subdivision applies to complaints by tenants or prospective tenants of a registered agency who are affected by decisions of the registered agency on matters relating to rental housing.
- (2) This Subdivision does not apply to a complaint that may be referred to VCAT under the **Residential Tenancies Act 1997**.

S. 96
inserted by
No. 106/2004
s. 5.

97 Registered agency to establish complaints procedure

- (1) A registered agency must establish a procedure for dealing with complaints by individuals who are tenants or prospective tenants of the registered agency who are affected by decisions of the registered agency on matters relating to rental housing.
- (2) A registered agency must take all reasonable steps to resolve a complaint referred to in subsection (1) within 30 days after the complaint is made to the registered agency.
- (3) A registered agency must—
 - (a) maintain a register of complaints made to it; and
 - (b) make that register available for inspection by the Registrar.

S. 97
inserted by
No. 106/2004
s. 5.

98 Referral of complaints to Registrar

- (1) An individual who is a tenant or prospective tenant of a registered agency and who has made a complaint to a registered agency may refer the complaint to the Registrar for investigation if the complaint is not resolved within 30 days after it is made.

S. 98
inserted by
No. 106/2004
s. 5.

- (2) The Registrar may refuse to investigate a complaint unless the complaint is referred to the Registrar within a reasonable time after the end of that 30 day period.

S. 99
inserted by
No. 106/2004
s. 5.

99 Investigation of complaint

- (1) The Registrar may appoint an employee of the Department to investigate the complaint.
- (2) A registered agency must co-operate with an investigation conducted in relation to it under this section.
- (3) Nothing in this section prevents the exercise by an inspector of any power under Division 7.

S. 100
inserted by
No. 106/2004
s. 5.

100 Direction of Registrar

- (1) If an investigation under this section upholds a complaint against a registered agency, the Registrar may in writing direct the registered agency to remedy the matter complained of or to take other action to reduce the likelihood of future complaints.
- (2) The direction may be given personally or by post.
- (3) A registered agency must comply with a direction of the Registrar under this section.

S. 101
inserted by
No. 106/2004
s. 5.

101 Application for review

- (1) A registered agency may apply to VCAT for review of a direction by the Registrar under section 100.
- (2) An application for review under this section must be made within 28 days after the day on which the direction is given under section 100.

Subdivision 3—Changes to constitution, rules or functions of registered agency

102 Change to constitution or rules of agency

S. 102
inserted by
No. 106/2004
s. 5.

- (1) A registered agency must give at least 28 days' notice to the Registrar before making any change to its constitution or to its rules.
- (2) Subsection (1) does not apply to a change of a kind declared by the Registrar under this section to be a minor change.
- (3) The Registrar may, by notice published in the Government Gazette, declare changes of a specified kind or specified kinds to the constitutions and rules of registered agencies to be minor changes for the purposes of this section.

103 Approval of changes to functions of registered agency

S. 103
inserted by
No. 106/2004
s. 5.

- (1) The Registrar may approve a registered agency acting as trustee if the Registrar is satisfied that the role of trustee will not adversely affect the ability of the agency to—
 - (a) comply with the prescribed registration criteria and the performance standards; or
 - (b) carry out its function of providing affordable housing to people on low incomes.
- (2) The Registrar may approve a registered agency being a subsidiary of a body other than a registered agency if the Registrar is satisfied that its status as a subsidiary will not adversely affect the ability of the agency to—
 - (a) comply with the prescribed registration criteria and the performance standards; or

- (b) carry out its function of providing affordable housing to people on low incomes.
- (3) An approval under this section must be in writing.

Subdivision 4—Reports by registered agency

S. 104
inserted by
No. 106/2004
s. 5.

104 Reports by registered agency

- (1) A registered agency must provide reports on its operations to the Registrar—
 - (a) annually in accordance with section 105; and
 - (b) at any other time required by the Registrar.

Penalty: 10 penalty units.

- (2) A report must be in a form approved by the Registrar.

S. 105
inserted by
No. 106/2004
s. 5.

105 Annual reports

- (1) The reports to be provided annually by a registered agency are—
 - (a) a report setting out its performance against the relevant performance standards;
 - (b) a report containing its financial statements and accounts in accordance with a direction under this section.
- (2) The Minister may give directions in relation to the contents of financial statements and accounts to be provided by registered agencies.
- (3) The Minister must cause a direction under this section to be published in the Government Gazette.

S. 105(4)
substituted by
No. 13/2022
s. 34.

- (4) A report referred to in subsection (1)(a) must—
 - (a) be certified by the board of directors of the registered agency; and
 - (b) be provided to the Registrar by 31 October in each year.

- (5) A report referred to in subsection (1)(b) must be provided to the Registrar in each year not more than 14 days after the annual general meeting of the registered agency.

S. 105(5)
inserted by
No. 13/2022
s. 34.

106 Declarations by registered agency

S. 106
inserted by
No. 106/2004
s. 5.

- (1) A registered agency must make the following declarations to the Registrar annually—
- (a) a declaration that the registered agency has complied with the financial and other reporting requirements of the Act under which it is incorporated in the previous financial year; and
 - (b) a declaration that the registered agency has complied with any taxation reporting requirements of the Australian Taxation Office applicable to the registered agency in the previous financial year; and
 - (c) unless the Registrar has given an approval under section 82(1) or 103(1), a declaration that the registered agency is not a trustee for any person (other than a registered agency) in relation to any land or other assets; and
 - (d) unless the Registrar has given an approval under section 82(2) or 103(2), a declaration that the registered agency is not a subsidiary of any body other than a registered agency.
- (2) The declarations must be provided to the Registrar in each year not more than 14 days after the annual general meeting of the registered agency.

S. 106(2)
amended by
No. 13/2022
s. 35.

Division 6—Powers of Director in relation to registered agency land

S. 107
inserted by
No. 106/2004
s. 5.

107 Director to have interest in certain registered agency land

- (1) The Director is deemed to have an interest in all land of a registered agency that is declared by notice published in the Government Gazette to be land to which this section applies.
- (2) The Director may publish a notice under subsection (1) in relation to land of a rental housing agency that is a registered agency if—
 - (a) the Director and the rental housing agency have agreed in writing (before or after the agency is registered under this Part) that this section should apply to the land because the land has been purchased or developed with funds provided by the Director; or
 - (b) the land was transferred to the rental housing agency by the Director (before or after the agency was registered under this Part).

S. 108
inserted by
No. 106/2004
s. 5.

108 Registered agency to notify Director of acquisition

- (1) A registered agency must give notice in writing to the Director—
 - (a) within 14 days after acquiring any interest in land; and
 - (b) without delay after the registered agency becomes aware that the owner of land, in which both the registered agency and the Director have an interest, intends to dispose of that land.
- (2) A notice must be in a form approved by the Director.

109 Consent of Director required to transfer interest in land

S. 109
inserted by
No. 106/2004
s. 5.

- (1) A registered agency or former registered agency must not transfer, sell, lease, mortgage, charge or otherwise deal with land in which the Director has an interest under this Division unless the Director consents in writing to that transfer, sale, lease, mortgage, charge or other dealing.
- (2) This section does not apply to—
 - (a) a residential rental agreement under the **Residential Tenancies Act 1997**; or
 - (b) a dealing of a class declared by the Minister to be exempt.
- (3) A declaration under this section must be published in the Government Gazette.
- (4) A consent under subsection (1) must not be unreasonably withheld.

S. 109(2)(a)
amended by
No. 45/2018
s. 375(2).

110 Interest may be recorded on title

S. 110
inserted by
No. 106/2004
s. 5.

- (1) The Director may apply to the Registrar of Titles to record in the Register kept under the **Transfer of Land Act 1958** its interest under this Division in land.
- (2) On an application under subsection (1), the Registrar of Titles must make a recording of the interest in the Register.
- (3) The Director may apply to the Registrar of Titles to cancel a recording made in the Register of an interest under this Division.
- (4) On an application under subsection (3), the Registrar of Titles must cancel the recording of the interest in the Register.

- (5) An application may be made under this section without production of the certificate of title.

Note

Section 76 of the **Transfer of Land Act 1958** requires creditors of a registered agency to serve notice on the Director as well as the registered agency in the event of a default affecting land of a registered agency in which the Director has an interest that is recorded on the Register under that Act.

S. 111
inserted by
No. 106/2004
s. 5.

111 Interest of Director to remain even if agency ceases to be registered agency

If a body ceases to be a registered agency, any interest that the Director held in land of the body immediately before it ceased to be a registered agency continues as if the body had continued to be a registered agency.

Division 7—Monitoring of registered agencies

S. 112
inserted by
No. 106/2004
s. 5.

112 Registrar of Housing Agencies is an inspector

The Registrar of Housing Agencies is an inspector for the purposes of this Part.

S. 113
inserted by
No. 106/2004
s. 5.

113 Appointment of inspectors

- (1) The Registrar may appoint persons to be inspectors for the purposes of this Part.
- (2) The appointment must be in writing and must specify the terms and conditions on which the person is appointed.
- (3) A person must not be appointed as an inspector under this section unless the person has completed appropriate training or qualifications as determined by the Registrar.

S. 114
inserted by
No. 106/2004
s. 5.

114 Inspector's identity card

- (1) The Registrar must issue an identity card to each inspector.

- (2) An identity card issued to an inspector must—
- (a) contain a photograph of the inspector to whom it is issued; and
 - (b) state the full name of the person; and
 - (c) state that the person is an inspector for the purposes of this Part.

115 Production of identity card

S. 115
inserted by
No. 106/2004
s. 5.

An inspector must produce his or her identity card for inspection—

- (a) before exercising a power under this Division other than a requirement made by post; and
- (b) at any time during the exercise of a power under this Division, if asked to do so.

Penalty: 10 penalty units.

116 Inspectors may require certain persons to appear, answer questions and produce documents

S. 116
inserted by
No. 106/2004
s. 5.

- (1) For the purpose of ascertaining whether the provisions of this Part, Part VIIIA, the regulations under this Part or Part VIIIA or the performance standards have been complied with, an inspector may by notice in a form approved by the Registrar—
- (a) require a registered agency to produce to the inspector, at a time and place specified in the notice, specified relevant documents relating to the registered agency; and
 - (b) require any person who is involved in the activities of a registered agency to produce to the inspector, at a time and place specified in the notice, specified relevant documents relating to the registered agency; and

S. 116(1)
amended by
No. 75/2016
s. 6.

- (c) require any person who is involved in the activities of a registered agency—
 - (i) to attend before the inspector at a time and place specified in the notice; and
 - (ii) to answer any questions put to the person by the inspector relating to the promotion, formation, membership, control, transactions, dealings, business or property of the registered agency.
- (2) A person is to be considered to be involved in the activities of a registered agency if the person—
 - (a) is or has been a member of the governing body of the registered agency, an officer or employee of the registered agency or an agent, banker, legal practitioner, auditor, accountant, book-keeper or other person acting in any capacity for, or on behalf of, the registered agency (including a registered agency that is in the course of being wound up or has had its incorporation cancelled); or
 - (b) is a person who has any relevant documents relating to the registered agency in his or her possession or control; or
 - (c) is a person who was a party to the creation of any relevant documents relating to the registered agency.
- (3) A person is not subject to any liability by reason of complying with a requirement made or purportedly made under this section.

S. 117
inserted by
No. 106/2004
s. 5.

117 Inspector's powers of entry

- (1) An inspector may enter any place (other than a residence) and may search for and seize any relevant documents or anything that the inspector believes on reasonable grounds to be connected with a failure to comply with this Part, the

regulations under this Part or the performance standards that is found on or in the place, if the entry, search and seizure are made—

- (a) with the consent of the occupier after the inspector has—
 - (i) informed the occupier of the purpose of the search; and
 - (ii) informed the occupier that anything seized during the search may be used by the Registrar in carrying out its powers and duties under this Part or in evidence in a court or before VCAT; and
 - (iii) informed the occupier that the occupier may refuse to give consent to the entry and search; and
 - (iv) produced his or her identity card for inspection; or
 - (b) in accordance with a warrant issued under section 118.
- (2) If an occupier consents to an entry and search, the inspector who requested consent must ask the occupier to sign an acknowledgment stating—
- (a) that the occupier has been informed of the purpose of the search and that anything seized during the search may be used by the Registrar in carrying out its powers and duties under this Part or in evidence in a court or before VCAT; and
 - (b) that the occupier has been informed that he or she may refuse to give consent to the entry and search; and
 - (c) that the occupier has consented to such an entry and search; and

- (d) the date and time that the occupier consented.
- (3) An occupier who signs an acknowledgment must be given a copy of the signed acknowledgment immediately.
- (4) If, in any proceeding, an acknowledgment is not produced to the court or VCAT, it must be presumed, until the contrary is proved, that the occupier did not consent to an entry and search.

S. 118
inserted by
No. 106/2004
s. 5.

118 Search warrant

- (1) An inspector may apply to a magistrate for the issue of a search warrant in relation to a particular place if—
 - (a) a registered agency or person does not comply with a requirement of an inspector under section 116 within the time specified in the notice; or
 - (b) there are reasonable grounds for suspecting that there may be at that place any document or thing that may be evidence of a failure by a registered agency to comply with this Part or the regulations under this Part or the performance standards.
- (2) The magistrate may issue the search warrant if the magistrate is satisfied by the evidence on oath or by affirmation or by affidavit, of an inspector that there are reasonable grounds for suspecting that there is, or may be within the next 28 days, at that place—
 - (a) a relevant document; or
 - (b) a document or thing that may be evidence of a failure by the registered agency to comply with this Part or the regulations under this Part or the performance standards.

S. 118(2)
amended by
No. 6/2018
s. 68(Sch. 2
item 67).

- (3) A search warrant under this section authorises the inspector named in the warrant and any assistants the inspector considers necessary—
 - (a) to enter the place specified in the warrant, if necessary by force; and
 - (b) to search for and seize—
 - (i) a relevant document named or described in the warrant; or
 - (ii) a document or thing named or described in the warrant and which the inspector believes on reasonable grounds to be connected with a failure by the registered agency to comply with this Part, the regulations under this Part or the performance standards.
- (4) A search warrant issued under this section must state—
 - (a) the purpose for which the search is required and the nature of the non-compliance suspected; and
 - (b) any conditions to which the warrant is subject; and
 - (c) whether entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and
 - (d) a day, not being later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.
- (5) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989**.
- (6) Except as provided by this Part, the rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

S. 119
inserted by
No. 106/2004
s. 5.

119 Announcement before entry

- (1) On executing a search warrant, the inspector executing the warrant must announce that he or she is authorised by the warrant to enter the place and, if the inspector has been unable to obtain unforced entry, must give any person at the place an opportunity to allow entry to the place.
- (2) An inspector need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the place is required to ensure the safety of any person or that the effective execution of the search warrant is not frustrated.

S. 120
inserted by
No. 106/2004
s. 5.

120 Details of warrant to be given to occupier

If the occupier or another person who apparently represents the occupier is present at premises where a search warrant is being executed, the inspector must—

- (a) identify himself or herself to that person; and
- (b) give to the person a copy of the warrant.

S. 121
inserted by
No. 106/2004
s. 5.

121 Seizure of documents or things not mentioned in the warrant

If, in the course of executing a search warrant, an inspector finds a document or thing that he or she believes on reasonable grounds to be—

- (a) connected with the failure to comply with this Part, the regulations under this Part or the performance standards, although not the document or thing named or described in the warrant; or

- (b) connected with another failure by the registered agency to comply with this Part, the regulations under this Part or the performance standards—

and the inspector believes, on reasonable grounds, that it is necessary to seize that document or thing in order to prevent its concealment, loss or destruction, the warrant is deemed to authorise the inspector to seize the document or thing.

122 Power of inspector to require information or documents

S. 122
inserted by
No. 106/2004
s. 5.

An inspector who exercises a power of entry under this Division and produces his or her identity card for inspection by a person may, to the extent that it is reasonably necessary to determine compliance with this Part, the regulations under this Part or the performance standards require the person—

- (a) to give information to the inspector, orally or in writing; and
- (b) to produce documents to the inspector; and
- (c) to give reasonable assistance to the inspector.

123 Functions of inspectors in relation to relevant documents

S. 123
inserted by
No. 106/2004
s. 5.

- (1) An inspector has the following powers in relation to relevant documents produced to the inspector pursuant to a requirement made under this Division—
 - (a) power to take possession of the documents or secure them against interference;
 - (b) power to make copies, or take extracts from, the documents;

- (c) power to require any person who was party to the creation of the documents to make a statement providing any explanation that the person is able to provide as to any matter relating to the creation of the documents or as to any matter to which the documents relate;
 - (d) power to retain possession of the documents for such reasonable period as is necessary to enable the documents to be inspected, and copies of, or extracts from, the documents to be made or taken.
- (2) While an inspector retains possession of a document, the inspector must permit a person who would be entitled to inspect the document were it not in the possession of the inspector to inspect the document at any reasonable time and make a copy of, or take extracts from, the document.
- (3) If an inspector takes possession of or secures against interference any relevant document and a person has a lien on the document, the inspector's actions do not prejudice the lien.
- (4) An inspector must not take possession of a document apparently in the possession or custody of a person unless the inspector makes out and tenders to the person a written receipt—
 - (a) identifying the document; and
 - (b) stating the name of the inspector and the reason why the document is being seized.

124 Offence—failing to comply with requirements of inspector

S. 124
inserted by
No. 106/2004
s. 5.

- (1) A person must not refuse or fail, without reasonable excuse, to comply with a requirement of an inspector under this Division to produce relevant documents or to give reasonable assistance to the inspector.

Penalty: 60 penalty units.

- (2) A person must not—

- (a) give information to an inspector that the person knows to be false or misleading in a material particular; or
- (b) produce a document that the person knows to be false or misleading in a material particular without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: 60 penalty units.

- (3) A person must not without reasonable excuse obstruct or hinder an inspector exercising functions under this Division.

Penalty: 60 penalty units.

125 Protection from incrimination

S. 125
inserted by
No. 106/2004
s. 5.

A person may refuse or fail to give information, produce a document or do any other thing that the person is required to do by or under this Division if the giving of the information, the production of the document or the doing of that other thing would tend to incriminate the person.

126 Privilege

S. 126
inserted by
No. 106/2004
s. 5.

- (1) A legal practitioner is entitled to refuse to comply with a requirement under section 116 or 122 relating to a relevant document if—

- (a) the document contains a privileged communication made by or on behalf of or to the legal practitioner in his or her capacity as a legal practitioner; or
 - (b) the legal practitioner is not able to comply with the requirement without disclosing a privileged communication made by or on behalf of or to the legal practitioner in his or her capacity as a legal practitioner.
- (2) The legal practitioner is not entitled to refuse to comply with the requirement to the extent that he or she is able to comply with it without disclosing the privileged communication.
- (3) The legal practitioner is also not entitled to refuse to comply with the requirement if the person by or on behalf of whom the communication was made or (if the person is a registered agency in the course of being wound up) the liquidator agrees to the legal practitioner complying with the requirement.
- (4) If the legal practitioner refuses to comply with the requirement, he or she must immediately furnish in writing to the Registrar—
 - (a) the name and address of the person to whom or by or on behalf of whom the communication was made (if known to the legal practitioner); and
 - (b) sufficient particulars to identify the document containing the communication (if the communication was made in writing).

Penalty: 60 penalty units.

127 Report on investigation

As soon as practicable after completing an investigation under this Division, an inspector must give a written report on the result of the investigation to the Registrar.

S. 127
inserted by
No. 106/2004
s. 5.

128 Secrecy

- (1) An inspector must not disclose information acquired in the course of an investigation under this Division except—
- (a) for the purpose of conducting the investigation and making a report of the investigation; or
 - (b) as permitted by subsection (2); or
 - (c) for the purpose of any proceedings under this Part; or
 - (d) with the consent of the person to whom the information relates.

Penalty: 60 penalty units.

- (2) An inspector may disclose information acquired in the course of an investigation—
- (a) to the Registrar, for any purpose related to the duties of the Registrar under this Part; or
 - (b) to a police officer, if the inspector reasonably suspects that an offence has been committed; or
 - (c) to a court or to VCAT; or
 - (d) to a person appointed as the liquidator of the registered agency.

S. 128
inserted by
No. 106/2004
s. 5.

S. 128(2)(b)
amended by
No. 37/2014
s. 10(Sch.
item 81.2).

Division 8—Powers of Registrar

129 Displacement of other laws

S. 129
inserted by
No. 106/2004
s. 5.

- (1) Sections 131, 132, 133 and 134 are declared to be Corporations legislation displacement provisions for the purposes of section 5G of the Corporations Act in relation to the provisions of Chapter 2B and Chapter 5 of that Act and the provisions of that Act set out in the table in section 141 of that Act.

Note

Section 5G of the Corporations Act provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision for the purposes of that section, any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not operate to the extent necessary to avoid the inconsistency.

- (2) This Division applies despite anything to the contrary in the Co-operatives National Law (Victoria) and the **Associations Incorporation Reform Act 2012**.

S. 129(2)
amended by
Nos 20/2012
s. 226(Sch. 5
item 16(2)),
9/2013
s. 42(Sch. 2
item 11(3)).

130 When powers of Registrar may be exercised

S. 130
inserted by
No. 106/2004
s. 5.

- (1) The Registrar may exercise a power under this Division in relation to a registered agency if—
- (a) there has been a failure by the registered agency to meet the prescribed registration criteria or the performance standards; or
 - (b) the registered agency fails to comply with a requirement or direction under section 91, 100, 104, 106, 108 or 109; or
 - (ba) in the case of a registered agency that is a participating registered agency, an authorised person employed or engaged by the participating registered agency fails to perform functions or exercise powers in

S. 130(1)(ba)
inserted by
No. 75/2016
s. 7.

- relation to the Victorian Housing Register in accordance with a determination of the Director under section 142E(1); or
- (bb) a relevant person referred to in paragraph (b) or (c) of the definition of *relevant person* in section 142I collects, uses or discloses relevant information for a purpose not referred to in section 142J; or
- (c) as a result of a change to the constitution or rules of the registered agency or the business activities carried on by the registered agency the Registrar believes that the ability of the agency—
- (i) to comply with the prescribed registration criteria and the performance standards; or
 - (ii) to carry out its function of providing affordable housing to people on low incomes—
- is, or will be, adversely affected; or
- (d) the registered agency fails to make an appointment to its governing body, in accordance with a recommendation of the Registrar under section 131, within 28 days after the recommendation is made.
- (2) The Registrar must not exercise a power under this Division unless the Registrar is satisfied that the exercise of the power—
- (a) is appropriate in the circumstances; and
 - (b) accords with any guidelines established under subsection (3).
- (3) The Minister may establish guidelines for the exercise of the Registrar's powers under this Division.

S. 130(1)(bb)
inserted by
No. 75/2016
s. 7.

- (4) Guidelines established under subsection (3) must be published in the Government Gazette.
- (5) The Registrar must make a copy of the current guidelines available to each registered agency.

S. 131
inserted by
No. 106/2004
s. 5.

131 Registrar may recommend appointments to governing body of registered agency

- (1) The Registrar, after consultation with the governing body of a registered agency and after considering any nominations made by that governing body, may recommend the appointment of one or more persons, whom the Registrar considers to be appropriately qualified, to that governing body.
- (2) The governing body of the registered agency may make an appointment recommended under subsection (1).
- (3) An appointment made under this section has effect as if it had been made in accordance with the constitution or rules of the registered agency.
- (4) A person may be appointed under this section in place of an existing member of the governing body or in addition to the existing members of the governing body of the registered agency.
- (5) This section applies despite anything to the contrary in the constitution or rules of the registered agency.

S. 132
inserted by
No. 106/2004
s. 5.

132 Registrar may give instructions to registered agency

- (1) The Registrar may give instructions to a registered agency or the members of the governing body of a registered agency.

- (2) The instructions may relate to—
- (a) the entering by the registered agency into arrangements that the Registrar considers appropriate with one or more other registered agencies;
 - (b) the appointment of one or more persons, whom the Registrar considers to be appropriately qualified, to the governing body of the registered agency;
 - (ba) the provision of information or the production of documents to the Registrar in relation to the performance of functions by the registered agency for the purposes of the Victorian Housing Register;
 - (c) the appointment of an administrator to control and direct the registered agency;
 - (d) the winding up and distribution of the assets of the registered agency;
 - (e) any other matter relating to the registered agency that the Registrar thinks fit.
- (3) The arrangements under subsection (2)(a) may include, but are not limited to, the following—
- (a) a transfer to one or more registered agencies of some or all of the land of a registered agency in which the Director has an interest;
 - (b) a merger of one or more registered agencies.
- (4) The instructions may specify—
- (a) the time within which a matter referred to in subsection (2) must be complied with; and
 - (b) conditions to which that matter is subject, including a requirement for prior approval of the Registrar.

S. 132(2)(ba)
inserted by
No. 75/2016
s. 8.

- (5) In giving an instruction or an approval under this section, the Registrar must have regard to the interests of the tenants of the registered agency.
- (6) The Registrar must take all reasonable steps to consult with the relevant regulatory body before giving any instruction or approval under this section.
- (7) The Registrar may consult with the creditors of a registered agency before giving any instruction or approval under this section.
- (8) A registered agency must comply with an instruction to it under this section.
- (9) A member of the governing body of a registered agency must comply with an instruction to the members of the governing body under this section.
- (10) Sections 131(3), 131(4) and 131(5) apply to an appointment made on an instruction under subsection (2)(b) as if it were made on a recommendation under section 131.
- (11) Nothing in this section prevents the Registrar from giving more than one set of instructions to a registered agency in relation to the same matter.
- (12) In this section—

merger includes amalgamation;

relevant regulatory body means—

- (a) in the case of a registered agency that is an incorporated association, the Registrar of Incorporated Associations under the **Associations Incorporation Reform Act 2012**;

S. 132(12)
def. of
*relevant
regulatory
body*
amended by
Nos 20/2012
s. 226(Sch. 5
item 16(3)),
9/2013
s. 42(Sch. 2
item 11(4)).

- (b) in the case of a registered agency that is a co-operative, the Registrar of Co-operatives established under the Co-operatives National Law (Victoria);
- (c) in the case of a registered agency that is a corporation, the Australian Securities and Investment Commission.

133 Duties of administrator

S. 133
inserted by
No. 106/2004
s. 5.

If an administrator is appointed to control and direct the affairs of a registered agency, the administrator—

- (a) must consult with the Registrar in carrying out his or her duties and functions; and
- (b) must have regard to the interests of tenants of the registered agency.

134 Agency to notify Registrar of intention to wind up

S. 134
inserted by
No. 106/2004
s. 5.

- (1) Subject to subsection (2), a registered agency must give at least 28 days' written notice to the Registrar before commencing any proceedings to wind up the registered agency.
- (2) A registered agency must give notice to the Registrar immediately on becoming aware of the existence of any circumstance giving rise to an obligation on the registered agency under a law of a State or Territory or of the Commonwealth to commence winding up proceedings.
- (3) A registered agency must give the Registrar written notice without delay after becoming aware of the commencement of proceedings by any other person to wind up the registered agency.

135 Registrar may indemnify certain persons

S. 135
inserted by
No. 106/2004
s. 5.

- (1) The Registrar, with the approval of the Minister and the Treasurer, may provide an indemnity in favour of any person appointed to the governing

body of a registered agency under section 131 or 132 against any claim or proceeding arising against them for anything done in good faith in the performance of their duties as a member of the governing body.

- (2) An indemnity provided by the Registrar under subsection (1) is subject to any terms and conditions that the Registrar thinks appropriate.
- (3) Any amounts that from time to time become due and payable under an indemnity authorised by this section shall be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly).

S. 136
inserted by
No. 106/2004
s. 5.

136 Registrar may provide financial accommodation to registered agency

- (1) If the Registrar exercises any power under section 131 or 132 in relation to a registered agency, the Registrar may, with the approval of the Minister and the Treasurer, provide financial accommodation or arrange for the provision of financial accommodation to a registered agency for any purpose associated with the exercise of that power.
- (2) In this section *financial accommodation* includes loan, grant, guarantee and waiver of payment of money.

S. 137
inserted by
No. 106/2004
s. 5.

137 Financial powers of Registrar

For the purposes of this Division, the Registrar has the powers conferred on it by the **Borrowing and Investment Powers Act 1987**.

S. 138
inserted by
No. 106/2004
s. 5.

138 Delegation by Registrar

The Registrar may delegate to any employee of the Department or to an inspector any power of the Registrar under this Division except this power of delegation.

139 Application for review

S. 139
inserted by
No. 106/2004
s. 5.

- (1) A registered agency or any member of the governing body of a registered agency may apply to VCAT for the review of—
 - (a) an instruction given by the Registrar under this Division;
 - (b) a decision by the Registrar to give or not to give an approval under this Division;
 - (c) a recommendation by the Registrar under section 131.
- (2) An application must be made within 28 days after the instruction, recommendation or notice of the decision is given to the registered agency.

140 Application for enforcement

S. 140
inserted by
No. 106/2004
s. 5.

If a registered agency or other person fails to comply with an instruction of the Registrar under section 132, the Registrar may apply to the Supreme Court for an Order requiring the agency or person to comply with that instruction within the time specified in the Order.

Division 9—Revocation of registration

141 Revocation of registration

S. 141
inserted by
No. 106/2004
s. 5.

- (1) The Registrar may revoke the registration of a registered agency under this Part if the Registrar is satisfied on reasonable grounds that—
 - (a) the registered agency has failed to meet one or more performance standards applicable to the registered agency; or
 - (b) the registered agency has failed to meet one or more of the prescribed registration criteria relevant to the registered agency; or
 - (c) the registered agency has failed to comply with section 91; or

- (d) the registered agency has failed to comply with a lawful direction or instruction of the Registrar under this Part; or
 - (e) the registered agency has ceased to operate as a rental housing agency; or
 - (f) the registered agency is unable to pay its debts or to continue carrying on its business.
- (2) The Registrar may revoke the registration of a registered agency under this Part on the written request of the registered agency.
 - (3) The Registrar must give the registered agency at least 14 days' written notice and the opportunity to be heard before revoking its registration under this Part.
 - (4) The Registrar must give the registered agency a written statement of reasons for a decision by the Registrar under subsection (1) to revoke its registration.
 - (5) A statement of reasons may be given personally or by post.
 - (6) The Registrar must cause a decision by the Registrar to revoke the registration of a registered agency to be published in the Government Gazette.

S. 142
inserted by
No. 106/2004
s. 5.

142 Application for review

- (1) A body may apply to VCAT for review of a decision by the Registrar under section 141(1) to revoke the registration of the body as a registered agency.
- (2) An application for review under this section must be made within 28 days after the day on which the statement of reasons is given under section 141.

Part VIIIA—Social housing

Division 1—Victorian Housing Register

Pt 8A
(Headings
and ss 142A–
142J)
inserted by
No. 75/2016
s. 5.

142A Establishment of Victorian Housing Register

S. 142A
inserted by
No. 75/2016
s. 5.

- (1) The Director must establish and administer a register of applicants for tenancies in social housing to be known as the Victorian Housing Register.
- (2) The purpose of the Victorian Housing Register is to facilitate the appropriate allocation of tenancies in social housing, having regard to—
 - (a) the relative housing needs of eligible applicants; and
 - (b) the health, safety and support needs of eligible applicants; and
 - (c) the availability of social housing.

142B Form of Victorian Housing Register

S. 142B
inserted by
No. 75/2016
s. 5.

The Director may keep the Victorian Housing Register in any form that the Director considers appropriate, including in the form of a database (whether in computerised or other form and however described).

142C What information is to be included in the Victorian Housing Register?

S. 142C
inserted by
No. 75/2016
s. 5.

- (1) The Victorian Housing Register may include the following information—
 - (a) the personal details of an applicant;
 - (b) the priority category determined to apply to an eligible applicant;

- (c) the personal details of a household member of an applicant;
- (d) the full name and contact details of a person nominated by an applicant, if any;
- (e) any other information that is relevant to an application for a tenancy in social housing;
- (f) any other information that the Director considers appropriate to include in the Victorian Housing Register.

(2) In this section—

S. 142C(2) def.
of *personal
details*
amended by
No. 13/2019
s. 221(Sch. 1
item 21).

personal details, of an applicant, or of a household member of an applicant, includes the following—

- (a) the individual's full name and contact details;
- (b) the individual's date of birth and gender;
- (c) the full name and contact details of the individual's guardian (within the meaning of section 3(1) of the **Guardianship and Administration Act 2019**), if any;
- (d) the health, safety and support needs of the individual, including health information that is relevant to the individual's housing requirements;
- (e) sensitive information that is relevant to the individual's housing requirements;
- (f) any unique identifier assigned to the individual;
- (g) any other information relating to an assessment of the individual's housing requirements.

142D Changes to information recorded in the Victorian Housing Register

S. 142D
inserted by
No. 75/2016
s. 5.

For the purposes of maintaining the accuracy of information in the Victorian Housing Register or complying with the requirements of this Act or any other Act, the Director or an authorised person may enter, review, amend or remove any information in the Victorian Housing Register relating to an applicant or to a household member of an applicant.

142E Determinations made by Director

S. 142E
inserted by
No. 75/2016
s. 5.

- (1) The Director may determine any of the following for the purposes of allocating tenancies in social housing to applicants on the Victorian Housing Register—
 - (a) eligibility criteria that must be met by an applicant to be eligible for a tenancy in social housing;
 - (b) priority categories for the purposes of identifying the relative needs of eligible applicants for social housing;
 - (c) priority criteria that must be met by an eligible applicant for a particular priority category to apply to that eligible applicant;
 - (d) any other general matter to which the Director and authorised persons must have regard when performing functions or exercising powers in relation to the Victorian Housing Register.
- (2) The Director must ensure that any determination made under subsection (1) is published in the Government Gazette.

- (3) The Director or an authorised person (as the case may be) must take into account determinations made under subsection (1) when determining any of the following—
- (a) whether an applicant is an eligible applicant;
 - (b) which priority category applies to an eligible applicant;
 - (c) whether to allocate a tenancy in social housing to an eligible applicant.

S. 142F
inserted by
No. 75/2016
s. 5.

142F What is a *participating designated service provider* or *participating registered agency*?

- (1) A designated service provider or registered agency may apply in writing to the Director to be declared a participating designated service provider or participating registered agency (as the case may be) for the purposes of this Part.
- (2) The Director may declare—
- (a) a designated service provider to be a participating designated service provider; or
 - (b) a registered agency to be a participating registered agency.
- (3) The Director may revoke a declaration made under subsection (2)—
- (a) on the written request of a participating designated service provider or a participating registered agency; or
 - (b) on the Director's own motion.
- (4) The Director must publish on the Department's Internet site a list containing the name of each participating designated service provider and each participating registered agency.

142G Authorisation to access the Victorian Housing Register

S. 142G
inserted by
No. 75/2016
s. 5.

- (1) A person employed or engaged by a participating designated service provider or by a participating registered agency may apply in writing to the Director for authorisation to access the Victorian Housing Register.
- (2) The Director may authorise in writing a person, or class of person, employed or engaged by a participating designated service provider or by a participating registered agency to access the Victorian Housing Register for the purposes referred to in section 142H.
- (3) An authorisation under this section is subject to any condition or limitation that the Director considers appropriate.
- (4) In determining whether to authorise a person, or class of person, under this section, the Director must have regard to the prescribed access criteria, if any.
- (5) The Director may revoke the authorisation of a person, or class of person, under this section for any reason, including if the Director is satisfied that the person, or a person belonging to the class of person—
 - (a) has accessed the Victorian Housing Register for a purpose not referred to in section 142H; or
 - (b) has used information which was accessed from the Victorian Housing Register for a purpose not referred to in section 142H; or

- (c) has failed to comply with any condition or limitation to which the authorisation is subject; or
- (d) no longer satisfies the prescribed access criteria, if any.

S. 142H
inserted by
No. 75/2016
s. 5.

142H Access to the Victorian Housing Register

The Director or an authorised person may access the Victorian Housing Register for any of the following purposes—

- (a) to maintain the accuracy of the information in the Victorian Housing Register;
- (b) to determine whether an applicant meets the eligibility criteria for a tenancy in social housing;
- (c) to determine which priority category applies to an eligible applicant;
- (d) to determine whether to allocate a tenancy in social housing to an eligible applicant;
- (e) to verify the personal details of an applicant or of a household member of an applicant;
- (f) to verify the status of an applicant's application for a tenancy in social housing;
- (g) to prepare reports and compile statistics in relation to the use of the Victorian Housing Register;
- (h) to perform any other function or exercise any power conferred on the Director or authorised person, as the case may be, by this Part.

Division 2—Information sharing

142I Definitions

In this Division—

relevant information means—

- (a) personal details of an applicant or of a household member of an applicant; and
- (b) any other information relating to an applicant's application for a tenancy in social housing; and
- (c) information relating to the adequacy and appropriateness of an applicant's current housing or future housing needs;

relevant person means—

- (a) the Director; and

Note

See also section 35.

- (b) a registered agency; and
- (c) a person employed or engaged by a registered agency; and
- (d) a designated service provider; and
- (e) a person employed or engaged by a designated service provider.

142J Collection, use and disclosure of relevant information permitted in certain circumstances

- (1) A relevant person may collect or use relevant information, or disclose relevant information to another relevant person, to the extent necessary for any of the following purposes—
 - (a) to determine whether an applicant meets the eligibility criteria for social housing;

S. 142I
inserted by
No. 75/2016
s. 5.

S. 142J
inserted by
No. 75/2016
s. 5.

- (b) to determine which priority category applies to an eligible applicant;
 - (c) to determine whether to allocate a tenancy in social housing to an eligible applicant;
 - (d) to determine the health, safety and support needs and housing requirements of individuals who are seeking housing assistance;
 - (e) to facilitate the management and granting of tenancies in social housing and in other housing to support individuals to access housing that is appropriate to their needs;
 - (f) to prepare reports and compile statistics in relation to the use of the Victorian Housing Register;
 - (g) to perform any other functions or exercise any power under this Act;
 - (h) to give information that the relevant person is otherwise expressly authorised, permitted or required to give under this Act.
- (2) In addition to the purposes referred to in subsection (1), a relevant person who is also an authorised person may collect or use relevant information, or disclose relevant information to another relevant person, to the extent necessary for any of the following purposes—
- (a) to establish and administer the Victorian Housing Register;
 - (b) to maintain the accuracy of the Victorian Housing Register.

Note

See IPP 2.1(f) of the **Privacy and Data Protection Act 2014** and HPP 1.1(b) and 2.2(c) of the **Health Records Act 2001**.

- (3) Nothing in this section affects any prohibition in any Act (other than this Act, the **Health Records Act 2001** and the **Privacy and Data Protection Act 2014**) on the collection, use or disclosure of the relevant information.

Pt 9
(Heading and
s. 143)
inserted by
No. 106/2004
s. 5.

Part IX—Regulations

S. 143
inserted by
No. 106/2004
s. 5.

143 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing that by this Act is authorized or required or permitted to be prescribed or that is necessary to be prescribed for carrying this Act into effect.
- (2) Without limiting subsection (1) the regulations may prescribe—
 - (a) the terms and conditions to be incorporated in agreements for the lease or sale of land between the Director and any person;
 - (b) forms for use under this Act;
 - (c) the rent payable in respect of any land or class of land of the Director and the circumstances in which and the conditions on which the Director may grant rebates of rent;
 - (d) the registration of rental housing agencies, including the criteria for registration and for determining the category of registration;
 - (e) the matters to be included in the Register of Housing Agencies;
 - (f) fees for the purposes of Part VIII;
- (fa) access criteria to which the Director must have regard in determining whether to authorise a person, or class of person, to access the Victorian Housing Register;

S. 143(2)(fa)
inserted by
No. 75/2016
s. 9.

- (g) a penalty of not more than 10 penalty units for any contravention of the regulations;
 - (h) that, in addition to any penalty, any expense incurred by the Director or the Registrar in consequence of a breach of the regulations or in the execution of work directed by the regulations to be executed by any person and not executed by that person must be paid by the person committing that breach or failing to execute that work;
 - (i) the procedure to be followed, the conditions to be complied with and any matters necessary to be prescribed for carrying the regulations into effect.
- (3) Regulations made under this Act—
- (a) may be of general or of specially limited application;
 - (b) may differ according to differences in time, place or circumstance;
 - (c) may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any person, whether wholly or partially or as amended by the regulations;
 - (d) may leave any matter to be approved or determined by the Director or the Registrar.

Pt 10
(Heading and
s. 144)
inserted by
No. 106/2004
s. 6.

Part X—Transitional

S. 144
inserted by
No. 106/2004
s. 6.

144 Power to terminate existing leases

- (1) The Director, after giving not less than 90 days' notice to a co-operative specified in Schedule 9, may terminate any lease existing on 1 July 2005 between the Director and that co-operative.
- (2) The Director may refuse to renew any lease existing on 1 July 2005 between the Director and a co-operative specified in Schedule 9.
- (3) Subsections (1) and (2) apply despite any option to renew in the relevant lease.
- (4) No compensation is payable by the Director to a co-operative for—
 - (a) the termination under this section of a lease with the co-operative; or
 - (b) a refusal under this section to renew any lease with the co-operative.
- (5) If a co-operative specified in Schedule 9 changes its name before, on or after 1 July 2005, the reference to the co-operative in this section is to be taken to be a reference to a co-operative by its new name.

S. 145
inserted by
No. 73/2005
s. 4(Sch. 2
item 4).

145 Saving of housing finance provisions

Despite the repeal of the **Treasury Corporation of Victoria (Housing Finance) Act 1995** by the **Treasury Legislation (Repeal) Act 2005**, sections 11, 12, 13 and 15 of that 1995 Act continue to apply as if that 1995 Act had not been repealed.

Schedules

Schedule 1—Amendments and repeals

Section 3(1).

Sch. 1
amended by
No. 52/1994
s. 97(Sch. 3
item 15).

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment or Repeal</i>
3928	Special Funds (Teachers' Residences) Act 1930	The whole shall be repealed.
6052	Housing (Broadmeadows Land) Act 1956	The whole shall be repealed.
6226	Co-operative Housing Societies Act 1958	<p>In section 1 in the table of Parts and Divisions the expression "Part IVA—GOVERNMENT FINANCE ss 72A–72B." shall be repealed.</p> <p>Sections 72A and 72B and the heading immediately preceding those sections shall be repealed.</p>
6275	Housing Act 1958	The whole shall be repealed.
6299	Local Government Act 1958	<p>In section 1 (as proposed to be amended by section 28(2) of the Local Government (General Amendment) Act 1982) for the expression "ss 861A–861E" there shall be substituted the expression "ss 861A–861D".</p> <p>In section 575(1) in paragraph (a)(i) of the interpretation of <i>Private street</i> for the words "Housing Commission" there shall be substituted the words "Director of Housing".</p>

Housing Act 1983
No. 10020 of 1983
Schedule 1—Amendments and repeals

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment or Repeal</i>
		<p>In section 861A(1) (as proposed to be inserted by section 28(1) of the Local Government (General Amendment) Act 1982) paragraph (g) shall be repealed.</p> <p>Section 861E (as proposed to be inserted by section 28(1) of the Local Government (General Amendment) Act 1982) shall be repealed.</p> <p>In section 918B(7) for paragraph (a) there shall be substituted the following paragraph:</p> <p>"(a) the Director of Housing incorporated under the Housing Act 1983;"</p>
	* * *	
6993	Home Finance Act 1962	The whole shall be repealed.
8052	Urban Renewal Act 1970	<p>In section 2—</p> <p>(a) in the interpretation of <i>Public authority</i> for the words "Housing Commission" there shall be substituted the words "Director of Housing"; and</p> <p>(b) for paragraph (c) of the interpretation of <i>Renewal authority</i> there shall be substituted the following paragraph:</p> <p>"(c) the Director of Housing."</p>

Housing Act 1983
No. 10020 of 1983
Schedule 1—Amendments and repeals

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment or Repeal</i>
8409	Decentralized Industry (Housing) Act 1973	<p>In section 12(4)—</p> <p>(a) for the expression "71, 72 and 73 of the Housing Act 1958" there shall be substituted the expression "16(1)(b), (4), (5), (6) and (7) of the Housing Act 1983"; and</p> <p>(b) for paragraphs (a) and (b) and the word "and" between those paragraphs there shall be substituted the expression 'any reference to the "Director" were a reference to the Authority'.</p> <p>In section 12(5)—</p> <p>(a) for the expression "23 of the Housing Act 1958" there shall be substituted the expression "16(2) and (3) of the Housing Act 1983"; and</p> <p>(b) for the expression the ' "Commission" ' there shall be substituted the expression 'the "Director" '.</p> <p>In section 13—</p> <p>(a) for the expression "housing Commission constituted under the Housing Act 1958, whereby the Commission" there shall be substituted the expression "Director of Housing incorporated under the Housing Act 1983, whereby the Director"; and</p>

Housing Act 1983
No. 10020 of 1983
Schedule 1—Amendments and repeals

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment or Repeal</i>
		(b) for the words "Housing Commission" (where secondly occurring) there shall be substituted the words "Director of Housing".
8520	Albury-Wodonga Agreement Act 1973	<p>In section 15(10)—</p> <p>(a) for the expression "71, 72 and 73 of the Housing Act 1958" there shall be substituted the expression "16(1)(b), (4), (5), (6) and (7) of the Housing Act 1983"; and</p> <p>(b) for paragraphs (a) and (b) and the word "and" between those paragraphs there shall be substituted the expression 'any reference to the "Director" were a reference to the Corporation'.</p> <p>In section 15(11)—</p> <p>(a) for the expression "23 of the Housing Act 1958" there shall be substituted the expression "16(2) and (3) of the Housing Act 1983"; and</p> <p>(b) for the expression the ' "Commission" ' there shall be substituted the expression 'the "Director" '.</p>
8731	Magistrates (Summary Proceedings) Act 1975	<p>In Schedule Two, in paragraph (i) for the expression "Division 1B of Part VI of the Housing Act 1958" there shall be substituted the expression "Schedule 5 to the Housing Act 1983".</p>

Housing Act 1983
No. 10020 of 1983
Schedule 1—Amendments and repeals

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment or Repeal</i>
8793	State Co-ordination Council Act 1975	Section 3(2)(ac) shall be repealed.
9024	Geelong Regional Commission Act 1977	<p>In section 15(1)(h) for the words "Housing Commission" there shall be substituted the words "Director of Housing".</p> <p>In section 16—</p> <p>(a) in subsection (1) for the words "Housing Commission" there shall be substituted the words "Director of Housing";</p> <p>(b) in subsection (2)—</p> <p>(i) for the expression "71, 72 and 73 of the Housing Act 1958" there shall be substituted the expression "16(1)(b), (4), (5), (6) and (7) of the Housing Act 1983"; and</p> <p>(ii) for paragraphs (a) and (b) and the word "and" between those paragraphs there shall be substituted the expression 'any reference to the "Director" were a reference to the Geelong Regional Commission.'; and</p>

Housing Act 1983
No. 10020 of 1983
Schedule 1—Amendments and repeals

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment or Repeal</i>
		(c) in subsection (3)—
		(i) for the expression "23 of the Housing Act 1958 " there shall be substituted the expression "(16)(2) and (3) of the Housing Act 1983 "; and
		(ii) for the expression 'the "Commission" ' there shall be substituted the expression 'the "Director" '.
9399	Home Finance (Borrowing Powers) Act 1980	The whole shall be repealed.
9427	Statute Law Revision Act 1980	Items 69 and 70 in the Fifth Schedule shall be repealed.
9514	Residential Tenancies Act 1980	In section 98(1) for the expression "56 of the Housing Act 1958 " there shall be substituted the expression "64 of the Housing Act 1983 ".
9549	Statute Law Revision Act 1981	Item 81 in the Schedule shall be repealed.
9550	Government Employee Housing Authority Act 1981	In section 13(7)— (a) for the expression "Housing Commission constituted by the Housing Act 1958 whereby that Commission" there shall be substituted the expression "Director of Housing incorporated under the Housing Act 1983 whereby that Director"; and

Housing Act 1983
No. 10020 of 1983
Schedule 1—Amendments and repeals

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment or Repeal</i>
		(b) for the words "Housing Commission" (where secondly occurring) there shall be substituted the words "Director of Housing".
9552	Urban Renewal (Amendment) Act 1981	Section 13 shall be repealed.
9553	Housing (Amendment) Act 1981	The whole shall be repealed.
9576	Crimes (Classification of Offences) Act 1981	The items in the Schedule relating to the Housing Act 1958 shall be repealed.
9603	Housing (Further Amendment) Act 1981	The whole shall be repealed.
9604	Home Finance (Amendment) Act 1981	The whole shall be repealed.
9720	Building Control Act 1981	<p>In section 2—</p> <p>(a) for the expression "ss 15–44" there shall be substituted the expression "ss 15–30"; and</p> <p>(b) the expression "Division 4—Dwellings Unfit for Human Habitation ss 31–44." shall be repealed.</p> <p>Section 25(d) shall be repealed.</p> <p>In section 28(3) the expression "(d)," shall be repealed.</p> <p>In section 28(4) the expression "Division 4 of this Part or" shall be repealed.</p>

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No. 10020 of 1983
Schedule 1—Amendments and repeals

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment or Repeal</i>
		<p>In section 30 the expression "and section 56 of the Housing Act 1958," shall be repealed and for the expression ", the Uniform Plumbing and Sewerage Regulations 1977 (as amended) and the Housing (Standard of Habitation) Regulations 1971" there shall be substituted the expression "and the Uniform Plumbing and Sewerage Regulations 1977".</p> <p>Division 4 of Part III shall be repealed.</p> <p>Items 39–48 in the Schedule shall be repealed.</p>
9771	Local Government (General Amendment) Act 1982	Section 28(3) shall be repealed.
9861	Public Account (Trust Funds) Act 1982	The items in Schedule 2 relating to the Housing Act 1958 shall be repealed.
9983	Latrobe Regional Commission Act 1983	<p>In section 15(1) for the words "Housing Commission" there shall be substituted the words "Director of Housing".</p> <p>In section 15(2)—</p> <p>(a) for the expression "71, 72 and 73 of the Housing Act 1958" there shall be substituted the expression "16(1)(b), (4), (5), (6) and (7) of the Housing Act 1983"; and</p>

Housing Act 1983
No. 10020 of 1983
Schedule 1—Amendments and repeals

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment or Repeal</i>
		(b) for the expression 'the "Commission" ' there shall be substituted the expression 'the "Director" '.
		In section 15(3)—
		(a) for the expression "23 of the Housing Act 1958 " there shall be substituted the expression "16(2) and (3) of the Housing Act 1983 "; and
		(b) for the expression 'the "Commission" ' there shall be substituted the expression 'the "Director" '.

Schedule 2—Provisions with respect to property

Sections 14(2), 16(7), 17(2), 18(5)

Part I—Acquisition and disposal of land

Sch. 2 cl. 1
substituted by
No. 121/1986
s. 112.

1 Application of Land Acquisition and Compensation Act 1986

The **Land Acquisition and Compensation Act 1986** applies to this Act and for that purpose—

- (a) the **Housing Act 1983** is the special Act; and
- (b) the Director is the Authority.

2 Governor in Council empowered to grant Crown land to Director

Notwithstanding anything in any Act, the Governor in Council is hereby empowered to grant any Crown land to the Director at such price (if any) and on such terms and conditions as the Governor in Council thinks fit.

3 Municipalities and public statutory corporations empowered to grant land to Director

Sch. 2 cl. 3(1)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 61.7).

- (1) Notwithstanding anything in any Act, a municipal council or public statutory corporation is hereby empowered to sell or give to the Director any land vested in it other than land reserved under section 4 of the **Crown Land (Reserves) Act 1978**.

Sch. 2 cl. 3(2)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 61.8).

- (2) Notwithstanding anything in any Act, a municipal council or public statutory corporation is hereby empowered to—
 - (a) lease or sub-lease any land to the Director at such rent (if any) or on such terms and conditions as it thinks fit;

- (b) enter into an agreement with the Director for or with respect to the use, development, maintenance, management or control of any such land; and
- (c) apply any of its funds for or in connexion with the carrying out of any such agreement.

4 Covenants

- (1) Where, pursuant to section 14(1)(e), the Director sells any land subject to terms and conditions relating to the use or development of the land by the purchaser, the Director may enter into a covenant with the purchaser which binds the purchaser as to the manner and method of and the time within which the land will be developed or redeveloped or as to the manner in which the land will be used or as to both the development or redevelopment and use of the land.
- (2) A covenant under subclause (1) may be released by the Director or varied by an agreement between the Director and all persons having an interest in the land burdened by the covenant who are bound by the covenant.
- (3) If a covenant has been entered into by a person pursuant to subclause (1) or subsequently varied pursuant to subclause (2), the Registrar of Titles on the application of the owner of the land burdened by the covenant must make a recording in the Register of the covenant or variation as the case requires.

Sch. 2 cl. 4(3)
amended by
No. 18/1989
s. 13(Sch. 2
item
39(a)(i)(ii)),
substituted by
No. 85/1998
s. 24(Sch.
item 34.1).

Sch. 2 cl. 4(4)
inserted by
No. 85/1998
s. 24(Sch.
item 34.1).

- (4) On the making of a recording in the Register pursuant to subsection (3)—
- (a) the burden of the covenant or the covenant as so varied (as the case requires) runs with the land affected; and
 - (b) the Director may enforce the covenant against persons deriving title from the person who entered into the covenant as if it were a restrictive covenant despite the fact that it may be positive in nature, or is not for the benefit of any land of the Director.

Sch. 2 cl. 4(5)
inserted by
No. 85/1998
s. 24(Sch.
item 34.1).

- (5) The amendment of this clause by section 24 of the **Transfer of Land (Single Register) Act 1998** does not affect the operation, effect or enforcement of a covenant registered under the **Property Law Act 1958** and existing immediately before the commencement of that section 24.

5 Sale of land to be subject to Housing Agreements

Any sale of land pursuant to section 14(1)(e) shall be subject to the terms and conditions of the Agreement or of any subsequent Housing Agreement with the Commonwealth.

6 Power of Director to grant loans to purchasers

The Director may at or after the time of sale of any land pursuant to section 14(1)(e) grant a loan to the purchaser on the security of a mortgage and subject to such terms and conditions as the Director thinks fit.

7 Power of Director to write off outstanding rent

Where the Director leases or sub-leases any land pursuant to paragraph (g) or (h) of section 14(1) the Director may, with the consent of the Treasurer, write off such amounts of outstanding

rent as from time to time are proved to the satisfaction of the Director to be irrecoverable.

Part II—Easements, closure of streets, &c.

8 Procedure to be followed in extinguishing easements etc.

Before making any recommendation to the Governor in Council under section 16(1)(b) the Director shall—

- (a) serve notice of the Director's intention to make that recommendation to the municipal council in which the land to which that recommendation relates is situated;
- (b) serve notice of the Director's intention to make that recommendation on the owners of any land which the Director considers is likely to be substantially affected by the carrying into effect of the Director's recommendation;
- (c) give all such owners an opportunity of setting forth their objections to the recommendation; and
- (d) have due regard to all such objections and to such other matters as may be prescribed.

Sch. 2 cl. 8(a)
amended by
Nos 26/1987
s. 21, 12/1989
s. 4(1)(Sch. 2
item 61.9).

Sch. 2 cl. 8(b)
amended by
No. 26/1987
s. 21.

9 Registrar of Titles to make all necessary endorsements etc.

The Registrar of Titles must make any recordings in the Register that are necessary or expedient because of the operation of this Act and the holder of any relevant certificate of title, when so required in writing, must deliver it to the Registrar of Titles.

Sch. 2 cl. 9
substituted by
No. 18/1989
s. 13(Sch. 2
item 39(a)(iii)).

10 Land closed by Order

Where the land comprised in any street or part thereof which is closed by Order under section 16(1)(b) is not, apart from this clause, land which is under the operation of the **Transfer of Land Act 1958**, the publication of the Order shall have the effect of bringing such land under the operation of the **Transfer of Land Act 1958** and clause 9 of this Schedule shall extend and apply to and in respect of such land accordingly.

Sch. 2 cl. 10(2)
repealed by
No. 85/1998
s. 24(Sch.
item 34.2).

* * * *

Part III—Donations, &c.

11 Orders in Council with respect to property held on trust

Notwithstanding any Act or rule of law, where a person or body corporate or unincorporate holds any property real or personal on trust for or for the purpose of effecting any object, which is one of the objects of this Act or which is substantially similar to any such object, that person or body may transfer, pay or deliver such property to the Director and, if the Governor in Council by Order declares that any property transferred, paid or delivered to the Director was or would have been authorized by the provisions of this clause, the Order shall be conclusive evidence of its validity and the person or body shall be discharged from all duties and obligations in relation to that property.

12 Donation deemed to be permanent work or undertaking

The provisions of the **Local Government Act 2020** relating to the borrowing of money upon the credit of a municipal council apply to the making of any donation or gift of real or personal property to the Director by any municipal council or public statutory corporation pursuant to section 17.

Sch. 2 cl. 12 substituted by No. 12/1989 s. 4(1)(Sch. 2 item 61.10), amended by No. 9/2020 s. 390(Sch. 1 item 54.2).

Part IV—Movable units

13 Instruments Act 1958, Part VI not to apply

Part VI of the **Instruments Act 1958** shall not apply to any agreement entered into between the Director and any person under section 18(1).

14 Exemption from stamp duty

Notwithstanding anything to the contrary in the **Stamps Act 1958** or any other Act—

- (a) no duty shall be payable in respect of the sale or letting out on hire by the Director of movable units under section 18(1); and
- (b) no duty shall be payable on any sale or hiring agreement.

15 Presence of movable units not to affect rating

For the purpose of any law relating to taxation or rating, the land upon which a movable unit is subject to a hiring agreement under section 18(1) is situate shall be deemed to be in the occupation of the hirer and not to be a separate property for taxation or rating purposes and the movable unit shall be deemed not to constitute improvements in relation to the land upon which it is situate.

16 Provisions as to law of real property

Notwithstanding anything to the contrary in any Act or rule of law—

- (a) a movable unit being the property of the Director shall be and remain personal property, and shall not be capable of becoming affixed, within the meaning of any law relating to real property, to any land upon which it is for the time being situated; and
- (b) any footings, foundations, steps or other fittings or equipment supplied by the Director in relation to a movable unit shall be deemed to be a part of the movable unit.

Schedule 3—The Commonwealth–State– Northern Territory Housing Agreement 1981

Section 29(1)

AN AGREEMENT made the twenty-third day of December One thousand
nine hundred and eighty-one between—

THE COMMONWEALTH OF AUSTRALIA of the first part,
THE STATE OF NEW SOUTH WALES of the second part,
THE STATE OF VICTORIA of the third part,
THE STATE OF QUEENSLAND of the fourth part,
THE STATE OF SOUTH AUSTRALIA of the fifth part,
THE STATE OF WESTERN AUSTRALIA of the sixth part,
THE STATE OF TASMANIA of the seventh part, and
THE NORTHERN TERRITORY OF AUSTRALIA of the eighth part.

WHEREAS—

- (A) the Commonwealth and the States of Australia have from time to time entered into agreements for the purpose of the provision by the States with financial assistance from the Commonwealth of housing for persons who are in need of governmental assistance if their housing requirements are to be met;
- (B) by an agreement dated 17 October 1978, being the agreement authorized to be executed on behalf of the Commonwealth by the Housing Assistance Act 1978 of the Commonwealth Parliament and being the last of the agreements referred to in recital (A), provision was so made with respect to the three years commencing on 1 July 1978;
- (C) the Commonwealth and the Northern Territory of Australia entered into an agreement dated the eleventh day of March 1980 in relation to the funding of welfare housing in the Northern Territory with respect to the two years commencing on 1 July 1979;
- (D) the Ministers of the respective governments throughout Australia who are responsible for housing have agreed upon the provision of rental housing assistance and home purchase assistance in the various States and in the Northern Territory during the five years commencing on 1 July 1981;

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- (E) the Ministers have affirmed and augmented principles that apply to the provision of housing assistance under agreements of the nature aforesaid, namely—
- (a) housing assistance will—
 - (i) facilitate home ownership for those able to afford it but not able to gain it through the private market;
 - (ii) provide adequate rental housing for those of the community who are deemed to be in need of governmental assistance at a price that is within their capacity to pay; and
 - (iii) provide assistance for home ownership and assistance with rental accommodation in the most efficient way and thus to exclude from eligibility those NOT in need, to minimise continued availability of assistance to those no longer in need and to accord benefits which are designed so that assistance being provided is related to the particular family's or individual's current economic and social circumstances;
 - (b) benefits which are available are offset to the minimum extent practicable by poor location of dwellings, an inadequate range of choice of dwellings and stigmatisation of those who are to receive benefits;
 - (c) clear recognition is accorded to the separate but complementary roles of—
 - (i) construction and acquisition of dwellings;
 - (ii) management of the rental operations; and
 - (iii) sales of dwellings;
 - (d) maximum social benefit is sought from previous investment in housing;
 - (e) design, style and siting of public housing will to the maximum extent practicable—
 - (i) support the energy conservation policies of the governments; and
 - (ii) reflect the need for accessibility and suitability for habitation by handicapped persons;
 - (f) tenant participation in public housing policies and estate management is encouraged; and

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- (g) the States will be able to exercise maximum autonomy and flexibility in the administrative arrangements necessary to achieve these principles;
- (F) it is proposed that in order to implement the agreement of the Ministers the Commonwealth will grant to the States financial assistance under section 96 of the Commonwealth of Australia Constitution and like assistance to the Northern Territory and that the terms and conditions on which the grant of financial assistance should be made are those set out in this agreement;
- (G) the Commonwealth and the States and the Northern Territory wish to vary in certain respects the operation of the agreements which have been entered into as aforesaid; and
- (H) the Parliament of the Commonwealth has authorized the execution by and on behalf of the Commonwealth of this agreement and the provision of financial assistance to the States in accordance with its provisions:

NOW IT IS HEREBY AGREED as follows:

PART I—OPERATION OF AGREEMENT

1.

- (1) This agreement shall come into force in respect of the Commonwealth and of a State when it has been signed on behalf of the Commonwealth and has been signed on behalf of the State with the authority of the Parliament of the State or, having been signed on behalf of the State without the authority, is approved by the Parliament of the State.
- (2) This agreement shall come into force in respect of the Commonwealth and the Northern Territory when it has been signed on behalf of the Commonwealth and has been signed on behalf of the Northern Territory.
- (3) Notwithstanding that in this agreement all the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania and the Northern Territory are named as parties, this agreement shall operate as an agreement between the Commonwealth and the party or parties in respect of which it comes into force as fully and effectually as if the party or parties in respect of which it comes into force were the only party or parties so named other than the Commonwealth.

2.

Acts and things provided for by this agreement which have been done or carried out by or with respect to a State or the Northern Territory in accordance with and in anticipation of its coming into force in respect of that State or Territory shall be deemed to have been done or carried out under this agreement as if it were in force at the relevant time or times in respect of that State, or that Territory, as the case may be.

PART II—PARTIES

3.

- (1) In this agreement, subject to this clause and except where the context otherwise indicates—
- (a) **"the Commonwealth"** means the Commonwealth of Australia as the party to this agreement;
 - (b) each State named as a party in respect of which the agreement comes into force is referred to as a "State" and, except where the context otherwise indicates, "the States" means all of those States; and
 - (c) **"the Northern Territory"** means the Northern Territory of Australia as the party to this agreement, being the body politic established by section 5 of the Northern Territory (Self-Government) Act 1978 of the Commonwealth Parliament.
- (2) A reference to a State in this Part and in the succeeding clauses of this agreement shall, except where the contrary intention appears and according to the requirements of the context, be deemed to include a reference to the Northern Territory.

4.

Where in an existing Housing Agreement included in the Schedule the word "State" or the expression "the States" means a State or the States in respect of which that Agreement is in force, that word and that expression shall mean respectively, for the purposes of the operation of that Agreement, a State or the States in respect of which this agreement has come into force.

PART III—INTERPRETATION

5.

(1) In this agreement—

"the Minister" means the Minister of State of the Commonwealth for the time being responsible for the administration of this agreement for the Commonwealth; and

"the State Minister" means the Minister of State of a State for the time being responsible for the administration of this agreement for the relevant State.

(2) A reference in this agreement to a Minister includes a Minister or other member of the Federal Executive Council or Minister of the relevant State, as the case may require, acting on behalf of or for the time being acting for the Minister referred to.

6.

In this agreement, unless the contrary intention appears or the context otherwise requires—

"dwelling" means a dwelling-house or flat and includes such fences, outbuildings and other improvements and such connexions for sewerage, drainage, water, electricity, gas and other services as are provided or are reasonably required to be provided for the dwelling-house or flat;

"home purchaser" includes a purchaser of a dwelling under Part X of this agreement;

"housing" means residential housing including dwellings and other forms of residential accommodation;

"previous housing arrangements" means the provisions in relation to housing that were made by the existing Housing Agreements and by the States Grants (Housing) Act 1971, the Housing Assistance Act 1973 and the Housing Assistance Act 1978 of the Commonwealth Parliament;

"rental housing" means housing for rental which has been provided under the previous housing arrangements or is provided under this agreement and "rental dwelling" means a dwelling that is included in rental housing;

"the Commonwealth Act" means the legislation of the Commonwealth Parliament by which this agreement is authorized to be executed by or on behalf of the Commonwealth;

"the existing Housing Agreements" means the Agreements set out in the Schedule and where the singular is used means such one or other of those Agreements as the context requires; and

"year" means a period of twelve months commencing on the first day of July.

7.

In this agreement, unless the contrary intention appears—

- (a) a reference to a Part or to a clause is to a Part or to a clause of this agreement, as the case may be;
- (b) a reference to a sub-clause is, unless otherwise indicated, to the relevant sub-clause of the clause in which the reference appears;
- (c) the Schedule referred to is the Schedule to this agreement;
- (d) words importing the masculine gender also import the feminine and, where appropriate, the neuter; and
- (e) words in the singular number include the plural and vice versa.

PART IV—OBJECTIVE OF AGREEMENT

8.

The objective of this agreement is the provision by the States and by the Northern Territory with financial assistance from the Commonwealth of housing assistance for rental housing and for home purchase in accordance with, and in fulfilment of, the principles set out in recital (E).

PART V—FINANCIAL ASSISTANCE

9.

- (1) In order to assist the States in the achievement of the objective of this agreement, the Commonwealth will, upon and subject to the provisions of this agreement, provide to the States during the years of this agreement financial assistance for housing purposes (hereinafter in this agreement referred to as "financial assistance") by way of interest bearing repayable advances ("loan assistance") and interest free non-repayable grants ("grants").
- (2) The years of this agreement shall be the five years commencing on the first day of July in the years 1981, 1982, 1983, 1984 and 1985.

10.

The Commonwealth will provide base financial assistance to the States in respect of each year of this agreement amounting to Two hundred million dollars (\$200 000 000) and consisting of—

- (a) fifty-four million dollars (\$54 000 000) by way of grants identified as being for rental housing assistance to disadvantaged categories of persons in accordance with Part XI; and
- (b) one hundred and forty-six million dollars (\$146 000 000) by way of loan assistance for rental housing assistance and home purchase assistance in accordance with this agreement.

11.

The Commonwealth may provide to the States, out of moneys appropriated by the Commonwealth Parliament for the purpose, in addition to base financial assistance, financial assistance for home purchase assistance and rental housing assistance, including rental housing assistance to disadvantaged categories of persons in accordance with Part XI, in such proportions by way of grants and loan assistance or in such combinations of those forms of assistance as are from time to time determined by the Minister.

12.

In and for the purposes of this agreement—

- (a) financial assistance to be provided under clause 10 is referred to and shall be known as "base financial assistance";
- (b) financial assistance in addition to base financial assistance is referred to and shall be known as "additional financial assistance";
- (c) grants of base financial assistance under paragraph (a) of clause 10 and of additional financial assistance that are identified as being for rental housing to disadvantaged categories of persons in accordance with Part XI are referred to and shall be known as "earmarked grants"; and
- (d) financial assistance other than earmarked grants is referred to and shall be known as "untied assistance".

13.

Financial assistance shall be allocated between the States in such manner as is provided by the Commonwealth Act and it shall be a condition with respect to the provision of untied assistance that a State will match the amount of that financial assistance from its own resources in accordance with Part VI.

PART VI—STATE MATCHING FUNDS

14.

- (1) A State will provide from its own resources during each year of this agreement and apply in accordance with this Part funds ("matching funds") equivalent in amount to the amount of untied assistance that is provided to the State during that year.
- (2) Each State will by the fifteenth day of October in each year of this agreement furnish to the Commonwealth for the agreement of the Minister proposals for the provision and application of matching funds during that year.
- (3) Matching funds in respect of a State may include—
 - (a) surpluses resulting from rental housing assistance activities by the State under Commonwealth–State housing arrangements;

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- (b) revolving funds resulting from home purchase assistance activities under previous housing arrangements and under this agreement;
 - (c) allocations from—
 - (i) consolidated revenue funds;
 - (ii) loan funds;
 - (iii) trust funds and other special accounts in the public account of the State to the extent that those funds have been financed from State resources, including deposits with the State Treasury;
 - (iv) borrowings by instrumentalities of the State under the terms of the Commonwealth–State arrangements associated with the Financial Agreement and known as the Gentlemen's Agreement; and
 - (v) appropriation from surpluses of authorities and instrumentalities of the State other than those referred to in paragraphs (a) and (b) of this sub-clause; and
 - (d) other sources at any time agreed upon between the Minister and the State Minister.
- (4) Except as provided in sub-clause (3) matching funds shall not be derived from financial assistance under this agreement.

15.

- (1) Matching funds in respect of a State other than those referred to in paragraphs (a) and (b) of sub-clause 14(3) shall be expended by the State on welfare housing programs of the State as from time to time agreed between the Minister and the State Minister.
- (2) Matching funds other than those referred to in paragraphs (a) and (b) of sub-clause 14(3) shall not be required to be expended by a State on welfare housing programs to which this agreement applies.

16.

As soon as practicable after a year of this agreement a State will furnish to the Commonwealth a statement which shows particulars of the expenditure by the State of matching funds during the year on programs agreed upon by the Minister and the State Minister and which is certified as to its correctness by a person appointed by the State Minister for that purpose.

PART VII—FINANCIAL ASSISTANCE ARRANGEMENTS

17.

- (1) Each State will, not later than 30 November preceding the beginning of a year of this agreement, inform the Minister of the amounts of financial assistance that the State wishes the Commonwealth to provide to it in respect of the year for home purchase assistance and rental housing assistance programs and at the same time will provide estimates of financial performance and planned programs for that year.
- (2) The Minister and the State Minister will consult as appropriate concerning the provision of financial assistance to the State, including additional financial assistance, in respect of the year in accordance with Part V.
- (3) In those consultations consideration shall be given to State requirement and practices but for the purposes of the provision of additional assistance regard shall not be had to any operating surpluses and rental housing assistance operations or on home purchase assistance operation under previous housing arrangements or under this agreement.

18.

Financial assistance in respect of a year of this agreement shall be made available to a State during that year by equal monthly instalments unless otherwise agreed between the Minister and the Treasurer of the State.

19.

The State Minister will determine the allocation between home purchase assistance and rental housing assistance of the total amount of loan assistance and of grants of untied assistance to be provided by the Commonwealth to a State in a year of this agreement and may at any time during a year vary the determination in respect of that year.

PART VIII—INTEREST AND REPAYMENTS OF LOAN ASSISTANCE

20.

- (1) Each payment of loan assistance to a State or so much of each payment as for the time being remains unrepaid to the Commonwealth will, until repayment as provided in clause 21, bear interest at the rate of $4\frac{1}{2}$ per centum per annum computed from the date upon which the payment is made.
- (2) A State will on 31 December and 30 June of a year during which payments of loan assistance are made to the State under this agreement pay to the Commonwealth the interest that has accrued on those payments up to the date of the payment of the interest.

21.

Each State will repay to the Commonwealth the amount of each payment of loan assistance to the State and will pay interest thereon as provided in clause 20, other than that payable under sub-clause 20(2), by equal annual instalments of principal and interest so that the amount of the payment, together with the interest, will be repaid in 53 years from the beginning of the year next succeeding the year of this agreement in respect of which the payment was made, the first such instalment being payable on or before the end of the year next succeeding the year of this agreement in respect of which the payment was made.

22.

Accounting procedures in respect of the repayment by a State of loan assistance will be as agreed upon between the Minister for Finance of the Commonwealth and the Treasurer of the State or, in default of agreement, as determined by the Minister for Finance of the Commonwealth.

PART IX—HOME PURCHASE ASSISTANCE

23.

- (1) The Home Purchase Assistance Account established by each State in pursuance of the 1978 Housing Agreement with respect to the States and the 1980 Housing Agreement with respect to the Northern Territory shall continue to be operated by the State for the purpose of this agreement and shall be "the Account" referred to in this Part.

- (2) The moneys in the Account shall be available for home purchase assistance in accordance with this Part.

24.

- (1) Each State will pay into the Account—
- (a) payments of loan assistance and grants made to the State that are allocated for home purchase assistance in accordance with this agreement; and
 - (b) funds from any other source which the State decides to apply on home purchase assistance under this agreement.
- (2) The Account shall also be credited with moneys received in the course of home purchase assistance operations provided for by this Part and shall be debited with management costs and other outgoings in respect of those operations.
- (3) The excess of the amounts that are received into the Account over payments that are made from the Account in accordance with sub-clause (2) shall be separately identified by the State to the Commonwealth.

25.

- (1) A State may use moneys standing to the credit of the Account of the State for—
- (a) making repayments of principal and payments of interest in respect of loan assistance under this agreement or, where accounts under previous housing arrangements have been combined into the Account, repayments of principal and payments of interest in respect of loan assistance by the Commonwealth to the State which have been allocated for home purchase assistance under those arrangements;
 - (b) making repayments of principal and payments of interest in respect of any State funds allocated for home purchase assistance in accordance with paragraph (b) of sub-clause 24(1);
 - (c) meeting expenditure by the State in providing and administering loans to approved lending authorities;

- (d) making loans to—
 - (i) terminating building societies or co-operative housing societies;
 - (ii) a lending authority of the State approved by the State Minister;
 - (iii) registered co-operative organizations approved by the State Minister, not including permanent building societies; and
 - (iv) such other bodies or organizations, including permanent building societies, as are from time to time agreed upon between the Minister and the State Minister—for on-lending to home purchasers;
 - (e) providing a subsidy to eligible home purchasers or such lending institutions as are from time to time agreed upon by the Minister and the State Minister to reduce the interest cost of loans to the end of the loans;
 - (f) financing the construction or purchase of dwellings for sale to persons who are eligible for home purchase assistance under this agreement; and
 - (g) such other purposes as are from time to time agreed upon between the Minister and the State Minister.
- (2) In this clause references to societies are to societies registered as societies referred to under the relevant legislation of the State.

26.

The rate of interest that is charged by the State in respect of so much as is for the time being outstanding on a loan to an agency of the State for the purposes of paragraphs (d), (f) or (g) of clause 25 shall—

- (a) be not less than 5 per centum per annum until the end of the first year that wholly occurs after the loan is made;

- (b) be increased by $\frac{1}{2}$ per centum per annum at the end of the first year that wholly occurs after the loan is made and by $\frac{1}{2}$ per centum per annum at the end of each subsequent year of the loan until a rate equivalent to 1 per centum per annum below the then current Commonwealth Savings Bank rate for housing loans is reached; and
- (c) thereafter be varied for any year of the loan according to any variation for the time being of that Commonwealth Savings Bank rate.

27.

- (1) Subject to this clause, it shall be a matter for the State, as it sees fit, to determine the conditions of eligibility and the amounts and conditions that are to apply in respect of loans to persons who are to receive home purchase assistance under this agreement and under previous housing arrangements.
- (2) The conditions of eligibility shall be such that assistance is provided to those persons who are not able to obtain mortgage finance assistance in the open market or from other sources.
- (3) In determining the amount of a loan and of the repayments, regard shall be had to family income, assets of the borrower and size and standard of the dwelling.

28.

The State will adopt policies and practices with regard to persons who receive home purchase assistance which are best suited to the achievement of the objective of this agreement with respect to the principles set out in recital (E) which relate to home purchase assistance and may, where practicable, have regard to flexible practices, including those known as—

- (a) escalating interest loans with income geared starts;
- (b) deferred interest repayment loans;
- (c) income geared repayment loans;
- (d) high start loans; and
- (e) second mortgage lending—

and provisions for variation in repayment in the event of hardship.

29.

Each State will in respect of each year furnish to the Commonwealth by 30 November next occurring after that year a financial statement in respect of operations of the Account which shows the origin of funds received and the manner in which funds were applied and which is certified as to its correctness by a person appointed by the State Minister for that purpose.

PART X—RENTAL HOUSING ASSISTANCE

30.

Funds available to a State during any year for its rental housing assistance program (for the purposes of this Part referred to as "rental housing assistance funds") shall consist of—

- (a) in respect of a year of this agreement, payments of loan assistance and grants that are made under this agreement for rental housing assistance; and
- (b) in respect of any year—
 - (i) any surplus during the year of revenue, after allowing for rental rebates, over outgoings incurred or provided for, arising from rental housing operations of the State under this agreement or previous housing arrangements and to which this agreement applies;
 - (ii) subject to paragraph (e) of clause 36, net proceeds from sale of rental dwellings; and
 - (iii) any other funds which the State allocates for rental housing assistance under this agreement.

31.

Without by this clause conveying any implication that funds are to be made available by the Commonwealth for, or are to be applied by a State for, any particular purpose or in any order or priority, the purposes for which rental housing assistance funds may be used by the State include the following:

- (a) To meet the costs of and associated with the acquisition, planning and development of land primarily for residential development;
- (b) To pay for the construction or acquisition of housing;

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- (c) To repay the principal of and pay interest on loan assistance to the State for rental housing assistance;
- (d) To provide funds to such voluntary, non-profit, charitable bodies and other housing management bodies or groups as are approved by the State Minister;
- (e) To enable housing to be let to such charitable bodies and other organizations as are approved by the State Minister for the provision of assistance to disadvantaged persons;
- (f) To engage in urban renewal activities related to public housing;
- (g) To allocate funds to local government bodies for the provision of rental housing where the State Minister considers that it would be more appropriate for such rental housing assistance to be carried out by those bodies;
- (h) To make payments for, or provide bridging finance for, the provision of open space, landscaping, community facilities and for costs associated with land development, including contributions to headworks and reticulation of services;
- (i) To undertake research and policy development in relation to matters not funded by the Australian Research Council;
- (j) To undertake and participate in joint ventures, co-operative enterprises or similar arrangements in order that public housing developments may be integrated with private housing and to achieve a desirable socio-economic mixture of housing;
- (k) To lease housing from the private housing sector;
- (l) To provide housing advisory services related to public housing;
- (m) To provide rental subsidy for eligible persons renting private housing; and
- (n) Any other purposes agreed upon between the Minister and the State Minister.

32.

The conditions of eligibility of persons for rental housing assistance shall be determined by the State and shall ensure that assistance is directed to those applicants most in need of such assistance.

33.

The State will in respect of the rent for its rental dwellings apply a policy directed to the progressive movement during the term of this agreement of the rent for each dwelling to charging market rent and will review rents at least annually.

34.

- (1) Rental rebates are to be granted to tenants who are not able to afford to pay the rent determined in accordance with clause 33.
- (2) A uniform rental rebate policy shall be developed by the Commonwealth and the States and shall be applied by each State for the calculation of rental rebates.

35.

- (1) Where in respect of any year the rental housing operations of the State result in a surplus of revenue after allowing for rental rebates over outgoings, that surplus shall be separately identified to the Commonwealth and shall be included in rental housing assistance funds as provided in paragraph (b)(i) of clause 30 for application in accordance with clause 31.
- (2) Outgoings for the purposes of this clause shall consist of those normally incurred or provided for in rental housing operations and shall include repayments of principal and interest, maintenance, dwelling improvements, municipal rates and administrative expenses.

36.

Each State will determine a policy for the sale of rental dwellings that is consistent with the objective of facilitating home ownership and is upon and subject to the following conditions:

- (a) All sales of dwellings shall be at market value or replacement cost, on the basis of a cash transaction, but not so as to preclude the State, if it so wishes, from providing a credit to the tenant in recognition of improvements that the tenant has made to the dwelling;

- (b) Home purchase assistance funds may be used to provide finance for the purchase of dwellings;
- (c) All proceeds from sales of dwellings shall be separately identified to the Commonwealth;
- (d) Net proceeds from sales of dwellings shall generally be applied to construct or purchase replacement dwellings which can be included in rental dwellings for the purpose of this agreement; and
- (e) Without prejudice to the generality of (d), net proceeds from sales of dwellings may also be applied for specific housing purposes provided for in this agreement.

37.

Each State will in respect of each year furnish to the Commonwealth by 30 November next occurring after that year a financial statement in respect of operations of its rental housing assistance program during that year which shows the origin of funds received and the manner in which those funds were applied and which is certified as to its correctness by a person appointed by the State Minister for that purpose.

PART XI—EARMARKED GRANTS

38.

The Minister will, in writing under his hand, identify grants to a State as being for rental housing assistance to persons (referred to as "disadvantaged persons") of the following disadvantaged categories:

- (a) Those in receipt of any of the following pensions, benefits or allowances under the Social Services Act 1947:
 - (i) Age or invalid pension under Part III;
 - (ii) Widow's pension under Part IV;
 - (iii) Supporting parent's benefit under Part IVAAA;
 - (iv) Special benefit under Division 6 of Part VII;
 - (v) Sheltered employment allowance under Part VIIA; or

- (vi) Training allowance under section 135D payable in respect of a period during which any pension, benefit or allowance referred to in a preceding sub-paragraph payable to the person is suspended in accordance with that section;
- (b) Those in receipt of a service pension under section 84 or 85 of the Repatriation Act 1920 and, in the case of a person who is in receipt of a pension under section 85 of that Act, is qualified under sub-section 85(2) of that Act to receive that pension;
- (c) Aborigines in need of rental housing assistance; or
- (d) After consultation with the State Minister, any person included in a class of persons which is declared by the Minister in writing under his hand, to be persons in need of assistance to which this Part relates.

39.

- (1) Rental dwellings provided with earmarked grants may be sold by a State subject to and in accordance with the provisions of clause 36.
- (2) The net proceeds of sale of a rental dwelling under this clause shall be applied only to provide rental housing assistance to persons of the same category as that of the persons to whom rental housing assistance for the provision of the dwelling was granted to the State by the Commonwealth.
- (3) This clause shall apply to rental dwellings that have been provided from grants made by the Commonwealth to a State under Part III of the Housing Assistance Act 1978.

40.

A State will furnish to the Commonwealth, as soon as practicable after the end of each financial year, a statement setting out the amounts of earmarked grants expended by the State during the financial year for a purpose referred to in clause 38 and which is certified as to its correctness by a person appointed by the State Minister for that purpose.

PART XII—SUPERSESION OF PREVIOUS HOUSING ARRANGEMENTS

41.

The provisions of this agreement with respect to rental housing and home purchase assistance shall, except as provided herein, supersede the provisions of the existing Housing Agreements to the intent that this agreement will provide the arrangements between the Commonwealth and each State in relation to the provision of rental housing, including the sale of housing so provided, and to the provision of assistance for home purchasers under the previous housing arrangements and this agreement.

PART XIII—OBSERVANCE OF AGREEMENT

42.

The Commonwealth shall provide for or secure the performance by it and its authorities of the obligations of the Commonwealth under this agreement and each of the States shall provide for or secure the performance by the State and its authorities of the obligations of the State under this agreement.

43.

A State shall determine an agency or agencies (including bodies or organizations that are not authorities of the State) for the performance of this agreement on behalf of the State and acts and things that are done by or with respect to the agency or agencies so determined shall, for the purposes of this agreement, be deemed to have been done by or with respect to the State.

44.

If the Minister, in writing under his hand, informs the Treasurer of a State he is satisfied that the State has failed to ensure that an amount of financial assistance provided to the State has been applied for the purposes and in the manner provided for by this agreement with respect to that financial assistance, the State will repay that amount, or such part of that amount as the Minister thinks reasonable, to the Commonwealth.

45.

If a State fails for any reason to meet the requirement for the provision by it of matching funds in accordance with Part VI with respect to any financial assistance that has been provided to it, the State will upon request by the Minister, in writing under his hand, repay to the Commonwealth the amount of that financial assistance or so much of that amount as is specified in the request.

PART XIV—SUPPLY OF INFORMATION

46.

A State Minister will, upon request by the Minister, supply to the Minister such information relevant to the operation of this agreement in respect of the State as is reasonably so requested.

PART XV—VARIATION OF AGREEMENT

47.

- (1) The provisions of Part VII, IX, X or XI of this agreement may be varied as between the Commonwealth and a State by agreement in writing between the Minister and the State Minister.
- (2) A copy of an agreement or copies of the documents which constitute an agreement under sub-clause (1) shall be tabled in the Parliaments of the Commonwealth and of the State within 15 sitting days of respective Parliaments from the date upon which the agreement is made.
- (3) An agreement under sub-clause (1) shall not affect the operation of this agreement as between the Commonwealth and the States other than that with which the agreement has been made.

PART XVI—REPRESENTATION AND COMMUNICATIONS

48.

- (1) The Commonwealth shall, subject to sub-clause (2), be represented for the purposes of this agreement by the Department of Housing and Construction and the Minister shall notify the State Minister of the address of that Department and of any change at any time of that address.
- (2) In the event that the administration of this agreement for the Commonwealth is allocated to a Minister other than the Minister for Housing and Construction, the Commonwealth

shall be represented by the Department administered by that other Minister and that Minister shall notify the State Minister of the address of that Department.

49.

The State shall be represented for the purposes of this agreement by the Department administered by the State Minister and the State Minister shall notify the Minister of the address of that Department and of any change at any time of the Department or of the address.

50.

- (1) A notice or other communication under or in connexion with this agreement shall be duly given if it is in writing signed by or on behalf of, or attributed to, the head of the Department by which it is given and addressed to or delivered at the address of the Department to which it is directed.
- (2) For the purposes of this clause writing includes a teleprinter message and the address for such a message shall be the teleprinter address of the receiving Department.
- (3) A notice or other communication shall be given under this clause when it is received in the appropriate form by the Department to which it is directed.

SCHEDULE

Clause 6

EXISTING HOUSING AGREEMENTS

1. The 1945 Agreement

Agreement made 19 November 1945 between the Commonwealth and the States to which Tasmania is not now a party—Act No. 44 of 1945.

2. The 1955 Agreement

Supplemental Agreement made 16 April 1955 between the Commonwealth and the States other than Tasmania—Act No. 12 of 1955.

3. The 1956 Agreement

Agreement made 13 February 1956 between the Commonwealth and the States—Act No. 43 of 1956.

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4. The 1961 Agreement

Agreement made 4 October 1961 between the
Commonwealth and the States—Act No. 31 of 1961.

5. The 1966 Agreement

Agreement made 21 December 1966 between the
Commonwealth and the States—Act No. 24 of 1966.

6. The 1973 Agreement

Agreement made 17 October 1973 between the
Commonwealth and the States—Act No. 43 of 1973.

7. The 1974 Agreement

Supplemental Agreement made 20 December 1974 between
the Commonwealth and the States—Act No. 102 of 1974.

8. The 1978 Agreement

Agreement made 17 October 1978 between the
Commonwealth and the States—Act No. 79 of 1978.

9. The 1980 Northern Territory Agreement

Agreement made 11 March 1980 between the
Commonwealth and the Northern Territory.

IN WITNESS WHEREOF this agreement has been signed for and on
behalf of the parties respectively as at the day and year first above
written.

SIGNED by the Honourable NEIL
ANTHONY BROWN, the Minister acting
for and on behalf of the Attorney-General
of the Commonwealth of Australia, acting,
by the Authority of the Governor-General
in Council, in the stead of the Prime
Minister in the presence of—

N. A. BROWN

P. MILLER

SIGNED by the Honourable NEVILLE
KENNETH WRAN, Premier of the State
of New South Wales, in the presence of—

NEVILLE WRAN

TERRY SHEAHAN

Housing Act 1983
No. 10020 of 1983
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SIGNED by the Honourable LINDSAY HAMILTON SIMPSON THOMPSON, Premier of the State of Victoria, in the presence of—	}	L. H. S. THOMPSON
KEN GREEN		
SIGNED by the Honourable JOHANNES BJELKE-PETERSEN, Premier of the State of Queensland, in the presence of—	}	JOH. BJELKE- PETERSEN
N. HITCHINS		
SIGNED by the Honourable DAVID OLIVER TONKIN, Premier of the State of South Australia, in the presence of—	}	DAVID TONKIN
MURRAY HILL		
SIGNED by the Honourable SIR CHARLES WALTER MICHAEL COURT, Premier of the State of Western Australia, in the presence of—	}	CHARLES COURT
IAN LAURANCE		
SIGNED by the Honourable HAROLD NORMAN HOLGATE, Premier of the State of Tasmania, in the presence of—	}	HARRY HOLGATE
G. HART		
SIGNED by the Honourable PAUL ANTHONY EVERINGHAM, Chief Minister and Attorney-General of the Northern Territory of Australia, in the presence of—	}	P. EVERINGHAM
H. ZEHENDER		

**Schedule 3A—Agreement between the
Commonwealth of Australia, the States and
the Northern Territory relating to housing
(1984-1993)**

Sch. 3A
inserted by
No. 10259
s. 10.

Section 29A

AN AGREEMENT made the 12th day of March One thousand nine hundred
and eighty-five between—

THE COMMONWEALTH OF AUSTRALIA of the first part,
THE STATE OF NEW SOUTH WALES of the second part,
THE STATE OF VICTORIA of the third part,
THE STATE OF QUEENSLAND of the fourth part,
THE STATE OF WESTERN AUSTRALIA of the fifth part,
THE STATE OF SOUTH AUSTRALIA of the sixth part,
THE STATE OF TASMANIA of the seventh part, and
THE NORTHERN TERRITORY OF AUSTRALIA of the eighth part.

WHEREAS:

- (A) the Commonwealth and the States of Australia have from time to time entered into agreements for the purpose of the provision by the States with financial assistance from the Commonwealth of housing;
- (B) by an agreement between the Commonwealth, the States of Australia and the Northern Territory of Australia dated the twenty-third day of December 1981, being the agreement authorised to be executed on behalf of the Commonwealth by the Housing Assistance Act 1981 of the Commonwealth Parliament and being the last of the agreements referred to in Recital (A), provision was so made with respect to the five years commencing on the 1st July 1981;
- (C) the Ministers of the respective governments throughout Australia who are responsible for housing have agreed upon the provision of rental housing assistance and home purchase assistance in the various States and in the Northern Territory during the ten years commencing on the 1st July 1984;
- (D) the primary principle of this agreement is to ensure that every person in Australia has access to adequate and appropriate housing at a price within his or her capacity to pay by seeking to:

- alleviate housing-related poverty; and
- ensure that housing assistance is, as far as possible, delivered equitably to persons resident in different forms of housing tenure;

in implementing this principle, assistance provided under the agreement will also reflect the following detailed principles:

(a) Assistance Generally

the primary consideration in delivering housing assistance under this agreement will be the needs of people, rather than to attach assistance to particular dwellings or categories of dwellings;

housing assistance provided under this agreement will be available to all sections of the community irrespective of age, sex, marital status, race, religion, disability or life situation. However, priority in granting assistance shall be determined by the need for assistance;

in delivering housing assistance, as far as possible, people should be given an equal choice between the types of housing assistance available;

housing assistance programs developed under this agreement should be designed so that maximum social benefit is derived from previous investment in housing;

housing assistance provided under this agreement should be co-ordinated with housing assistance programs that are developed outside this agreement;

(b) Public Rental Housing

programs and funding arrangements under this agreement should seek to develop the public housing sector as a viable and diversified form of housing choice and refrain from discrimination;

programs and funding arrangements under this agreement shall be developed so as to increase progressively the availability of public housing to a level commensurate with the need for it in the community;

public housing should reflect general community housing standards and should be accessible to community and other services. Poor location of dwellings, an inadequate range of choice of dwellings, and stigmatisation of the status of public tenants should be avoided to the maximum extent practicable;

public housing stock should, as far as possible, be designed to cater for the needs and preferences of current and likely future applicants;

clear recognition should be accorded to the separate but complementary roles of:

- capital expenditure on constructing and acquiring dwellings;
- financing of rental operations;
- managing rental operations including assistance for tenants; and
- sales of dwellings;

the design, style and siting of public housing will, to the maximum extent practicable:

- reflect the need for accessibility and suitability for habitation by disabled persons, Aboriginals, youth, the elderly, or other identified groups; and
- support the energy conservation policies of the governments;

public housing authorities should ensure that tenants have maximum opportunity to participate in the management of their dwellings and estates and in the development of public housing policies;

(c) Income-Related Assistance to Tenants

programs developed under this agreement should recognise the problems created by the inability of some tenants to afford adequate rental accommodation in both public and private rental sectors;

assistance measures in the public rental sector should be co-ordinated with assistance to private tenants and should recognise the income support nature of the assistance and the inter-relationship of this assistance with Commonwealth assistance to pensioners and other beneficiaries under the Social Security Act 1947;

(d) Home Ownership Assistance

assistance under this agreement shall seek to provide home ownership opportunities for those unable to obtain or maintain affordable finance from the private sector or from other sources outside the agreement;

(e) Implementation

the State will be able to exercise maximum autonomy and flexibility in developing the administrative arrangements necessary to achieve these principles;

- (E) the Ministers referred to in Recital (C) recognise the relationship between the principles and policies reflected in this agreement and the need to co-ordinate these with those affecting generally home purchasers and tenants including tenants in private housing and in emergency and supported accommodation;
- (F) it is proposed that in order to implement the agreement of the Ministers the Commonwealth will grant to the States financial assistance under section 96 of the Commonwealth of Australia Constitution and like assistance to the Northern Territory and that the terms and conditions on which the grant of financial assistance should be made are those set out in this agreement;
- (G) the Commonwealth the States and the Northern Territory have decided that the agreement referred to in Recital (B) shall cease to operate on and from the first day of July 1984 and to vary in certain respects the operation of the agreements which have been entered into as aforesaid; and
- (H) the Parliament of the Commonwealth has authorised the execution by and on behalf of the Commonwealth of this agreement and the provision of financial assistance to the States in accordance with its provisions.

NOW IT IS HEREBY AGREED as follows:

PART I—OPERATION OF AGREEMENT

1.

- (1) This agreement shall come into force in respect of the Commonwealth and of a State when it has been signed on behalf of the Commonwealth and has been signed on behalf of the State with the authority of the Parliament of the State or, having been signed on behalf of the State without the authority, is approved by the Parliament of the State.
- (2) This agreement shall come into force in respect of the Commonwealth and the Northern Territory when it has been signed on behalf of the Commonwealth and has been signed on behalf of the Northern Territory.
- (3) Notwithstanding that in this agreement all the States of New South Wales, Victoria, Queensland, Western Australia, South Australia and Tasmania and the Northern Territory are named as parties, this agreement shall operate as an

agreement between the Commonwealth and the party or parties in respect of which it comes into force as fully and effectually as if the party or parties in respect of which it comes into force were the only party or parties so named other than the Commonwealth.

- (4) Except for obligations arising under Part VIII of the agreement referred to in Recital (B) and unperformed prior to the first day of July 1984 that agreement shall be deemed to have ceased to operate on and from that date.

2.

Acts and things provided for by this agreement which have been done or carried out by or with respect to a State or the Northern Territory in accordance with and in anticipation of its coming into force in respect of that State or Territory shall be deemed to have been done or carried out under this agreement as if it were in force at the relevant time or times in respect of that State, or that Territory, as the case may be.

PART II—PARTIES

3.

- (1) In this agreement, subject to this clause and except where the context otherwise indicates—
- (a) **"the Commonwealth"** means the Commonwealth of Australia as the party to this agreement;
 - (b) each State named as a party in respect of which this agreement comes into force is referred to as a "State" and, except where the context otherwise indicates, "the States" means all of those States; and
 - (c) **"the Northern Territory"** means the Northern Territory of Australia as the party to this agreement.
- (2) A reference to a State in this Part and in the succeeding clauses of this agreement shall, except where the contrary intention appears and according to the requirements of the context, be deemed to include a reference to the Northern Territory.

4.

Where in an existing Housing Agreement included in the Schedule the word "State" or the expression "the States" means a State or the States in respect of which that Agreement is in force, that word and that expression shall mean respectively, for the purposes of the operation of that

Agreement, a State or the States in respect of which this
agreement has come into force.

PART III—INTERPRETATION

5.

(1) In this agreement—

"the Minister" means the Minister of State of the Commonwealth for the time being responsible for the administration of this agreement for the Commonwealth; and

"the State Minister" means the Minister of State of a State for the time being responsible for the administration of this agreement for the relevant State.

(2) A reference in this agreement to a Minister includes a Minister or other member of the Federal Executive Council or Minister of the relevant State, as the case may require, acting on behalf of or for the time being acting for the Minister referred to.

6.

In this agreement, unless the contrary intention appears or the context otherwise requires—

"dwelling" means a dwelling-house or flat and includes such fences, outbuildings and other improvements and such connexions for sewerage, drainage, water, electricity, gas and other services as are provided or are reasonably required to be provided for the dwelling-house or flat;

"home purchaser" means—

- (a) a person purchasing with assistance under Part IX, housing including rental housing; or
- (b) a person who is a rental purchaser;

"housing" means residential housing including dwellings and other forms of residential accommodation;

"person" includes a body, co-operative, group or other organisation whether incorporated or not;

"previous housing arrangements" means the provisions in relation to housing—

- (a) that were made—
 - (i) by the existing Housing Agreements;

(ii) by the States Grants (Housing) Act 1971, the Housing Assistance Act 1973, the Housing Assistance Act 1978, the States (Works and Housing) Assistance Act 1982 and the States (Works and Housing) Assistance Act 1983; and

(iii) under any arrangements entered into pursuant to the Special Employment-related Programs Act 1982; and

(b) that are made by legislation passed hereafter by the Commonwealth Parliament under which financial assistance is made available to the State for housing but on terms and conditions specified in this agreement;

"rental housing" means housing for rental which has been provided under the previous housing arrangements or is provided under this agreement and "rental dwelling" means a dwelling that is included in rental housing;

"rental purchase" means a purchase under a terms contract of sale;

"rental purchaser" means a person purchasing under a terms contract of sale;

"the Commonwealth Act" means the legislation of the Commonwealth Parliament by which this agreement is authorised to be executed by or on behalf of the Commonwealth;

"the existing Housing Agreements" means the Agreements set out in the first Schedule and where the singular is used means such one or other of those Agreements as the context requires; and

"year" means a period of twelve months commencing on the first day of July.

7.

In this agreement, unless the contrary intention appears—

- (a) a reference to a Part or to a clause is to a Part or to a clause of this agreement, as the case may be;
- (b) a reference to a sub-clause is, unless otherwise indicated, to the relevant sub-clause of the clause in which the reference appears;

- (c) each of the Schedules referred to is a Schedule to the agreement;
- (d) words importing a gender include every other gender;
- (e) words in the singular number include the plural and vice versa; and
- (f) a reference to a date on or by which a thing is to be one shall, if that date falls on a Saturday, Sunday, public holiday or bank holiday in the place in which the thing is to be done, be read and construed as if the reference was to the day immediately preceding that day which is not a Saturday, Sunday, public holiday or bank holiday in that place.

PART IV—OBJECTIVE OF AGREEMENT

8.

The objective of this agreement is the provision by the States and by the Northern Territory with financial assistance from the Commonwealth of housing assistance for rental housing and for home purchase in accordance with, and in fulfilment of, the principles set out in Recital (D).

PART V—FINANCIAL ASSISTANCE

9.

- (1) In order to assist the States in the achievement of the objective of this agreement, the Commonwealth will, upon and subject to the provisions of this agreement, provide to the States during the years of this agreement financial assistance for housing purposes (hereinafter in this agreement referred to as "financial assistance") by way of interest bearing repayable advances ("loan assistance") or interest free non-repayable grants ("grants").
- (2) The years of this agreement shall be the ten years commencing on the first day of July in the years 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992 and 1993.

10.

The Commonwealth will provide base financial assistance to the States—

- (a) in respect of the first year of this agreement—totalling Five hundred and thirty million dollars (\$530 000 000) and consisting of—
 - (i) Thirty-five million dollars (\$35 000 000) by way of grants for pensioner rental housing assistance under Part XI; and
 - (ii) Four hundred and ninety-five million dollars (\$495 000 000) by way of grants for untied assistance;
- (b) in respect of each of the immediately following two years—Five hundred and ten million dollars (\$510 000 000) of which ten million dollars is to be for expenditure in accordance with clause 35 on the local government and community housing program; and
- (c) in respect of each of the remaining years of the agreement—an amount determined by the Minister by writing signed by him.

11.

The Commonwealth may provide to the States out of moneys appropriated by the Commonwealth Parliament for the purpose, in addition to any base financial assistance provided in any year, financial assistance for home purchase assistance, rental housing assistance and specific housing assistance in accordance with Part XI.

12.

In relation to the years of this Agreement other than the first, the financial assistance provided by the Commonwealth to the States out of the moneys appropriated by the Commonwealth Parliament for the purpose shall be in such proportions by way of grants and loan assistance, normally involving not less than 75% of the former, as the Minister determines in writing.

13.

In and for the purposes of this agreement—

- (a) financial assistance to be provided under clause 10 shall be known as "base financial assistance";
- (b) financial assistance in addition to base financial assistance and shall be known as "additional financial assistance";
- (c) the following grants shall be known as "specific housing assistance grants"—
 - (i) base financial assistance under sub-paragraph (a)(i) of clause 10;
 - (ii) base financial assistance of an amount of ten million dollars in each of the two years referred to in paragraph (b) of clause 10;
 - (iii) so much of other base financial assistance under paragraphs (b) and (c) of clause 10 as is authorized for expenditure under clause 35; and
 - (iv) so much of additional financial assistance authorized for expenditure under clause 35; and
- (d) financial assistance, other than specific housing assistance grants, shall be known as "untied assistance".

14.

Financial assistance shall be allocated between the States in such manner as is provided by the Commonwealth Act and it shall be a condition with respect to the provision of untied assistance that a State will match the amount of that financial assistance from its own resources in accordance with Part VI.

PART VI—STATE MATCHING FUNDS

15.

- (1) In relation to untied assistance a State will provide from its own resources and apply funds ("matching funds") in accordance with this Part.

- (2) The matching funds of a State to be provided under this Part shall be—
 - (a) in respect of the first year of this agreement—an amount equal to the State's share of Four hundred and fifty million dollars (\$450 000 000) of untied assistance, calculated pro rata with the allocation of the total of untied assistance to the State by or under the Commonwealth Act;
 - (b) in respect of each of the other years of this agreement—an amount equal to the amount of untied assistance that is provided to the State during each of those years.
- (3) Each State will by the fifteenth day of October in each year of this agreement furnish to the Commonwealth in a reasonable form to be determined by the Minister after consultation with the State Minister for the agreement of the Minister proposals for the provision and application of matching funds during that year.
- (4) Subject to sub-clauses (5), (6) and (7), matching funds in respect of a State may include—
 - (a) surpluses resulting from rental housing assistance activities by the State under previous housing arrangements and, in the case of this agreement, any surplus or net proceeds referred to in sub-paragraphs 29(b)(i) and 29(b)(ii) respectively, but not including proceeds of a sale after the first day of July 1984 of housing or land obtained by the State under those arrangements and this agreement;
 - (b) revolving funds resulting from home purchase assistance activities under previous housing arrangements and under this agreement;
 - (c) allocations from—
 - (i) consolidated revenue funds;
 - (ii) loan funds;
 - (iii) trust funds and other special accounts in the public account of the State to the extent that those funds have been financed from State resources, including deposits with the State Treasury;

- (iv) borrowings by instrumentalities of the State under the terms of the Commonwealth-State arrangements associated with the Financial Agreement and known as the Gentlemen's Agreement; and
 - (v) appropriation from surpluses of authorities and instrumentalities of the State other than those referred to in paragraphs (a) and (b) of this sub-clause; and
 - (d) any other amount, including an amount exempted from State taxes or forgone pursuant to this agreement, that is agreed upon for the purposes of this paragraph by the Minister and the State Minister.
- (5) Except as provided in sub-clause (4) matching funds shall not be derived from financial assistance under this agreement.
- (6) There shall not be included in the calculation of surpluses referred to in paragraph (a) of sub-clause (4) amounts applied by the State in accordance with paragraph (n) of clause 30.
- (7) Matching funds shall not include funds which have been used to match financial assistance provided by the Commonwealth otherwise than under this agreement or previous housing arrangements.

16.

Matching funds in respect of a State other than those referred to in paragraphs (a) and (b) of sub-clause 15(4) shall be applied by the State on such housing programs of the State, in accordance with Recital (D), but not necessarily being programs for which this agreement provides, as are from time to time agreed between the Minister and the State Minister.

17.

An amount exempted or forgone by the State shall be deemed for the purpose of clauses 15 and 16 to have been applied or expended respectively by that State in that year.

PART VII—FINANCIAL ASSISTANCE ARRANGEMENTS

18.

- (1) Each State will, not later than the thirtieth day of November preceding the beginning of a year of this agreement, inform the Minister in a reasonable form determined by the Minister after consultation with the State Minister of the amounts of financial assistance that the State wishes the Commonwealth to provide to it in respect of the year for home purchase assistance, rental housing assistance programs and specific housing assistance and at the same time will provide estimates of financial performance and planned programs for the year and revised estimates of that performance and those programs for the then current year.
- (2) The Minister and the State Minister will consult as appropriate concerning the provision of financial assistance to the State, including additional financial assistance.
- (3) In those consultations consideration shall be given to State requirements and practices.

19.

- (1) Financial assistance in respect of a year of this agreement shall be made available to a State during that year by regular monthly instalments unless otherwise agreed between the Minister and the Treasurer of the State.
- (2) If, following consultation with the State Minister, the Minister is of the opinion that it is appropriate to do so, he may withhold a payment of financial assistance to a State which fails to comply with any of sub-clauses 15(3), 18(1), 43(1) or 43(2) until the State remedies that failure.

20.

The State Minister will determine in accordance with Recital (D) in each year the allocation between home purchase assistance and rental housing assistance of the total amount of loan assistance and of grants of united assistance to be provided by the Commonwealth to a State in that year and may at any time during a year vary the determination in respect of that year.

PART VIII—INTEREST AND REPAYMENTS OF LOAN ASSISTANCE

21.

- (1) Each payment of loan assistance to a State or so much of each payment as for the time being remains unrepaid to the Commonwealth will, until repayment as provided in clause 22, bear interest at the rate of $4\frac{1}{2}$ per centum per annum computed from the date upon which the payment is made.
- (2) A State will on the thirty-first day of December and the thirtieth day of June of a year during which payments of loan assistance are made to the State under this agreement pay to the Commonwealth the interest that has accrued on those payments up to the date of the payment of the interest.

22.

Each State will repay to the Commonwealth the amount of each payment of loan assistance to the State and will pay interest thereon as provided in clause 21, other than that payable under sub-clause 21(2), by equal annual instalments of principal and interest so that the amount of the payment, together with the interest, will be repaid in 53 years from the beginning of the year next succeeding the year of this agreement in respect of which the payment was made, the first such instalment being payable on or before the end of the year next succeeding the year of this agreement in respect of which the payment was made.

23.

Accounting procedures in respect of the repayment by a State of loan assistance will be as agreed upon between the Minister for Finance of the Commonwealth and the Treasurer of the State or, in default of agreement, as determined by the Minister for Finance of the Commonwealth.

PART IX—HOME PURCHASE ASSISTANCE

24.

- (1) The Home Purchase Assistance Account established by each State in pursuance of the 1978 Housing Agreement with respect to the State and the 1980 Housing Agreement with respect to the Northern Territory shall continue to be operated by the State for the purpose of this agreement and shall be "the Account" referred to in this Part.

- (2) The moneys in this Account shall be made available for home purchase assistance in accordance with this Part.

25.

- (1) Each State will pay into the Account—
- (a) payments of loan assistance and grants made to the State that are allocated for home purchase assistance in accordance with this agreement; and
 - (b) funds from any other source which the State decides to apply on home purchase assistance under this agreement.
- (2) The Account shall also be credited with moneys received in the course of home purchase assistance operations provided for by this Part and shall be debited with management costs and other outgoings in respect of those operations.

26.

- (1) A State may use moneys in accordance with Recital (D) standing to the credit of the Account of the State for—
- (a) making repayments of principal and payments of interest in respect of loan assistance under this agreement or, where accounts under previous housing arrangements have been combined into the Account, repayments of principal and payments of interest in respect of loan assistance by the Commonwealth to the State which have been allocated for home purchase assistance under those arrangements.
 - (b) making repayments of principal and payments of interest in respect of any State funds allocated for home purchase assistance in accordance with paragraph (b) of sub-clause 25(1);
 - (c) meeting expenditure by the State in providing and administering home purchase assistance;
 - (d) making loans and grants to—
 - (i) terminating building societies or co-operative housing societies;
 - (ii) a lending authority of the State approved by the State Minister;
 - (iii) registered co-operative organisations including permanent building societies approved by the State Minister; and

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- (iv) such other class or classes of bodies or organisations as are from time to time agreed upon between the Minister and the State Minister, for the provision of home purchase assistance;
 - (e) providing in implementation of clause 27 a subsidy to a class or classes of home purchasers and such lending institutions as are from time to time agreed upon by the Minister and the State Minister to reduce the cost to home purchasers of interest;
 - (f) financing the construction and purchase of dwellings, including the purchase of dwellings from home purchasers, and financing purchases by home purchasers who are borrowers;
 - (g) purchasing housing, including private housing, for sale to rental purchasers and financing such sales;
 - (h) the acquisition by the State of replacement housing of a value equal to the amount for which the State sells rental housing to home purchasers;
 - (i) urban renewal, housing advisory services and research and policy development in relation to matters not funded by the Australian Housing Research Council;
 - (j) expenditure in accordance with Part XI; and
 - (k) such other purposes as are from time to time agreed upon by the Minister and the State Minister.
- (2) In this clause references to societies are to societies registered as societies referred to under the relevant legislation of the State.

27.

- (1) The State shall ensure that—
- (a) the rate of interest that is charged in respect of so much as is for the time being outstanding on a loan or under a terms contract of sale, as the case may be, to a home purchaser shall be the rate that is from time to time agreed between the Minister and the State Minister having regard to the then ruling minimum Commonwealth Savings Bank market rate for housing loans and other factors as are for this purpose from time to time agreed;

- (b) the minimum amount in annual repayments or payments, repayable or payable on a loan or rental purchase, as the case may be, shall be the lesser or—
 - (i) the annual amount that would be payable under a credit foncier loan with a term of twenty-five years and at the interest rate referred to in paragraph (a); or
 - (ii) twenty per centum of the gross annual income of the home purchaser and, if applicable, the husband or wife of the home purchaser or of a person living with the home purchaser as his or her spouse on a bona fide domestic basis although not legally married to him or her;
- (c) for the purpose of paragraph (b), a review of gross income of home purchasers is undertaken triennially or at intervals as agreed between the Minister and State Minister and that repayments are also adjusted at least annually over the life of the loan or rental purchase by an amount or amounts, unless otherwise agreed, not less than the proportional change or changes in the Consumer Price Index or other economic index agreed from time to time between the Minister and the State Minister;
- (d) subject to sub-clause (3) there is recovered from the home purchaser the amount by which in a year interest accruing in respect of the year at the rate referred to in this clause on the outstanding amount of the loan or rental purchase exceeds the amount of interest paid in that year;
- (e) in relation to assistance under the First Home Owners Act 1983 payable by instalments to a home purchaser—
 - (i) the home purchaser requests that those instalments be paid to the lender or vendor, as the case may be; and
 - (ii) regard not be had to receipt by the vendor or lender of those instalments for the purpose of causing the amount of annual payments or repayments to fall below that for which this clause provides; and

- (f) the provisions of this sub-clause and of sub-clause (2) are made applicable to any assistance for which this Part provides and which is made available on or after the first day of July 1985 unless prior to that date another date is agreed between the Minister and the State Minister.
- (2) In accordance with Recital (D) the State may require that the minimum amount in annual repayments or payments be greater than that specified in paragraph (b) of sub-clause (1).
- (3) The State Minister is to determine guidelines setting out circumstances in which recovery referred to in paragraph (d) of sub-clause (1) shall not be required. In so determining regard shall be had to movements in housing prices and in the income of home purchasers.
- (4) The State may cause the provisions of any of the preceding sub-clauses except paragraph (f) of sub-clause (1) to be reflected in the terms of loans made under prior arrangements.

28.

- (1) Subject to clause 27, it shall be a matter for the State—
 - (a) to determine in accordance with Recital (D) eligibility and the amounts and conditions that are to apply, in respect of loans or rental purchase to persons who are to receive home purchase assistance under this agreement and under previous housing arrangements but in this connexion regard shall be had to family income, assets of the borrower and size and standard of the housing and its location; and
 - (b) to adopt other lending practices including capital indexed loans, high start loans and second mortgage lending which are best suited to achieve the principles of this agreement.
- (2) The conditions of eligibility shall be such that assistance is provided to those persons who are not able to obtain mortgage finance assistance in the open market or from other sources.
- (3) The State may reschedule repayments by borrowers or rental purchasers in the event of hardship.

PART X—RENTAL HOUSING ASSISTANCE

29.

Funds available to a State during any year for its rental housing assistance program (for the purposes of this Part referred to as "rental housing assistance funds") shall consist of—

- (a) in respect of a year of this agreement, payments of loan assistance and grants that are made under this agreement for rental housing assistance; and
- (b) in respect of any year—
 - (i) any surplus during the year of revenue, after allowing for rent forgone, over outgoings incurred or provided for, arising directly from rental housing operations of the State under this agreement or previous housing arrangements and to which this agreement applies;
 - (ii) net proceeds from sale of rental housing and land acquired under previous housing arrangements or this agreement; and
 - (iii) any other funds which the State allocates for rental housing assistance under this agreement.

30.

Without by this clause conveying any implication that funds are to be made available by the Commonwealth for, or are to be applied by a State for, any particular purpose or in order of priority, the purposes for which rental housing assistance funds may be used by the State in accordance with Recital (D) include the following—

- (a) to meet the costs of and associated with the acquisition, planning and development of land primarily for residential development;
- (b) to pay for the construction or acquisition of housing;
- (c) to repay the principal of and pay interest on loan assistance to the State for rental housing assistance;
- (d) to provide funds to such voluntary, non-profit, charitable bodies, rental housing co-operatives and other housing management bodies or groups as are approved by the State Minister;

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- (e) to enable housing to be let to such charitable bodies, rental housing co-operatives and other organisations as are approved by the State Minister;
- (f) to engage in urban renewal activities related to public housing;
- (g) to allocate funds to local government bodies for the provision of rental housing where the State Minister considers that it would be more appropriate for such rental housing assistance to be carried out by those bodies;
- (h) to make payments for, or provide bridging finance for, the provision of open space, landscaping, community facilities and for costs associated with land development, including contributions to headworks and reticulation of services;
- (i) to undertake research and policy development in relation to matters not funded by the Australian Housing Research Council;
- (j) to undertake and participate in joint ventures, co-operative enterprises or similar arrangements in order that public housing developments may be integrated with private housing and to achieve a desirable socio-economic mixture of housing;
- (k) to lease housing from the private housing sector;
- (l) to provide housing advisory services related to public housing;
- (m) to provide rental subsidy for eligible persons renting private housing;
- (n) noting that the Commonwealth assists pensioners and other beneficiaries in the private rental market, to supplement, up to an amount determined in writing by the Minister in respect of each year, rental revenue reduced by the operation of clause 33 in respect of pensioners and other beneficiaries under the Social Security Act 1947;
- (o) expenditure in accordance with Part XI; and
- (p) any other purposes agreed upon between the Minister and the State Minister.

31.

The conditions of eligibility of persons for rental housing assistance shall be determined by the State in accordance with Recital (D) and so that priority in granting assistance is determined by the need for assistance.

32.

- (1) Subject to sub-clause (2) and clause 33, the State will in respect of its rental housing apply a policy of fixing rents at a level not less than that which would result from an application of the formula set out in the Second Schedule, and also review those rents at least annually.
- (2) If the State wishes, it may phase in the said policy over a period of three years or other period which takes into account the level of rents prevailing in the private rental market and is agreed to between the Minister and the State Minister.

33.

The State shall forgo the collection of so much of rents fixed in accordance with clause 32 as it considers that tenants having regard primarily to their income are not able to afford to pay.

34.

- (1) A State may sell rental housing but such sales, if any, shall be in accordance with Recital (D) and subject to the following conditions—
 - (a) all sales of housing shall be at market value or replacement costs at the time of the sale but not so as to preclude the State, if it so wishes, from providing a credit to the tenant in recognition of improvements that the tenant has made to the housing except that, in the case of any body, co-operative, group or other organisation which makes available rental housing provided under this agreement and in respect of which it is agreed between the Minister and the State Minister, sales need not be at that value or cost;
 - (b) in all sales of rental housing, the vendor is, at or prior to the date of the sale, to have received an amount calculated in accordance with paragraph (a);
 - (c) in the case of a rental purchase, home purchase assistance funds are to be used to enable the vendor to receive an amount referred to in paragraph (b); and

- (d) net proceeds from sales of housing shall be applied to construct or purchase replacement housing which is to be included in rental housing for the purpose of this agreement.
- (2) The State will ensure that if any body, co-operative, group or other organisation which acquires housing with rental housing assistance funds or acquires at other than market value or replacement cost, rental housing from the State, sells, otherwise disposes of, or uses that housing for a purpose other than rental housing as provided for under this Part, it shall repay to the State an amount equal to the net proceeds from the sale, at market value or replacement cost, of that housing.

PART XI—SPECIFIC HOUSING ASSISTANCE

35.

The Minister may, in writing under his hand authorize, subject to guidelines made consistently with this agreement and agreed between the Minister and State Minister relating to the following programs including guidelines as to the provision of any funds by the State in relation to each program, grants to the State for expenditure on—

- (i) rental housing assistance for pensioners;
- (ii) rental housing assistance for Aboriginals;
- (iii) mortgage and rent relief;
- (iv) crisis accommodation;
- (v) local government and community housing;
- (vi) any other program determined by the Minister following consultation with the States.

36.

- (1) Rental housing provided with grants for specific housing assistance may be sold by a State subject to and in accordance with the provisions of clause 34.
- (2) Unless otherwise agreed by the Minister the net proceeds of sale of rental housing provided for a specific purpose or program with grants under this Part shall only be applied to provide rental housing for the same purpose or program.

- (3) This clause shall apply to rental housing that has been provided from grants made by the Commonwealth to a State under Part III of the Housing Assistance Act 1978 or under Part XI of the agreement referred to in Recital (B).

PART XII—SUPERSESION OF PREVIOUS HOUSING ARRANGEMENTS

37.

The provisions of this agreement with respect to rental housing and home purchase assistance shall, except as provided herein, supersede the provisions of the existing Housing Agreements to the intent that this agreement will provide the arrangements between the Commonwealth and each State in relation to the provision of rental housing, including the sale of housing so provided, and to the provision of assistance for home purchasers under the previous housing arrangement and this agreement.

PART XIII—OBSERVANCE OF AGREEMENT

38.

The Commonwealth shall provide for or secure the performance by it and its authorities of the obligations of the Commonwealth under this agreement and each of the States shall provide for or secure the performance by the State and its authorities of the obligations of the State under this agreement.

39.

A State shall determine an agency or agencies (including bodies or organisations that are not authorities of the State) for the performance of this agreement on behalf of the State and acts and things that are done by or with respect to the agency or agencies so determined shall, for the purposes of this agreement, be deemed to have been done by or with respect to the State.

40.

If the Minister, in writing under his hand, informs the Treasurer of a State he is satisfied that the State has failed to ensure that an amount of financial assistance provided to the State has been applied for the purposes and in the manner provided for by this agreement with respect to that financial assistance, the State will repay that amount, or such part of that amount as the Minister thinks reasonable, to the Commonwealth.

41.

If a State fails for any reason to meet the requirement for the provision by it of matching funds in accordance with Part VI or Part XI with respect to any financial assistance that has been provided to it, the State will upon request by the Minister, in writing under his hand, repay to the Commonwealth the amount of that financial assistance or so much of that amount as is specified in the request.

PART XIV—TRIENNIAL EVALUATION

42.

In accordance with the arrangements to be agreed upon between the Minister and the State Minister the operation of the agreement is to be evaluated triennially.

PART XV—SUPPLY OF INFORMATION

43.

- (1) A State will furnish in respect of each year to the Commonwealth by the thirtieth day of November next occurring after that year and in a reasonable form to be determined by the Minister after consultation with the State Minister—
 - (a) statements which set out particulars of the expenditures during the year by the State of—
 - (i) matching funds on programs agreed upon by the Minister and the State Minister; and
 - (ii) grants for specific housing assistance;
 - (b) statements in respect of the operation of—
 - (i) the Home Purchase Assistance Account; and
 - (ii) the rental housing assistance program;which show the origin of funds received, and the manner in which funds were applied; and
 - (c) statements which set out—
 - (i) the manner in which the State has fixed rents in accordance with clause 32;
 - (ii) the total of the amount forgone by the State in accordance with clause 33 for that year and the basis thereof;

- (iii) the excess of the amounts that are received into the Home Purchase Assistance Account over payments that are made from that Account in accordance with sub-clause 25(2);
 - (iv) the guidelines determined pursuant to sub-clause 27(3) and the number of cases and amount forgone as a result of application of the guidelines;
 - (v) any surplus of revenue over outgoings, after allowing for rent forgone, arising from rental housing operations; and
 - (iv) all proceeds of sale in that year of rental housing.
- (2) A statement furnished pursuant to sub-clause (1) is to be certified as to its corrections by a person appointed by the State Minister for that purpose.
 - (3) A State Minister will, upon request by the Minister, supply to the Minister such information relating to the operation of this agreement in respect of the State and other information relating to expenditure by the State on housing assistance generally as is reasonably so requested.

PART XVI—VARIATION OF AGREEMENT

44.

- (1) The provisions of this agreement other than Part IV may be varied as between the Commonwealth and a State by agreement in writing between the Minister and the State Minister but only after consultations between the Minister and other State Ministers.
- (2) A copy of an agreement or copies of the documents which constitute an agreement under sub-clause (1) shall be tabled in the Parliaments of the Commonwealth and of the State within 15 sittings days of respective Parliaments from the date upon which the agreement is made.
- (3) An agreement under sub-clause (1) shall not affect the operation of this agreement as between the Commonwealth and the State other than that with which the agreement has been made.

PART XVII—REPRESENTATION AND COMMUNICATIONS

45.

- (1) The Commonwealth shall, subject to sub-clause (2), be represented for the purposes of this agreement by the Department of Housing and Construction and the Minister shall notify the State Minister of the address of that department and of any change at any time of that address.
- (2) In the event that the administration of this agreement for the Commonwealth is allocated to a Minister other than the Minister for Housing and Construction, the Commonwealth shall be represented by the Department administered by that other Minister and that Minister shall notify the State Minister of the address of that Department.

46.

The State shall be represented for the purposes of this agreement by the Department administered by the State Minister or such other agency of the State as the State Minister shall nominate ('Agency') and the State Minister shall notify the Minister of the address of that Department or Agency and of any change at any time of the Department or Agency or of the address.

47.

- (1) A notice or other communication under or in connexion with this agreement shall be duly given if it is in writing signed by, or on behalf of, or attributed to, the head of the Department or Agency to which it is given and addressed to or delivered at the address of the Department or Agency to which it is directed.
- (2) For the purposes of this clause writing includes a teleprinter message and the address for such a message shall be the teleprinter address of the receiving Department or Agency.
- (3) A notice or other communication shall be given under this clause when it is received in the appropriate form by the Department or Agency to which it is directed.

FIRST SCHEDULE

Clause 6

EXISTING HOUSING AGREEMENTS

1. The 1945 Agreement

Agreement made 19 November 1945 between the Commonwealth and the State to which Tasmania is not now a party—Act No. 44 of 1945.

2. The 1955 Agreement

Supplemental Agreement made 16 April 1955 between the Commonwealth and the States, other than Tasmania—Act No. 12 of 1955.

3. The 1956 Agreement

Agreement made 13 February 1957 between the Commonwealth and the States—Act No. 43 of 1956.

4. The 1961 Agreement

Agreement made 4 October 1961 between the Commonwealth and the States—Act No. 31 of 1961.

5. The 1966 Agreement

Agreement made 21 December 1966 between the Commonwealth and the States—Act No. 24 of 1966.

6. The 1973 Agreement

Agreement made 17 October 1973 between the Commonwealth and the States—Act No. 43 of 1973.

7. The 1974 Agreement

Supplemental Agreement made 20 December 1974 between the Commonwealth and the States—Act No. 102 of 1974.

8. The 1978 Agreement

Agreement made 17 October 1978 between the Commonwealth and the States—Act No. 79 of 1978.

9. The 1980 Northern Territory Agreement

Agreement made 11 March 1980 between the Commonwealth and the Northern Territory.

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10. The 1981 Agreement

Agreement made 23 December 1981 between the
Commonwealth, the States and the Northern Territory but in
relation to the period 1 July 1981 to 30 June 1984 only.

SECOND SCHEDULE

Clause 32

COST RENT FORMULA

The following formula is to be used to determine real cost rents for public rental accommodation. States are to charge rents at least equal to those resulting from the use of this formula. The formula is not to be applied to the costs of individual dwellings but rather to the total cost pool of the rental stock. In allocating the total cost rent pool to individual tenancies States will have regard to variation in housing standards and locations within the constraints of available administrative arrangements for assessing these variations.

1. Recovery of operating expenses

The costs to be recovered in this area are ordinarily listed in the rental accounts of State housing authorities as yearly expenditure items. These include—

- (a) administration;
- (b) rates;
- (c) insurance;
- (d) specific operating expenses associated with particular types of units;
- (e) annual maintenance;
- (f) yearly allowance for rent arrears and debts written off;
- (g) yearly allowance for vacancies;
- (h) leasing expenses related to land and dwellings;
- (i) operating expenses of community facilities; and
- (j) any other operating costs agreed between Federal and State Housing Ministers.

2. Interest Charges

Interest payable on loan funds invested in public rental housing.

3. Depreciation

- (i) depreciation rate is to reflect a life of between 40–75 years of the capital improvements on the land;
- (ii) the value of capital improvement will be based on the estimated current capital improved value;

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- (iii) the minimum annual depreciation rate will be not less than
the rate resulting from a term of 75 years.

IN WITNESS WHEREOF this Agreement has been respectively signed for
and on behalf of the parties as at the day and year first above written as
follows:

SIGNED by the Honourable
ROBERT JAMES LEE HAWKE,
Prime Minister of the
Commonwealth of Australia, in the
presence of—

BOB HAWKE

STEWART WEST

SIGNED by the Honourable
NEVILLE KENNETH WRAN,
Premier of the State of New South
Wales, in the presence of—

NEVILLE WRAN

FRANK WALKER

SIGNED by the Honourable JOHN
CAIN, Premier of the State of
Victoria, in the presence of—

JOHN CAIN

IAN CATHIE

SIGNED by the Honourable SIR
JOHANNES BJELKE-PETERSEN,
Premier of the State of Queensland,
in the presence of—

JOH. BJELKE-PETERSEN

CLAUDE WHARTON

SIGNED by the Honourable BRIAN
THOMAS BURKE, Premier of the
State of Western Australia, in the
presence of—

BRIAN BURKE

KEITH WILSON

SIGNED by the Honourable JOHN
CHARLES BANNON, Premier of
the State of South Australia, in the
presence of—

J. C. BANNON

STEWART WEST

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States and the Northern Territory relating to housing (1984-1993)

SIGNED by the Honourable ROBIN
TREVOR GRAY, Premier of the
State of Tasmania, in the presence
of—

}

ROBIN GRAY

BRENDAN LYON

SIGNED by the Honourable IAN
LINDSAY TUXWORTH, Chief
Minister, in the presence of—

}

IAN TUXWORTH

DARYL MANZIE

Schedule 4—Previous agreements

Section 29(2)

1 Identification of earlier Agreements

The following Agreements between the State of Victoria and the Commonwealth of Australia are hereby declared to have been ratified and approved:

- (a) The Agreement of 19 November 1945 ratified and approved by the Housing (Commonwealth and State Agreement) Act 1946, a copy of which is set out in the Fourth Schedule to the **Housing Act 1958** and which is hereafter called the "Commonwealth and State Housing Agreement 1945";
- (b) The Agreement of 16 April 1955 ratified and approved by the **Housing Act 1955**, a copy of which is set out in the Fifth Schedule to the **Housing Act 1958** and which is hereafter called the "Amending Agreement 1955";
- (c) The Agreement of 13 February 1957 ratified and approved by the Housing (Commonwealth and State Agreement) Act 1957, a copy of which is set out in the Sixth Schedule to the **Housing Act 1958** and which is hereafter called the "Commonwealth and State Housing Agreement 1956";
- (d) The Agreement of 4 October 1961 ratified and approved by the Housing (Commonwealth and State Agreement) Act 1961, a copy of which is set out in Schedule Six A to the **Housing Act 1958**, and which is hereafter called the "Commonwealth and State Housing Agreement 1961";

- (e) The Agreement of 7 November 1966 ratified and approved by the Housing (Commonwealth and State Agreement) Act 1966, a copy of which is set out in Schedule Six B to the **Housing Act 1958** and which is hereafter called the "Commonwealth and State Housing Agreement 1966";
- (f) The Agreement of 5 September 1973 ratified and approved by the Housing (Commonwealth and State Agreement) Act 1973, as amended by the 1974 Supplemental Agreement, copies of which are set out in Schedule Six C and Six D to the **Housing Act 1958** and which is hereafter called the "1973–1974 Housing Agreement";
- (g) The Agreement of 15 September 1978 ratified and approved by the **Housing (Amendment) Act 1978**, a copy of which is set out in Schedule Six E to the **Housing Act 1958** and which is hereafter called the "1978 Housing Agreement".

2 Accounts to be kept by Treasurer

The Treasurer shall keep the following accounts:

- (a) An account to be called the "Commonwealth and State Housing Trust Account" into which shall be paid all money advanced to the State of Victoria by the Commonwealth pursuant to clause 6 of the Commonwealth and State Housing Agreement 1945;
- (b) An account to be called the "Home Builders' Account" into which shall be paid all money advanced by the Commonwealth to the State of Victoria pursuant to the Commonwealth and State Housing Agreements 1956, 1961 and 1966;

- (c) An account to be called the "Home Builders' Account No. 3" into which shall be paid all money advanced by the Commonwealth to the State of Victoria pursuant to the 1973–1974 Housing Agreement; and
- (d) An account to be called the "Commonwealth and State Housing Agreement 1978 Home Assistance Account" into which shall be paid all money advanced by the Commonwealth to the State of Victoria pursuant to Part VI of the 1978 Housing Agreement.

3 Application of money received under Agreements

All money in the accounts to be kept under clause 2 shall be applied in accordance with the provisions of the Agreements referred to in clause 1 pursuant to which that money has been paid.

4 Appropriation from Consolidated Fund for repayment to Commonwealth

All money which is or may become payable by the State of Victoria to the Commonwealth under the Agreements referred to in clause 1 shall be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly).

5 Repayment of money to Consolidated Fund

All money paid out of the Consolidated Fund to the Commonwealth for the payment of principal and interest in respect of money advanced by the Commonwealth and paid into any of the accounts referred to in clause 2 shall be repaid to the Consolidated Fund from those accounts.

Schedule 5—Parking of vehicles on land of the Director

Section 36

1 Definitions

In this Schedule unless inconsistent with the context or subject-matter—

authorized officer means an employee of the Department or any other person appointed in writing by the Director of Housing as an authorized officer for the purposes of this Schedule;

Sch. 5 cl. 1
def. of
authorized officer
amended by
No. 106/2004
s. 12(3).

listed vehicle, with respect to the parking of a vehicle in a parking area, means a vehicle which pursuant to this Schedule is currently listed as a vehicle entitled to be parked in the parking area;

owner, in respect of a vehicle, means owner within the meaning of Part VII of the **Transport (Compliance and Miscellaneous) Act 1983**;

Sch. 5 cl. 1
def. of *owner*
amended by
No. 6/2010
s. 203(1)
(Sch. 6
item 25) (as
amended by
No. 45/2010
s. 22).

parking, with respect to the parking of a vehicle, includes the leaving standing of the vehicle (whether attended or not);

parking offence means the parking of a vehicle—

- (a) on any portion of the Director's land—
 - (i) where the parking of vehicles is prohibited;

- (ii) at a time when parking is not permitted or for a period longer than the period permitted for parking; or
- (iii) in contravention of any condition in respect of which the parking of the vehicle is permitted; or
- (b) in a parking area where the vehicle is not a listed vehicle with respect to that parking area;

Sch. 5 cl. 1
def. of
*the Director's
land*
amended by
No. 26/1987
s. 19(1).

the Director's land means land vested in or held under lease by the Director, or land in which the Director has an interest under a licence;

Sch. 5 cl. 1
def. of *vehicle*
amended by
No. 127/1986
s. 102(Sch. 4
item 13).

vehicle means any conveyance designed to be propelled or drawn by any means (including a motor vehicle within the meaning of the **Road Safety Act 1986** and a bicycle and a tricycle).

2 Parking areas and control of parking

- (1) Without in any way limiting or derogating from any other mode of granting permission the Director may from time to time—
 - (a) allocate any portion of the Director's land as a parking area and with respect to the parking of vehicles within the parking area—
 - (i) determine the number of vehicles that may be parked within the parking area;
 - (ii) determine the class of persons who may be entitled to have their vehicles listed as listed vehicles, limit (where necessary or expedient) from that class the number of persons entitled so to list

- their vehicles and determine the method by which those persons may be selected;
- (iii) prohibit the parking of any vehicle within the parking area unless the vehicle is a listed vehicle with respect to that parking area;
 - (iv) prohibit the parking of any vehicle or of vehicles of any class or size as being unsuitable for parking within the parking area; and
 - (v) determine any other matters which in the opinion of the Director are necessary or expedient for or with respect to the parking of vehicles within the parking area; and
- (b) prohibit or control the parking of vehicles on any specific portion of the Director's land which is not a parking area.
- (2) The limits of a parking area and the times, periods and conditions (if any) for the time being in force with respect to the parking of listed vehicles within the parking area shall, subject to this clause, be sufficiently indicated on a sign or signs provided by the Director near each entrance to the parking area and on any other place that the Director determines.
- (3) Every sign referred to in subclause (2) and every sign prohibiting the parking of vehicles on any portion of the Director's land shall bear on the sign an inscription indicating that the matters set out in the sign are authorized by the Director.

3 Persons entitled to park in a parking area to have their vehicles listed

- (1) Every person entitled to park a vehicle in the parking area shall give in writing to the authorized officer appointed by the Director in that behalf the registered number and a description of the vehicle.
- (2) The authorized officer so appointed shall keep a list of the names of every person currently entitled to park a vehicle in the parking area and the registration number and description of every current listed vehicle.
- (3) Vehicles currently on the list kept in respect of a parking area shall be the only vehicles entitled to park in that parking area.
- (4) The Director shall supply an identifying label indicating the location within any particular parking area within which the vehicle may be parked to each person entitled to park a vehicle in the parking area and that person shall cause the label to be affixed to the inside of the rear window of the vehicle (or where the vehicle has no rear window to some other conspicuous part of the vehicle).
- (5) The Director may charge such fees as the Director deems necessary for the parking of vehicles in parking areas and may remove from any list a vehicle where the owner fails to pay such fees.

Sch. 5 cl. 3(5)
amended by
No. 26/1987
s. 21.

4 Parking offences

- (1) When a parking offence occurs in relation to a vehicle the person who at the time of the occurrence of the parking offence is the owner of the vehicle shall by virtue of this clause be and be deemed to be guilty of an offence against this Act in all respects as if he were the actual offender guilty of an offence.

- (2) Nothing in subclause (1) shall affect the liability of the actual offender but where the full amount of any penalty has been paid by the actual offender or owner in relation to any parking offence no further penalty shall be imposed upon or recovered from the owner or actual offender in relation thereto.

5 Parking offence notices and penalties

- (1) Where a police officer or an authorized officer has reason to believe that a parking offence has been committed in respect of a vehicle he or she may serve or cause to be served an infringement notice as hereinafter provided.

Sch. 5 cl. 5(1)
amended by
Nos 26/1987
s. 21, 32/2006
s. 94(Sch.
item 27(1)),
70/2013
s. 3(Sch. 1
item 22),
37/2014
s. 10(Sch.
item 81.2).

- (2) A parking offence referred to in subclause (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

Sch. 5 cl. 5(2)
amended by
Nos 127/1986
s. 102(Sch. 4
item 13),
26/1987
ss 19(2), 21,
substituted by
No. 32/2006
s. 94(Sch.
item 27(2)).

* * * * *

Sch. 5 cl. 5(3)
amended by
No. 26/1987
s. 19(3)(a)(b),
repealed by
No. 32/2006
s. 94(Sch.
item 27(3)).

- (4) The penalty for any parking offence shall be the amount (being an amount not more than \$25) determined by the Director in respect of parking offences of the kind in question.

Housing Act 1983
No. 10020 of 1983
Schedule 5—Parking of vehicles on land of the Director

Sch. 5 cl. 5(5) amended by No. 26/1987 s. 21, repealed by No. 32/2006 s. 94(Sch. item 27(3)).	*	*	*	*	*
Sch. 5 cl. 5(6)(7) repealed by No. 32/2006 s. 94(Sch. item 27(3)).	*	*	*	*	*
Sch. 5 cl. 5(8) amended by No. 57/1989 s. 3(Sch. item 97.4(a)), repealed by No. 32/2006 s. 94(Sch. item 27(3)).	*	*	*	*	*
Sch. 5 cl. 6 amended by Nos 26/1987 s. 19(4), 57/1989 s. 3(Sch. item 97.4(b)), 32/2006 s. 94(Sch. item 27(4)).	<p>6 Fund into which money recovered is to be paid</p> <p>Despite section 32(3) of the Infringements Act 2006, any money recovered by way of a penalty for a parking offence shall be paid—</p>				
Sch. 5 cl. 6(a) amended by Nos 68/2009 s. 97(Sch. item 67.2), 37/2014 s. 10(Sch. item 81.2).	(a) where the charge-sheet is filed by a police officer—into the Consolidated Fund;				
Sch. 5 cl. 6(b) amended by Nos 106/2004 s. 12(4), 68/2009 s. 97(Sch. item 67.2).	(b) where the charge-sheet is filed by an authorized officer (being an employee of the Department)—into the general fund maintained by the Director; and				

(c) where the charge-sheet is filed by a person prescribed for the purposes of this clause—into the fund prescribed in respect of that person; and

Sch. 5 cl. 6(c)
amended by
No. 68/2009
s. 97(Sch.
item 67.2).

(d) where no charge-sheet is filed—into the general fund maintained by the Director.

Sch. 5 cl. 6(d)
amended by
No. 68/2009
s. 97(Sch.
item 67.2).

7 Evidence of ownership of motor cars

For the purposes of this Schedule a certificate in the prescribed form signed or purporting to be issued by the Secretary to the Department of Transport setting out that on the date any parking offence is alleged to have occurred any motor vehicle was registered under the **Road Safety Act 1986** in the name of any person shall be prima facie evidence that on such date the motor vehicle was so registered in the name of that person.

Sch. 5 cl. 7
amended by
Nos 127/1986
s. 102(Sch. 4
item 13),
26/1987 s. 21,
44/1989
s. 41(Sch. 2
item 21(a)),
49/2019
s. 186(Sch. 4
item 21.1).

8 Vehicles unregistered, abandoned or illegally parked may be removed and sold in certain circumstances

(1) Where a vehicle—

(a) parked on the Director's land is not registered under the **Road Safety Act 1986**;

Sch. 5
cl. 8(1)(a)
amended by
No. 127/1986
s. 102(Sch. 4
item 13).

(b) has been parked on the Director's land for at least five consecutive days and in the opinion of an authorized officer has been abandoned;
or

(c) is parked within a parking area while not being a listed vehicle with respect to that area—

the Director or any person authorized by the Director may, whether or not any goods are in or on the vehicle, cause it to be removed and taken to a place that the Director generally or in any particular case appoints and be retained there subject to this clause.

Sch. 5 cl. 8(2)
amended by
Nos 127/1986
s. 102(Sch. 4
item 13),
44/1989
s. 41(Sch. 2
item 21(b)),
49/2019
s. 186(Sch. 4
item 21.2).

(2) Where a vehicle registered under the **Road Safety Act 1986** is taken to a place so appointed the Director shall cause notice of the taking to be served by post on the person who appears on the records kept by the Secretary to the Department of Transport to be the owner or proprietor of the vehicle.

Sch. 5 cl. 8(3)
amended by
No. 26/1987
s. 21.

(3) Any vehicle which has been so removed shall be surrendered to the owner or any person on behalf of the owner on the owner's giving satisfactory evidence on his or her right to the vehicle and on payment to the Director of such fee as the Director demands (not exceeding \$50) together with an additional fee (not exceeding \$5) for every 24 hours that the vehicle remains in the custody of the Director and all expenses reasonably incurred by the Director in connexion with the removal of the vehicle.

Sch. 5 cl. 8(4)
amended by
Nos 127/1986
s. 102(Sch. 4
item 13),
26/1987 s. 21.

(4) If any such vehicle is not so claimed and removed by the owner or some other person on behalf of the owner within 28 days after being removed by the Director (or in the case of a vehicle registered under the **Road Safety Act 1986**, within 28 days after the service of a notice on the owner or proprietor) the Director may cause the vehicle to be sold by auction or by public tender but not less than 7 days notice of such auction or calling for

tenders shall be given in a newspaper published in Melbourne and if the vehicle is not sold as a result of any such auction or calling for tenders the Director may sell, destroy or give away the vehicle as the Director thinks fit.

- (5) Where a vehicle is sold in purported exercise of the power of sale conferred by this clause the title of the purchaser shall not be impeached on any ground whatsoever and the purchaser shall take the vehicle freed from any title, estate interest or right of any other person.
- (6) The net proceeds of any such sale less any amount payable under subclause (3) shall be held in a trust fund by the Director and shall be paid to any person who in the opinion of the Director is entitled thereto but if not claimed by any such person within one year shall be paid into the general fund maintained by the Director.
- (7) If the person to whom any money is so paid is not the person entitled thereto the Director shall not be liable for any such payment but any other person who claims such money may have recourse against the person to whom payment was made by the Director.
- (8) In this clause anything which is required or permitted to be done in respect of a vehicle may in like manner be done in respect of any goods and chattels in or on the vehicle.
- (9) The powers and discretions conferred on the Director by this clause may be exercised by any officer of the Ministry of Housing authorized in writing by the Director in that behalf.

Sch. 5 cl. 8(5)
amended by
No. 26/1987
s. 21.

9 Immunity of Director from suit

The Director shall not be subject to any claim, action, liability or demand in respect of any damage sustained by a person in respect of any vehicle while it is parked on the Director's land or any other loss whatsoever that is sustained by the owner of such a vehicle.

Schedule 6—Standards of habitation

Section 72

1 Lodging of certificates of charge on land with Registrar of Titles

When any land is charged pursuant to subsection (2) of section 67 the Council shall cause a certificate signed by a member of the Council's staff authorised by the Council for that purpose, describing the land charged and stating the amount of the charge, to be lodged with the Registrar of Titles.

Sch. 6 cl. 1
amended by
Nos 26/1987
s. 20(a),
20/1996
s. 13(a)(i)(ii),
85/1998
s. 24(Sch.
item 34.3).

2 Registration of certificate on title

- (1) On receipt of a certificate under clause 1 and on payment of the prescribed fee, the Registrar of Titles must make a recording of the certificate in the Register.
- (2) When the amount of the expenses is paid, the Registrar of Titles, on the request of the Council and on payment of the prescribed fee must make a recording in the Register of the cancellation of the charge.

Sch. 6 cl. 2
amended by
Nos 26/1987
s. 20(a),
20/1996
s. 13(b),
substituted by
No. 85/1998
s. 24(Sch.
item 34.4).

3 Enforcement of charge in County Court

For the purpose of enforcing any charge under section 67, proceedings may be had and taken in the County Court and that court may order the sale of the whole or any part of the land subject to the charge and for this purpose the County Court shall have jurisdiction and exercise all the powers and authorities of the Supreme Court in all proceedings under Part IV of the **Trustee Act 1958**, notwithstanding the amount or value of the trust estate or fund to which the proceeding relates.

4 Force and effect of decree or order of County Court

Where pursuant to clause 3 any decree or order of the County Court is made relating to land under the provisions of the **Transfer of Land Act 1958**, that decree or order shall, for all the purposes of that Act, have the same force and effect and shall be received, dealt with and given effect to in all respects thereunder as if it were a decree or order of the Supreme Court.

Sch. 6 cl. 5
amended by
No. 26/1987
ss 20(a)(b), 21,
repealed by
No. 20/1996
s. 13(c).

* * * *

6 Lodging of copy of declaration with Registrar of Titles

Sch. 6 cl. 6(1)
amended by
Nos 26/1987
s. 20(a)(b)(i)(ii),
85/1998
s. 24(Sch.
item 34.5(a)).

- (1) Where the Director has made a declaration under section 64, the Director shall, within fourteen days of the making of that declaration, lodge a copy of the declaration with the Registrar of Titles.

Sch. 6 cl. 6(2)
amended by
Nos 26/1987
s. 20(a),
20/1996
s. 13(d),
85/1998
s. 24(Sch.
item 34.5(b)).

- (2) The Council shall, within fourteen days of any declaration ceasing to operate in respect of any land, lodge with the Registrar of Titles a notice in writing that the declaration has ceased to operate.

Sch. 6 cl. 6(3)
amended by
Nos 26/1987
s. 21, 18/1989
s. 13(Sch. 2
item 39(b)),
20/1996
s. 13(e),
85/1998
s. 24(Sch.
item 34.5(b)).

- (3) On receipt of a copy of a declaration or of a notice that a declaration has ceased to operate the Registrar of Titles shall make such entries or recordings as he or she thinks necessary or expedient for the purpose of bringing that declaration or notice to the notice of persons who search the title of the land to which the declaration relates and the Registrar of Titles may require

such evidence of the identity of any land affected by a declaration or notice lodged under this clause as he or she thinks fit.

7 Recovery of money owing by owner by attachment of rent payable by occupier

- | | |
|---|--|
| (1) Where, under Part VII of this Act, any money is payable to the Council by the owner of any house and the Council is satisfied that the owner is not making satisfactory arrangements for the payment of that money, the Council may, by notice in writing served on the occupier of that house, require that occupier to pay to the Council until such time as the amount of money payable to the Council has been satisfied any money payable by the occupier by way of rent to the owner. | Sch. 6 cl. 7(1)
amended by
Nos 26/1987
s. 20(a),
20/1996
s. 13(f). |
| (2) The Council shall forward a copy of any notice under subclause (1) to the owner of the house concerned. | Sch. 6 cl. 7(2)
amended by
Nos 26/1987
s. 20(a),
20/1996
s. 13(f). |
| (3) Any occupier who having the means to comply with any notice under subclause (1) fails to do so shall be guilty of an offence.

Penalty: 1 penalty unit. | |
| (4) Any occupier making any payment in pursuance of this clause shall be deemed to have been acting under the authority of the owner and all other persons concerned and is hereby indemnified in respect of that payment and that payment shall be credited against the amount payable by the owner to the Council under Part VII. | Sch. 6 cl. 7(4)
amended by
Nos 26/1987
s. 20(a),
20/1996
s. 13(f). |
| (5) If the Council receives, otherwise than from the occupier, any payment in respect of the amount payable by the owner to the Council under Part VII it shall forthwith give notice thereof to the occupier. | Sch. 6 cl. 7(5)
amended by
Nos 26/1987
s. 20(a),
20/1996
s. 13(f)(g). |

- (6) This clause shall be read and construed as in aid of and not in derogation from the provisions of section 67(2).

Sch. 6 cl. 8
amended by
No. 20/1996
s. 13(h).

8 Provisions as to owners who are trustees

Where any owner, being a trustee within the meaning of the **Trustee Act 1958**, is directed under Part VII to make any house or land comply with the regulations or to demolish any house, the trustee may, notwithstanding anything to the contrary contained in the instrument (if any) creating the trust—

- (a) make the house or land comply with those regulations;
- (b) demolish the house and, if the trustee thinks fit, erect another house in substitution therefor or sell the land on which the house was situated;
- (c) pay or apply any capital money subject to the trust for or towards any such purpose;
- (d) raise any money required for or towards any such purpose by sale, conversion, calling in or mortgage of all or any part of the trust property for the time being in possession.

Schedule 7—Registration of rental housing agencies—registration criteria

Sch 7
inserted by
No. 106/2004
s. 14.

The criteria for determining whether a rental housing agency should be registered under Part VIII are as follows—

1 General

- (1) The rental housing agency must be a non-profit body.
- (2) To be registered as a registered housing association the rental housing agency must be a company limited by shares or by guarantee.
- (3) To be registered as a registered housing provider the rental housing agency must be a company limited by shares or by guarantee or a co-operative or an incorporated association.
- (4) The rental housing agency must be established to provide affordable rental housing to people on low incomes.
- (5) Unless the Registrar otherwise approves under section 82 or 103, the rental housing agency must not act as a trustee for any person other than a registered agency.
- (6) Unless the Registrar otherwise approves under section 82 or 103, the rental housing agency must not be a subsidiary of any body other than a registered agency.

2 Constitution—objects and powers

- (1) Subject to subclause (3), the constitution or rules of the rental housing agency must contain the provisions required by this clause.

Objects

- (2) The rental housing agency's statement of objects must include an object to the effect of one of the following objects—

- (a) to promote the relief of poverty, sickness or the needs of the aged by providing affordable rental housing to persons in housing need as low-income households, or through infirmity or age; or
 - (b) to promote other purposes beneficial to the community through the provision of affordable housing and associated services.
- (3) The rental housing agency's statement of objects is not required to include an object set out in subclause (2) if the rental housing agency otherwise satisfies the Registrar that it is a non-profit body.

Powers

- (4) The rental housing agency's powers must include powers to—
- (a) acquire, by way of purchase, lease, transfer or otherwise, real property;
 - (b) dispose of any real property, subject to the consent of the Director under section 109 of the **Housing Act 1983**;
 - (c) provide security for the payment of money, subject to the consent of the Director under section 109 of the **Housing Act 1983**;
 - (d) apply for and accept, grants or loans from any Federal, State or local government or authority;
 - (e) enter into contracts and joint ventures with any public or private entity;
 - (f) do anything incidental to or in furtherance of its objects.

3 Constitution—additional provisions

- (1) The constitution or rules of the rental housing agency must also include provisions to the effect of the provisions in this clause.

Alteration of Constitution

- (2) A provision must be included to the effect that the constitution or rules of the rental housing agency may only be amended by special resolution in accordance with the legislation under which the rental housing agency is incorporated.

Agency not to act as trustee without approval

- (3) A provision must be included to provide that the rental housing agency must not act as trustee for any person other than a registered agency without the written approval of the Registrar under section 82 or 103 of the **Housing Act 1983**.

Application of property and income

- (4) A provision must be included to provide that the assets and income of the rental housing agency must be applied solely for the purposes for which the rental housing agency is incorporated and cannot be distributed directly or indirectly to the members of the rental housing agency except as bona fide compensation for services rendered or expenses incurred on its behalf.

Winding up

- (5) A provision must be included to provide that in the event of the rental housing agency being wound up, any surplus assets remaining after payment of its liabilities must be transferred to another registered agency under the **Housing Act 1983**, approved by the Registrar under that Act, with similar purposes and which is not carried on for the purposes of profit or gain to its members.

4 Capacity to meet performance standards

To be registered in a particular category, the rental housing agency must demonstrate the capacity to meet the performance standards applicable to that category of agency.

Schedule 8—Register of Housing Agencies

Part 1—Information to be included in Register

1 Incorporation details

- (1) The name by which the registered agency is incorporated (including previous names by which the registered agency has been known).
- (2) The Act or law under which the registered agency is incorporated.
- (3) The address of the registered office of the registered agency (including previous addresses at which it has been registered in the previous 5 years).
- (4) The Australian Company Number (A.C.N.) of the registered agency, if it is a company.
- (5) The registration number of the registered agency under the Co-operatives National Law (Victoria), if it is a co-operative.
- (6) The registration number of the registered agency under the **Associations Incorporation Reform Act 2012**, if it is an incorporated association.
- (7) The date of incorporation.
- (8) The full names and addresses of all members of the governing body of the registered agency and the dates of their appointment (including the names and addresses of all members holding office within the registered agency in the previous 5 years).
- (9) The full name and address of the public officer (if any) of the registered agency (including the names and addresses of all public officers holding that office within the registered agency in the previous 5 years).

Sch 8
inserted by
No. 106/2004
s. 14,
amended by
Nos 20/2012
s. 226(Sch. 5
item 16(4)),
9/2013
s. 42(Sch. 2
item 11(5)).

- (10) A current copy of the registered agency's constitution or rules, and the date on which they were approved under the Corporations Act or the Co-operatives National Law (Victoria) or the **Associations Incorporation Reform Act 2012** or any relevant corresponding previous enactment.
- (11) A current copy of the registered agency's objects or statement of purposes and the date on which they were approved under the Corporations Act or the Co-operatives National Law (Victoria) or the **Associations Incorporation Reform Act 2012** or any relevant corresponding previous enactment.
- (12) Each declaration given by the registered agency under sections 81(6)(a), 81(6)(d), 106(1)(a) and 106(1)(d).

2 Business details

- (1) The Australian Business Number (ABN) (if any) issued to the registered agency under the A New Tax System (Australian Business Number) Act 1999 of the Commonwealth.
- (2) Each declaration given by the registered agency under sections 81(6)(b) and 106(1)(b).
- (3) The names and addresses of all financial institutions at which the registered agency holds accounts of any description and the account numbers of those accounts.
- (4) Details of the non-profit status of the registered agency.

3 Assets

- (1) The address and title or other identifying particulars of any land of which the registered agency is a registered proprietor.
- (2) The address, title or other identifying particulars and name of the registered proprietor of any land over which the registered agency holds a lease,

tenancy agreement or licence of more than 3 years' duration and in which the Director has an interest, a copy of the lease, tenancy agreement or licence, and the date of the lease, tenancy agreement or licence.

- (3) The address, title or other identifying particulars and name of the registered proprietor of any land at which the registered agency provides housing services to the public.
- (4) Each declaration made by the registered agency under sections 81(6)(c) and 106(1)(c).

4 Registration particulars

- (1) The registration number given to the registered agency on registration under Part VIII.
- (2) The date of registration of the registered agency under Part VIII (including the dates of any periods in which the registered agency has not been registered in the preceding 5 years).
- (3) The current registration status and registration category of the registered agency.
- (4) A record of whether the registered agency has complied with its reporting requirements under this Act and the dates and descriptions of all reports supplied by the registered agency under section 105 in the preceding 5 years.

Part 2—Information to be made available to the public

- (1) The name by which the registered agency is registered.
- (2) The address of the registered office of the registered agency.
- (3) The full names of all members of the governing body of the registered agency.

- (4) The full name of the public officer (if any) of the registered agency.
- (5) The registration number given to the registered agency on registration under Part VIII.
- (6) The date of registration of the registered agency under Part VIII (including the dates of periods in which the registered agency has not been registered in the preceding 5 years).
- (7) The current registration status and registration category of the registered agency.
- (8) A record of whether the registered agency has complied with its reporting requirements under this Act and the dates and descriptions of all reports supplied by the registered agency under section 105 in the preceding 5 years.

Housing Act 1983
No. 10020 of 1983
Schedule 9—Rental housing co-operatives

Schedule 9—Rental housing co-operatives

Sch. 9
inserted by
No. 106/2004
s. 15.

<i>Name of Co-operative</i>	<i>Registration No. under Co-operatives Act 1996</i>
Carlton Rental Housing Co-operative Ltd	G0002404G
Diamond Valley/Whittlesea Rental Housing Co-operative Ltd	G0010002C
Eastern Suburbs Rental Housing Co-operative Ltd	G0010009T
Essendon Rental Housing Co-operative Ltd	G001007N
Footscray Rental Housing Co-operative Ltd	G0010006L
Northcote Rental Housing Co-operative Ltd	G0002447B
SouthEast Housing Co-operative Ltd	G00032313E
St Kilda Rental Housing Co-operative Ltd	G0010008R
Sunshine/St Albans Rental Housing Co-operative Ltd	G0010001A
West Turk Housing and Elderly Services Co-operative Ltd	G0010015M
Williamstown Rental Housing Co-operative Ltd	G0002355V

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The **Housing Act 1983** was assented to on 13 December 1983 and came into operation on 1 January 1984: Government Gazette 21 December 1983 page 4045.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

2 Table of Amendments

This publication incorporates amendments made to the **Housing Act 1983** by Acts and subordinate instruments.

Housing (Commonwealth-State-Northern Territory Agreement) Act 1985, No. 10259/1985

Assent Date: 10.12.85
Commencement Date: 10.12.85
Current State: All of Act in operation

Courts Amendment Act 1986, No. 16/1986

Assent Date: 22.4.86
Commencement Date: S. 30(Sch.) on 1.7.86: Government Gazette 25.6.86 p. 2180
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Land Acquisition and Compensation Act 1986, No. 121/1986

Assent Date: 23.12.86
Commencement Date: 29.11.87: Government Gazette 25.11.87 p. 3224
Current State: All of Act in operation

Road Safety Act 1986, No. 127/1986

Assent Date: 23.12.86
Commencement Date: S. 102 on 1.3.87: Government Gazette 25.2.87 p. 445; Sch. 4 item 13 on 1.7.87: Special Gazette (No. 27) 25.6.87 p. 1
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Housing (Amendment) Act 1987, No. 26/1987

Assent Date: 12.5.87
Commencement Date: 12.5.87
Current State: All of Act in operation

State Superannuation Act 1988, No. 50/1988

Assent Date: 24.5.88
Commencement Date: S. 93(2) on 1.7.88: Government Gazette 1.6.88 p. 1487
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Subdivision Act 1988, No. 53/1988 (as amended by No. 47/1989)

Assent Date: 31.5.88
Commencement Date: 30.10.89: Government Gazette 4.10.89 p. 2532
Current State: All of Act in operation

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Local Government (Consequential Provisions) Act 1989, No. 12/1989

Assent Date: 9.5.89
Commencement Date: S. 4(1)(Sch. 2 items 61.1–61.9) on 1.11.89:
Government Gazette 1.11.89 p. 2798; s. 4(1)(Sch. 2
item 61.10) on 1.10.92: Government Gazette 23.9.92
p. 2489
Current State: This information relates only to the provision/s
amending the **Housing Act 1983**

Transfer of Land (Computer Register) Act 1989, No. 18/1989

Assent Date: 16.5.89
Commencement Date: 3.2.92: Government Gazette 18.12.91 p. 3488
Current State: All of Act in operation

Transport (Amendment) Act 1989, No. 44/1989

Assent Date: 6.6.89
Commencement Date: S. 41(Sch. 2 item 21) on 1.7.89: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Housing Act 1983**

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette
30.8.89 p. 2210; rest of Act on 1.9.90: Government
Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Borrowing and Investment Powers (Amendment) Act 1993, No. 99/1993

Assent Date: 23.11.93
Commencement Date: Pt 1 (ss 1–3) on 23.11.93: s. 2(1); rest of Act on
24.5.94: s. 2(3)
Current State: All of Act in operation

Financial Management Act 1994, No. 18/1994

Assent Date: 10.5.94
Commencement Date: Pt 1 (ss 1–8), ss 60, 61 on 10.5.94: s. 2(1); rest of Act
on 1.7.94: s. 2(2)
Current State: All of Act in operation

Catchment and Land Protection Act 1994, No. 52/1994

Assent Date: 15.6.94
Commencement Date: Ss 1, 2 on 15.6.94: s. 2(1); ss 3–5, Pt 2, Sch. 1 on
30.9.94 Government Gazette 29.9.94 p. 2306; rest of
Act on 15.12.94: s. 2(3)
Current State: All of Act in operation

Financial Management (Amendment) Act 1994, No. 75/1994

Assent Date: 22.11.94
Commencement Date: S. 15 on 1.1.95: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Housing Act 1983**

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Housing (Amendment) Act 1996, No. 20/1996

Assent Date: 2.7.96
Commencement Date: 28.5.96: s. 2
Current State: All of Act in operation

Co-operatives Act 1996, No. 84/1996

Assent Date: 23.12.96
Commencement Date: S. 465, s. 467(Sch. 6 item 8) on 1.10.97: Special Gazette (No. 122) 1.10.97 p. 1
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Audit (Amendment) Act 1997, No. 93/1997

Assent Date: 16.12.97
Commencement Date: S. 28(Sch. item 16) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Residential Tenancies Act 1997, No. 109/1997

Assent Date: 23.12.97
Commencement Date: S. 533(Sch. 2 item 4) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Transfer of Land (Single Register) Act 1998, No. 85/1998

Assent Date: 17.11.98
Commencement Date: S. 24(Sch. item 34) on 1.1.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001, No. 11/2001

Assent Date: 8.5.01
Commencement Date: S. 3(Sch. item 36) on 1.6.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Housing (Housing Agencies) Act 2004, No. 106/2004

Assent Date: 21.12.04
Commencement Date: Ss 3–5, 7–12, 14 on 1.1.05: s. 2(1); s. 13 on 5.4.05: s. 2(3); ss 6, 15 on 1.7.05: s. 2(2)
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

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Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 100) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Treasury Legislation (Repeal) Act 2005, No. 73/2005

Assent Date: 25.10.05
Commencement Date: S. 4(Sch. 2 item 4) on 26.10.05: s. 2
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: S. 94(Sch. item 27) on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 51) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 67) on 1.1.10: Government Gazette 10.12.09 p. 3215
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Transport Integration Act 2010, No. 6/2010 (as amended by No. 45/2010)

Assent Date: 2.3.10
Commencement Date: S. 203(1)(Sch. 6 item 25) on 1.7.10: Special Gazette (No. 256) 30.6.10 p. 1
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Associations Incorporation Reform Act 2012, No. 20/2012

Assent Date: 1.5.12
Commencement Date: S. 226(Sch. 5 item 16) on 26.11.12: Special Gazette (No. 384) 20.11.12 p. 1
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Co-operatives National Law Application Act 2013, No. 9/2013

Assent Date: 13.3.13
Commencement Date: S. 42(Sch. 2 item 11) on 3.3.14: Special Gazette (No. 46) 18.2.14 p. 1
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

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Statute Law Revision Act 2013, No. 70/2013

Assent Date: 19.11.13
Commencement Date: S. 3(Sch. 1 item 22) on 1.12.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Victoria Police Amendment (Consequential and Other Matters) Act 2013, No. 37/2014

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 81) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Housing Amendment (Victorian Housing Register and Other Matters) Act 2016, No. 75/2016

Assent Date: 13.12.16
Commencement Date: Ss 4–10 on 21.12.16: Special Gazette (No. 389) 20.12.16 p. 1
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Oaths and Affirmations Act 2018, No. 6/2018

Assent Date: 27.2.18
Commencement Date: S. 68(Sch. 2 item 67) on 1.3.19: s. 2(2)
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Residential Tenancies Amendment Act 2018, No. 45/2018 (as amended by Nos 11/2020, 25/2020)

Assent Date: 18.9.18
Commencement Date: S. 375 on 29.3.21: Special Gazette (No. 42) 27.1.21 p. 1
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Guardianship and Administration Act 2019, No. 13/2019

Assent Date: 4.6.19
Commencement Date: S. 221(Sch. 1 item 21) on 1.3.20: s. 2(2)
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019, No. 20/2019

Assent Date: 2.7.19
Commencement Date: S. 179 on 1.7.20: Special Gazette (No. 328) 30.6.20 p. 1
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

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Transport Legislation Amendment Act 2019, No. 49/2019

Assent Date: 3.12.19
Commencement Date: S. 186(Sch. 4 item 21) on 1.1.20: Special Gazette (No. 514) 10.12.19 p. 1
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Local Government Act 2020, No. 9/2020

Assent Date: 24.3.20
Commencement Date: S. 390(Sch. 1 item 54.1) on 6.4.20: Special Gazette (No. 150) 24.3.20 p. 1; s. 390(Sch. 1 item 54.2) on 1.7.21: s. 2(4)
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

Regulatory Legislation Amendment (Reform) Act 2022, No. 13/2022

Assent Date: 29.3.22
Commencement Date: Ss 33–35 on 30.3.22: s. 2(3)
Current State: This information relates only to the provision/s amending the **Housing Act 1983**

3 Explanatory details

¹ S. 20(1): Section 24 of the **Borrowing and Investment Powers (Amendment) Act 1993**, No. 99/1993 (*repealed*) read as follows:

24 Transitional provisions

- (1) A provision of an Act amended by a preceding section in this Part (other than section 23) continues to apply to or in respect of—
 - (a) moneys borrowed or re-borrowed, loans, advances and financial accommodation obtained and financial arrangements entered into and any other thing done under borrowing powers or powers to obtain financial accommodation conferred by the Act before the commencement of that section; and
 - (b) moneys borrowed or re-borrowed, loans, advances and financial accommodation obtained and any other thing done under borrowing powers or powers to obtain financial accommodation conferred by the Act after that commencement, pursuant to arrangements entered into before that commencement; and
 - (c) the investment of moneys or exercise of powers made before the commencement of that section—as if that section had not been enacted.
- (2) A guarantee given by or on behalf of the Government or State of Victoria or by the Treasurer and in force under an Act amended by a preceding section in this Part (other than section 23) before the commencement of that section has effect and may be enforced as if the guarantee were a contract made on behalf of the Crown and section 23(1)(a) of the **Crown Proceedings Act 1958** applied accordingly.

² S. 20(2) (*repealed*): See note 1.

³ S. 20(3): See note 1.

⁴ S. 22: See note 1.

⁵ S. 22(1): The proposed amendment to section 22(1) by the **Financial Management Act 1994**, No. 18/1994 section 66(Schedule 2 item 8(a)) is not included in this publication due to the substitution of subsection (1) by section 16(3) of the **Borrowing and Investment Powers (Amendment) Act 1993**, No. 99/1993.

⁶ S. 26 (*repealed*): See note 1.

⁷ S. 26A: See note 1.

⁸ S. 36A: Section 10 of the **Housing (Amendment) Act 1987**, No. 26/1987 (*repealed*) read as follows:

10 Validation

Any contract of insurance entered into before the commencement of section 9 which would have been valid if section 9 had been in operation at the time it was entered into has the same effect as it would have if section 9 had been in operation at that time.

⁹ S. 62: Sections 14–16, 19 of the **Housing (Amendment) Act 1996**, No. 20/1996 (*repealed*) read as follows:

14 Saving provision—Regulations

Despite the repeal of section 63(1) of the Principal Act, the Housing (Standard of Habitation) Regulations 1985 as in force immediately before the commencement of this Act are deemed to have continued in force in respect of any declaration as defined in section 62 of the Principal Act.

15 Saving provision—Declarations

Subject to section 68A of the Principal Act, nothing in this Act affects a declaration (as defined in section 62 of the Principal Act) that was in force immediately before the commencement of this Act.

16 Saving provision—Appeals

Nothing in this Act affects the right of a person under section 65(1) of the Principal Act to appeal against a declaration (as defined in section 62 of the Principal Act) that was made before the commencement of this Act.

19 Transitional provision—section 68

A notice served by the Director under section 68(1) of the Principal Act as in force immediately before the commencement of this Act continues in force until the Council—

- (a) issues a certificate of clearance in writing certifying that the house has been made to comply with the regulations as defined in section 62 of the Principal Act; or
- (b) revokes the declaration under section 68A of the Principal Act.

¹⁰ Ss 63–66:

S. 63 amended by No. 26/1987 s. 11(2), repealed by No. 20/1996 s. 6.

S. 63(1) (*repealed*): See note 9.

S. 64 amended by No. 26/1987 s. 11(2), repealed by No. 20/1996 s. 6.

S. 65 amended by Nos 26/1987 ss 13(1)–(4), 21, 57/1989 s. 3(Sch. item 97.3), repealed by No. 20/1996 s. 6.

S. 65(1) (*repealed*): See note 9.

S. 66 amended by No. 26/1987 ss 11(2), 21, repealed by No. 20/1996 s. 6.

S. 66(1) (*repealed*): Sections 17, 18 of the **Housing (Amendment) Act 1996**, No. 20/1996 (*repealed*) read as follows:

17 Saving provision—Directions

Subject to section 68A of the Principal Act, nothing in this Act affects any directions issued under section 66(1) of the Principal Act (or any corresponding previous enactment) and in force immediately before the commencement of this Act.

18 Transitional provisions—section 67

Nothing in this Act prevents the Director from—

- (a) enforcing a charge under section 67(2) of the Principal Act as in force immediately before the commencement of this Act on land the subject of a direction under section 66(1) as so in force;
- (b) recovering any expenses incurred under section 67(1) of the Principal Act as in force immediately before the commencement of this Act or any interest accrued under section 67(2A) of the Principal Act as so in force in respect of such expenses.

¹¹ S. 67(1): Sections 17, 18 of the **Housing (Amendment) Act 1996**, No. 20/1996 (*repealed*) read as follows:

17 Saving provision—Directions

Subject to section 68A of the Principal Act, nothing in this Act affects any directions issued under section 66(1) of the Principal Act (or any corresponding previous enactment) and in force immediately before the commencement of this Act.

18 Transitional provisions—section 67

Nothing in this Act prevents the Director from—

- (a) enforcing a charge under section 67(2) of the Principal Act as in force immediately before the commencement of this Act on land the subject of a direction under section 66(1) as so in force;
- (b) recovering any expenses incurred under section 67(1) of the Principal Act as in force immediately before the commencement of this Act or any interest accrued under section 67(2A) of the Principal Act as so in force in respect of such expenses.

¹² S. 67(2): See note 11.

¹³ S. 67(2A): See note 11.

¹⁴ S. 68(1): See note 9.

¹⁵ S. 68A: See note 9.

¹⁶ S. 68A: See note 11.

¹⁷ S. 69 (*repealed*): Section 20 of the **Housing (Amendment) Act 1996**, No. 20/1996 (*repealed*) read as follows:

20 Saving provision—section 69

Despite the repeal of section 69 of the Principal Act, nothing in this Act affects the right of a purchaser to rescind, or recover damages from the owner in respect of, a contract entered into before the commencement of this Act.

¹⁸ S. 70(1) (*repealed*): Section 21 of the **Housing (Amendment) Act 1996**, No. 20/1996 (*repealed*) read as follows:

21 Saving provision—section 70

A certificate issued by the Director under section 70(1) of the Principal Act as in force immediately before the commencement of this Act continues to be conclusive proof of the

matters referred to in section 70(2) of the
Principal Act as so in force.

¹⁹ S. 70(2) (*repealed*): See note 18.

²⁰ S. 71A (*repealed*): Section 22 of the **Housing (Amendment) Act 1996**,
No. 20/1996 (*repealed*) read as follows:

22 Saving provision—section 71A

Despite the repeal of section 71A of the Principal
Act, nothing in this Act affects any immunity
acquired in respect of a declaration referred to in
that section.