

South Australia



**HOUSING AND URBAN DEVELOPMENT (ADMINISTRATIVE  
ARRANGEMENTS) ACT 1995**

No. 42 of 1995

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A.D. 1995

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No. 42 of 1995

An Act to provide for various matters relating to the public administration of housing and urban development within the State; to provide for the creation of certain bodies to facilitate development within the State; to repeal the Urban Land Trust Act 1981; to make related amendments to the Housing Improvement Act 1940; and for other purposes.

[Assented to 4 May 1995]

The Parliament of South Australia enacts as follows:

**PART 1  
PRELIMINARY**

**Short title**

1. This Act may be cited as the *Housing and Urban Development (Administrative Arrangements) Act 1995*.

**Commencement**

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

**Interpretation**

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

"board" in relation to a statutory corporation, means the board of management of the statutory corporation;

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

"liability" includes contingent liability;

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

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

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

"right" includes a right of action;

"SAHT" means the *South Australian Housing Trust*;

"spouse" includes a putative spouse (whether or not a declaration of the relationship has been made under the *Family Relationship Act 1975*);

"statutory corporation" means a corporate body established under this Act.

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

- (a) the other person is a relative of the person or of the person's spouse; or
- (b) the other person—
  - (i) is a body corporate; and
  - (ii) the person or a relative of the person or of the person's spouse has, or two or more such persons together have, a relevant interest or relevant interests in shares in the body corporate the nominal value of which is not less than 10 per cent of the nominal value of the issued share capital of the body corporate; or
- (c) the other person is a trustee of a trust of which the person, a relative of the person or of the person's spouse or a body corporate referred to in paragraph (b) is a beneficiary; or
- (d) the person is an associate of the other person within the meaning of the regulations.

*Note: For definition of divisional penalties (and divisional expiation fees) see Appendix.*

**PART 2**  
**THE MINISTER****Ministerial powers**

4. (1) The Minister may, for the purposes of this Act—

- (a) sue and be sued;
- (b) acquire, hold, deal with and dispose of real and personal property (or an interest in real or personal property), and grant or hold a lease or licence;
- (c) acquire, hold, deal with and dispose of shares in, or securities issued by, another body corporate, or participate in the formation of another body;
- (d) after consultation with the Treasurer, borrow money and obtain other forms of financial accommodation;
- (e) establish and operate bank accounts and invest money;
- (f) enter into any kind of contract or arrangement;
- (g) undertake projects and enter into joint ventures;
- (h) after consultation with the Treasurer—
  - (i) grant a mortgage or charge over an asset of the Minister;
  - (ii) enter into a contract of guarantee or indemnity;
  - (iii) issue debentures or promissory notes that are charged over specified assets of the Minister;
  - (iv) issue inscribed debenture stock in accordance with a scheme prescribed by the regulations;
- (i) exercise other powers that are necessary, expedient or incidental to the functions of the Minister or the Department.

(2) The liabilities of the Minister under this Act are guaranteed by the Treasurer.

(3) The Governor may for the purposes of this Act, by proclamation—

- (a) transfer an asset, right or liability to the Minister;
- (b) transfer an asset, right or liability of the Minister—
  - (i) to the Crown; or
  - (ii) to an agent or instrumentality of the Crown.

(4) A proclamation under subsection (3) providing for the transfer of an asset, right or liability of the Minister may make other provisions that in the opinion of the Governor are necessary or expedient in connection with the transfer.

**Functions**

5. The functions of the Minister include—

- (a) to promote a strong housing sector within the community and to provide public housing, and housing finance or assistance;
- (b) to initiate, undertake, support and promote the development of land and housing in the public interest and to encourage and facilitate public and private sector investment and participation in the development of the State;
- (c) to promote planning systems that provide certainty, clarity and responsiveness;
- (d) to act to facilitate appropriate planning and development within the State;
- (e) to work to ensure that new developments are well-planned and appropriately serviced, and to improve the amenity of existing communities;
- (f) to develop and implement policies and strategies to promote and improve housing and urban development within the State (and to keep those policies and strategies under review);
- (g) to respond to community interest in housing and urban development, to consult with community groups on issues associated with housing and urban development, and to contribute to informed debate on development within the State;
- (h) to manage property, and to protect the value of assets, within the Minister's portfolio, and to enhance the financial resources of government;
- (i) to promote the effective, fair and efficient allocation of public resources to benefit housing and urban development within the State;
- (j) to promote a high level of co-operation between the public and private sectors in respect of housing and urban development within the State, and to encourage initiative and achievement within the Department;
- (k) to carry out other functions that are necessary, expedient or incidental to the promotion of housing and urban development, that are assigned to the Minister under this Act or other Acts, or that are determined by the Minister.

**Delegations**

6. (1) The Minister may delegate powers or functions conferred on or vested in the Minister under this Act—

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

(2) A delegation—

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

- (b) if the instrument of delegation so provides, may be further delegated by the delegate;  
and
- (c) is revocable at will and does not prevent the Minister from acting personally in a matter.

**Advisory committees, etc.**

7. (1) The Minister must establish—

- (a) a housing and urban development industry advisory committee; and
- (b) a residents and consumers advisory committee,

to provide advice on matters relevant to this Act, the Minister, the Department, a statutory corporation or SAHT.

(2) The Minister may establish other committees and subcommittees.

(3) The procedures to be observed in relation to the conduct of the business of a committee will be—

- (a) as determined by the Minister;
- (b) insofar as the procedure is not determined under paragraph (a)—as determined by the relevant committee.

**PART 3  
STATUTORY CORPORATIONS****DIVISION 1—FORMATION OF STATUTORY CORPORATIONS****Formation of bodies**

8. (1) The Governor may, by regulation, establish—

- (a) a statutory corporation under this Act;
- (b) a subsidiary of a statutory corporation under this Act.<sup>1</sup>

<sup>1</sup>. A subsidiary will also be a statutory corporation for the purposes of this Act.

(2) Regulations establishing a statutory corporation—

- (a) must name the body; and
- (b) must provide for the constitution of a board of management as the body's governing body; and
- (c) must specify the functions of the body; and
- (d) may limit the powers of the body; and
- (e) may specify procedures that will be followed in the event of a proposal to dissolve the body; and
- (f) may make other provisions (not inconsistent with this Act) that in the opinion of the Governor are necessary or expedient for the purposes of the body.

(3) A statutory corporation—

- (a) is a body corporate; and
- (b) subject to a limitation imposed by or under an Act, has all the powers of a natural person together with the powers specifically conferred on it by or under this Act or other Acts.

(4) The Governor may, by regulation—

- (a) alter the name of a statutory corporation; or
- (b) vary the constitution of the board of management of a statutory corporation; or
- (c) alter the functions of a statutory corporation; or
- (d) alter or limit the powers of a statutory corporation; or
- (e) make other provisions (not inconsistent with this Act) that in the opinion of the Governor are necessary or expedient for the purposes of the statutory corporation.



(5) The Governor may, by regulation—

- (a) dissolve a body established under this section; and
- (b) transfer the assets, rights and liabilities of a body dissolved under this provision (either as a whole or in separate parcels specified by regulation)—
  - (i) to the Minister; or
  - (ii) to another statutory corporation; or
  - (iii) to SAHT; or
  - (iv) to the Crown, or to another agent or instrumentality of the Crown (not established under this Act); or
  - (v) with the agreement with the person or body—to a person or body that is not an agent or instrumentality of the Crown; and
- (c) make other provisions that in the opinion of the Governor are necessary or expedient in connection with the dissolution of the body.

(6) However, if a regulation is in force under paragraph (e) of subsection (2) in respect of the statutory corporation, a statutory corporation must not be dissolved unless the Governor is satisfied that any relevant procedure prescribed under that paragraph has been followed.

(7) If a regulation establishing a statutory corporation under this section is disallowed by either House of Parliament, the assets, rights and liabilities of the statutory corporation become assets, rights and liabilities of the Minister.

## DIVISION 2—MINISTERIAL CONTROL

### Ministerial control

9. A statutory corporation is subject to the control and direction of the Minister.

## DIVISION 3—BOARDS

### Appointment of boards of statutory corporations

10. (1) A member of a board is appointed by the Governor on conditions determined by the Governor and for a term, not exceeding three years, determined by the Governor and, at the expiration of the term of appointment, is eligible for reappointment.

(2) The Governor must appoint a member of a board as the board's presiding member.

(3) The Governor may appoint a suitable person to be the deputy of a member of a board and to act as a member of a board during a period of absence of the member (and a reference in this Act to a member of a board will be taken to include, unless the contrary intention appears, a reference to a deputy while acting as a member of a board).

(4) The Governor may remove a member of a board from office—

- (a) for breach of, or non-compliance with, a condition of appointment, or on any other basis specified in the instrument of appointment or under an agreement between the Minister and the member; or
- (b) for misconduct; or
- (c) for failure or incapacity to carry out official duties satisfactorily; or
- (d) if serious irregularities have occurred in the conduct of the board's affairs or the board has failed to carry out its functions satisfactorily and the board's membership should, in the opinion of the Governor, be reconstituted for that reason.

(5) The office of a member of a board becomes vacant if the member—

- (a) dies; or
- (b) completes a term of office and is not reappointed; or
- (c) resigns by written notice to the Minister; or
- (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
- (e) is removed from office under subsection (4).

(6) On the office of a member of a board becoming vacant, the Governor may appoint a person to the vacant office.

#### **Allowances and expenses**

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

#### **Disclosure of interest**

12. (1) A member of a board who has a direct or indirect personal or pecuniary interest in a matter under consideration by the board—

- (a) must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the board; and
- (b) must comply with any requirements prescribed by the regulations.

Penalty: Division 5 fine or division 5 imprisonment.

(2) If a member of a board discloses an interest in a contract or proposed contract and complies with the other requirements of this section—

- (a) the contract is not liable to be avoided; and
- (b) the member is not liable to account for profits derived from the contract.

(3) If a member of a board fails to make a disclosure of interest or fails to comply with the other requirements of this section in respect of a proposed contract, the contract is liable to be avoided by the board or by the Minister.

(4) A contract may not be avoided under subsection (3) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.

(5) If a member of a board has or acquires a personal or pecuniary interest, or is or becomes the holder of an office, such that it is reasonably foreseeable that a conflict might arise with his or her duties as a member of the board, the member must, as soon as reasonably practicable, disclose full and accurate details of the interest or office to the board.

Penalty: Division 4 fine.

(6) If, in the Minister's opinion, a particular interest is not consistent with the proper discharge of the duties of a member of the board, the Minister may direct the member either to divest himself or herself of the interest or to resign from the board (and non-compliance with the direction constitutes misconduct and hence a ground for removal of the member from the board).

(7) Without limiting the effect of this section, a member of a board will be taken to have an interest in a matter for the purposes of this section if an associate of the member has an interest in the matter.

(8) A disclosure under this section must be recorded in the minutes of the board.

(9) The annual report must include any disclosure made during the relevant financial year by a member of the board of an interest in a matter under consideration by the board.

#### **Members' duties of honesty, care and diligence**

13. (1) A member of a board must act honestly in the performance of official functions.

Penalty: Division 4 fine or division 4 imprisonment.

(2) A member of a board must exercise a reasonable degree of care and diligence in performing official functions.

Penalty: Division 4 fine.

(3) A member or former member of a board must not make improper use of information acquired because of his or her official position to gain, directly or indirectly, a personal advantage for himself, herself or another, or to cause detriment to the board.

Penalty: Division 4 fine or division 4 imprisonment.

(4) A member of a board must not make improper use of his or her official position to gain, directly or indirectly, a personal advantage for himself, herself or another, or to cause detriment to the board.

Penalty: Division 4 fine or division 4 imprisonment.

(5) This section—

- (a) operates both inside and outside the State; and
- (b) is in addition to, and does not limit, other laws.

#### **Validity of acts and immunities of members**

14. (1) An act or proceeding of a board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

(2) A member of a board incurs no civil liability for an honest act or omission in the performance or exercise, or purported performance or exercise, of the member's or the board's functions, duties or powers under this Act.

(3) The immunity conferred by subsection (2) does not extend to culpable negligence.

(4) A civil liability that would, but for this section, attach to a member attaches instead to the Crown.

#### **Proceedings**

15. (1) The member appointed to chair meetings of a board will preside at meetings of the board or, in the absence of that member, a member chosen by those present will preside.

(2) A quorum of a board consists of a number ascertained by dividing the total number of members by half, ignoring any fraction resulting from the division, and adding one (and no business may be transacted at a meeting of the board unless a quorum is present).

(3) A decision carried by a majority of votes cast by members at a meeting of a board is a decision of the board.

(4) Each member present at a meeting of a board has one vote on a question arising for decision and, if the votes are equal, the member presiding at the meeting has a second or casting vote.

(5) A resolution of a board—

- (a) of which prior notice was given to members of the board in accordance with procedures determined by the board; and
- (b) in which at least the majority of members of the board expressed their concurrence in writing,

will be taken to be a decision of the board made at a meeting of the board.

(6) A board must have accurate minutes kept of its proceedings.

(7) Subject to this Act, a board may determine its own procedures.

#### **General management duties of board**

16. (1) The board of a statutory corporation is responsible to the Minister for overseeing the operations of the statutory corporation (and any subsidiary) with the goal of—

- (a) securing continuing improvements in performance; and

- (b) protecting the long term viability of the statutory corporation and the Crown's financial and other interests in the statutory corporation.
- (2) Without limiting the effect of subsection (1), the board must for that purpose ensure as far as practicable—
- (a) that appropriate strategic and operational plans and targets are established; and
  - (b) that the statutory corporation (and any subsidiary) have appropriate management structures and systems for monitoring management performance against plans and targets and that corrective action is taken when necessary; and
  - (c) that appropriate systems and practices are established for management and financial planning and control, including systems and practices for the maintenance of accurate and comprehensive records of all transactions, assets and liabilities and physical and human resources of the statutory corporation (and any subsidiary); and
  - (d) that all such plans, targets, structures, systems and practices are regularly reviewed and revised as necessary to address changing circumstances and reflect best current commercial practices; and
  - (e) that the Minister receives regular reports on the performance of the statutory corporation (and any subsidiary), and on the initiatives of the board; and
  - (f) that the Minister is advised, as soon as practicable, of any material development that affects the financial or operating capacity of the statutory corporation (or any subsidiary) or gives rise to an expectation that the corporation (or any subsidiary) may not be able to meet its debts as and when they fall due.

#### DIVISION 4—STAFF, ETC.

##### Staff, etc.

17. (1) The Minister will, after consultation with the Chief Executive of the Department and the statutory corporation, determine the staffing arrangements for a statutory corporation (and such staff will, subject to this Act or unless the Minister otherwise determines, be persons who are appointed and hold office under the *Government Management and Employment Act 1985*).

(2) A statutory corporation may, with the approval of the Minister or under an authorisation conferred by regulation, engage agents or consultants, and enter into other forms of contract for the provision of services.

(3) A statutory corporation may, by arrangement with the appropriate authority, make use of the services, facilities or staff of a government department, agency or instrumentality.

#### DIVISION 5—COMMITTEES AND DELEGATIONS

##### Committees

18. (1) A board must establish such committees (including advisory committees or subcommittees) as the Minister may require.

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

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

(4) The procedures to be observed in relation to the conduct of the business of a committee will be—

- (a) as determined by the Minister or the relevant board; or
- (b) insofar as the procedure is not determined under paragraph (a), as determined by the committee.

#### **Delegations**

19. (1) A board may delegate a function or power conferred on or vested in the board (or its statutory corporation) under this Act—

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

(2) A delegation—

- (a) may be made subject to conditions and limitations specified in the instrument of delegation; and
- (b) if the instrument of delegation so provides, may be further delegated by the delegate; and
- (c) is revocable at will and does not prevent the board from acting itself in a matter.

### **DIVISION 6—OPERATIONAL, PROPERTY AND FINANCIAL MATTERS**

#### **Common seal**

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

#### **Specific powers**

21. (1) Without limiting another provision of this Act, but subject to a limitation or condition imposed by the Minister in relation to the statutory corporation, a statutory corporation may—

- (a) sue and be sued;
- (b) acquire, hold, deal with and dispose of real and personal property (or an interest in real or personal property), and grant or hold a lease or licence;
- (c) with the approval of the Minister or as authorised by regulation—acquire, hold, deal with and dispose of shares in, or securities issued by, another body corporate, or participate in the formation of another body;
- (d) with the approval of the Minister or as authorised by regulation—borrow money and obtain other forms of financial accommodation;

- (e) establish and operate bank accounts and invest money;
- (f) enter into any kind of contract or arrangement;
- (g) exercise other powers conferred by regulation;
- (h) exercise other powers that are necessary, expedient or incidental to the functions of the statutory corporation.

(2) A statutory corporation must not establish a trust scheme or a partnership or other scheme or arrangement for sharing of profits or joint venture with another person or undertake an operation or transaction pursuant to such a scheme or arrangement.

(3) However, subsection (2) does not apply if—

- (a) the statutory corporation is acting with the approval of the Minister; or
- (b) the other party to the scheme or arrangement is another statutory corporation; or
- (c) a regulation provides that subsection (2) does not apply to the statutory corporation.

(4) The Minister must obtain the concurrence of the Treasurer before giving an approval under subsection (1)(d).

#### **Property to be held on behalf of Crown**

22. A statutory corporation holds its property on behalf of the Crown.

#### **Transfer of property, etc.**

23. (1) The Minister may with the concurrence of the Treasurer, by notice in the *Gazette*—

- (a) transfer an asset, right or liability of the Minister to a statutory corporation or to SAHT;
- (b) transfer an asset, right or liability of a statutory corporation—
  - (i) to the Minister; or
  - (ii) to another statutory corporation; or
  - (iii) to SAHT; or
  - (iv) to the Crown, or to another agent or instrumentality of the Crown (not established under this Act); or
  - (v) in prescribed circumstances, subject to prescribed conditions (if any), and with the agreement of the person or body—to a person or body that is not an agent or instrumentality of the Crown.

(2) A notice under subsection (1) may make other provisions that in the opinion of the Minister are necessary or expedient in connection with the relevant transfer.

(3) However, the Minister must not act under subsection (1)(b) if to do so would contravene an express agreement entered into by the Minister that limits the Minister's powers in relation to the statutory corporation.

**Securities**

24. (1) A statutory corporation may, with the approval of the Minister—

- (a) grant a mortgage or charge over an asset of the statutory corporation; or
- (b) enter into a contract of guarantee or indemnity; or
- (c) issue debentures or promissory notes that are charged over the assets of the statutory corporation generally, or over specified assets of the statutory corporation; or
- (d) issue inscribed debenture stock in accordance with a scheme prescribed by the regulations.

(2) The Minister must obtain the concurrence of the Treasurer before giving an approval under subsection (1).

(3) A liability of a statutory corporation incurred with the concurrence of the Treasurer is guaranteed by the Treasurer.

**Tax and other liabilities**

25. (1) The Treasurer may require a statutory corporation to pay all rates, duties, taxes and imposts, and to assume all other liabilities and duties, as would apply under the law of the State if the statutory corporation were a public company.

(2) The Treasurer may require a statutory corporation to pay to the Treasurer, for the credit of the Consolidated Account, such amounts as the Treasurer from time to time determines to be equivalent in effect to—

- (a) income tax and other taxes or imposts that the statutory corporation does not pay to the Commonwealth but would be liable to pay under the law of the Commonwealth if it were constituted and organised in such manner as the Treasurer determines to be appropriate for the purposes of this subsection as a public company or, in the case of a statutory corporation with two or more divisions, as two or more public companies; and
- (b) in the case of a statutory corporation that would otherwise be exempt from the liability to pay council rates, rates that the statutory corporation would be liable to pay to a council if the statutory corporation were a public company.

(3) Amounts determined to be payable under subsection (2) must be paid by the statutory corporation at the times and in the manner determined by the Treasurer.

(4) This section does not affect a liability that the statutory corporation would have apart from this section to pay rates to a council.

**Dividends**

26. (1) A statutory corporation to which this section applies must, before the end of each financial year, recommend to the Minister that the statutory corporation pay a specified dividend, or not pay a dividend, for that financial year, as the statutory corporation considers appropriate.

(2) The Minister may, in consultation with the Treasurer, by notice to the statutory corporation—

- (a) approve a recommendation of the statutory corporation under subsection (1); or



- (b) determine that a specified dividend be paid, or that no dividend be paid,

as the Minister and the Treasurer consider appropriate.

(3) A statutory corporation to which this section applies must, if so required by the Minister at any time during a financial year, recommend to the Minister that a specified interim dividend or specified interim dividends be paid by the statutory corporation for that financial year, or that no such dividend or dividends be paid by the statutory corporation, as the corporation considers appropriate.

(4) The Minister may, in consultation with the Treasurer, by notice to the statutory corporation—

- (a) approve a recommendation of the statutory corporation under subsection (3); or
- (b) determine that an interim dividend or interim dividends be paid, or that no interim dividend be paid,

as the Minister and the Treasurer consider appropriate.

(5) If a dividend or interim dividend or dividends is or are to be paid by a statutory corporation, the dividend or interim dividend or dividends must be paid by the statutory corporation to the Minister in the manner and at the time or times determined by the Minister in consultation with the Treasurer.

(6) If the Minister receives an amount from a statutory corporation under this section, the Minister may, in consultation with the Treasurer—

- (a) allocate that amount, or a part of that amount, in a manner determined by the Minister;  
or
- (b) pay that amount, or a part of that amount, for the credit of the Consolidated Account.

(7) A recommendation under this section must be made by the board of the statutory corporation and may not be made by a person or committee pursuant to a delegation.

(8) This section applies to a statutory corporation that is required to comply with this section by the Minister in consultation with the Treasurer.

#### **Audit and accounts**

27. (1) A statutory corporation must, unless exempted by the Minister after consultation with the Treasurer, establish and maintain effective internal auditing of its operations.

(2) A statutory corporation must keep proper accounting records in relation to its financial affairs, and must have annual statements of accounts prepared in respect of each financial year.

(3) The accounting records and statements of accounts must comply with any applicable instructions of the Treasurer under section 41 of the *Public Finance and Audit Act 1987*.

(4) The Auditor-General may at any time audit the accounts of a statutory corporation and must audit the annual statement of accounts.

**DIVISION 7—PERFORMANCE AND REPORTING OBLIGATIONS****Objectives**

28. (1) The Minister may, after consultation with a statutory corporation, prepare a statement setting various objectives, targets or goals that the statutory corporation is to pursue over the period specified in the statement and dealing with such other matters as the Minister considers appropriate.

(2) The Minister must review the statement whenever it is necessary to do so on account of a direction of the Minister under this Act, and in any event at least once in every twelve month period.

(3) The Minister may, after consultation with a statutory corporation, amend a statement issued in relation to that statutory corporation at any time.

(4) The Minister must consult with the Treasurer if the statutory corporation is to be set financial objectives, targets or goals.

**Provision of information and reports to the Minister**

29. (1) A statutory corporation must, at the request of the Minister, furnish the Minister with such information or records in the possession or control of the statutory corporation as the Minister may require in such manner and form as the Minister may require.

(2) If a record in the possession or control of a statutory corporation is furnished to the Minister under this section, the Minister may make, retain and deal with copies of the record as the Minister thinks fit.

(3) If a statutory corporation considers that information or record furnished under this section contains matters that should be treated for any reason as confidential, the statutory corporation may advise the Minister of that opinion giving the reason for the opinion, and the Minister may, subject to subsection (4), act on that advice as the Minister thinks fit.

(4) If the Minister is satisfied on the basis of the statutory corporation's advice under subsection (3) that the statutory corporation owes a duty of confidence in respect of a matter, the Minister must ensure the observance of that duty in respect of the matter, but this subsection does not prevent the Minister from disclosing the matter as required in the proper performance of ministerial functions or duties.

**Annual report**

30. (1) A statutory corporation must, on or before 30 September in each year, prepare and present to the Minister a report on the operations of the statutory corporation during the financial year that ended on the preceding 30 June.

(2) The report must incorporate the audited accounts and financial statements of the statutory corporation.

(3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

**PART 4  
MISCELLANEOUS****Acquisition of land**

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

**Power to enter land**

32. (1) A person authorised in writing by the Minister to do so may enter land and conduct a survey, valuation, test or examination that the Minister considers necessary or expedient for the purposes of this Act.

(2) A person must not enter land under this section unless the person has given reasonable notice of his or her intention to do so to the occupier of the land.

(3) A person must not, without reasonable excuse, hinder a person in the exercise of a power under this section.

Penalty: Division 6 fine.

(4) This section does not limit a power conferred by or under an agreement or mortgage, or by or under another Act or law.

**Satisfaction of Treasurer's guarantee**

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

**Effect of transfers**

34. (1) The transfer of an asset, right or liability under this Act operates by force of this Act and despite the provisions of another law.

(2) The transfer of a liability under this Act operates to discharge the body from which the liability was transferred from the liability.

**Registering authorities to note transfer**

35. (1) The Registrar-General or another authority required or authorised under a law of the State to register or record transactions affecting assets, rights or liabilities, or documents relating to such transactions, must, on application under this section, register or record in an appropriate manner the transfer to the Minister or another body of an asset, right or liability by regulation, proclamation or notice under this Act.

(2) An instrument relating to an asset, right or liability that has transferred to the Minister or a body by regulation, proclamation or notice under this Act must, if the instrument is executed by the Minister or the body and is otherwise in an appropriate form, be registered or recorded by the Registrar-General or another appropriate authority despite the fact that the Minister or the body has not been registered or recorded as the proprietor of the property under subsection (1).

(3) The vesting of property by regulation, proclamation or notice under this Act, and an instrument evidencing or giving effect to that vesting, are exempt from stamp duty.

**Offences**

36. (1) A prosecution for an offence against this Act may be commenced within three years after the date of the alleged commission of the offence or, with the authorisation of the Attorney-General, at a later time within five years after the date of the alleged commission of the offence.

(2) An apparently genuine document purporting to be signed by the Attorney-General and to authorise the commencement of proceedings for an offence against this Act will be accepted in legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.

**Regulations**

37. (1) The Governor may make regulations that are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

- (a) make provision for, or in relation to, the form or content of any agreement between a statutory corporation and another party;
- (b) make provision in relation to—
  - (i) the operations of a statutory corporation;
  - (ii) the dissolution of a statutory corporation;
- (c) make provision for matters relevant to landlord and tenant issues arising from the provision of public housing;
- (d) make provision for information to be kept by statutory corporations, and for the provision of reports or returns to the Minister or a prescribed person or authority;
- (e) prescribe penalties, not exceeding \$500, for a breach of a regulation.

(3) The regulations may—

- (a) be of general or limited application; and
- (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
- (c) provide that a matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister or a prescribed person or authority.

**SCHEDULE 1**  
*Repeal and Amendments***Repeal**

1. The *Urban Land Trust Act 1981* is repealed.

**Amendments**

2. The *Housing Improvement Act 1940* is amended—

- (a) by striking out from section 5(1) "a body corporate constituted in a manner provided by this Part" and substituting "a statutory corporation constituted under the *Housing and Urban Development (Administrative Arrangements) Act 1995*";
- (b) by striking out subsections (2), (3) and (4) of section 5 and substituting the following subsection:  

(2) A reference in this Act to a housing authority will be taken to be a reference to the South Australian Housing Trust or to a statutory corporation that is the subject of a proclamation under subsection (1) (as the case may be).;
- (c) by striking out sections 6 to 11a (inclusive);
- (d) by inserting after "on its operations" in section 15(1) "under this Act".

**SCHEDULE 2**  
*Transitional Provisions***Interpretation**

1. In this schedule—

"Homestart" means *Homestart Finance Ltd* (ACN 008 272437);

"relevant day" means the day on which this schedule comes into operation;

"Urban Land Trust" means the South Australian Urban Land Trust (as in existence immediately before the relevant day).

**Operation**

2. This schedule must be brought into operation simultaneously with schedule 1.

**Dissolution of Homestart**

3. Homestart is, by force of this clause, dissolved.

**Staff**

4. (1) The Governor may, by proclamation, transfer the employment of a person who was an officer or employee of Homestart or the Urban Land Trust immediately before the relevant day—

- (a) to the Department; or
- (b) to SAHT; or
- (c) to a statutory corporation established under this Act.

(2) The transfer of a person under subclause (1) does not affect—

- (a) existing conditions of employment or existing or accruing rights to leave; or
- (b) a process commenced for variation of those conditions or rights.

**Vesting of property, etc., in the Minister**

5. (1) The Minister succeeds to all the property, assets, rights, powers, liabilities and obligations of Homestart and the Urban Land Trust.

(2) However, subclause (1) does not apply to property, assets, rights, powers, liabilities or obligations vested by the Governor, by proclamation, in—

- (a) the Crown; or
- (b) another Minister of the Crown; or
- (c) an agent or instrumentality of the Crown; or
- (d) a statutory corporation established under this Act.

(3) The vesting of property by this clause, and an instrument evidencing or giving effect to that vesting, are exempt from stamp duty.

(4) The Registrar-General or another authority required or authorised under a law of the State to register or record transactions affecting assets, rights or liabilities, or documents relating to such transactions, must, on application under this clause, register or record in an appropriate manner a vesting under this clause.

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

**Statutory fund**

6. The South Australian Urban Land Trust Fund vests in the Minister.

**References**

7. The Governor may, by proclamation, declare that a reference in an Act or instrument (or an instrument of a specified class) to Homestart or the Urban Land Trust is to be taken to be a reference to the Minister, or to a body specified in the proclamation.

**Regulations**

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

## APPENDIX

## DIVISIONAL PENALTIES AND EXPIATION FEES

At the date of assent to this Act divisional penalties and expiation fees are, as provided by section 28a of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

*Note: This appendix is provided for convenience of reference only.*

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor