

TASMANIA

HOMES TASMANIA BILL 2022

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HOMES TASMANIA BILL 2022

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
25 August 2022

*(Brought in by the Minister for State Development,
Construction and Housing, the Honourable Guy Barnett)*

A BILL FOR

An Act to establish Homes Tasmania, to promote the development of affordable housing, to enable the provision of housing assistance to, and improve the housing conditions of, eligible persons, to support the provision of affordable housing, housing support services and community support services to persons who require such housing or services, to assist in the formation of policy in relation to housing, and for related purposes

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Homes Tasmania Act 2022*.

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Act No. of 2022

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Part 1 – Preliminary

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

3. Purposes of Act

The purposes of this Act are as follows:

- (a) to increase the opportunities for eligible persons, and persons on low or moderate incomes, to satisfy the basic human need for housing by living in safe, secure, appropriate and affordable housing;
- (b) to –
 - (i) enable the provision of housing assistance and housing support services; and
 - (ii) facilitate the provision of community support services –

so as to assist in the economic and social participation of persons who, without such provision, may be restricted, in whole or in part, from economic or social participation in society;
- (c) to encourage the development and implementation of short-term, medium-term and long term strategies to increase the opportunities for eligible persons, and persons on low or moderate incomes, to live in safe, secure, appropriate and affordable housing;

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- (d) to facilitate the ownership, leasehold, or occupation, of residential premises by eligible persons and persons on low or moderate incomes;
 - (e) to encourage the development of flexible and innovative financial arrangements that facilitate the ownership, leasehold, or occupation, of residential premises by eligible persons and persons on low or moderate incomes;
 - (f) to enable the strategic acquisition of land, and land and premises, primarily for the development of housing for, or the provision of housing to, eligible persons and persons on low or moderate incomes and to promote the planning of the development of such housing having regard to the desirability of ensuring integrated, liveable communities;
 - (g) to promote an efficient and effective system of administration of housing services, housing support services and community support services;
 - (h) to assist in ensuring the existence of a viable and diversified sector for the provision of housing assistance and housing support services;
 - (i) to ensure appropriate transparency, scrutiny and direction of the performance and exercise of the functions and powers of Homes Tasmania.

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Part 1 – Preliminary

4. Act binds Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

PART 2 – INTERPRETATION

5. Interpretation

In this Act, unless the contrary intention appears –

accounting standards means the accounting standards, and other requirements, issued by the Australian Accounting Standards Board continued in existence under the *Australian Securities and Investments Commission Act 2001* of the Commonwealth;

advance means an advance under Part 12;

ancillary features, in relation to movable residential premises, has the meaning it has in section 8;

annual report in relation to a financial year, means the annual report of Homes Tasmania prepared under section 26 in respect of the financial year;

applicant means –

- (a) a person who has made an application for an advance; and
- (b) a person who has made an application under section 56(2) for an advance or for the sale and transfer of residential premises;

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Part 2 – Interpretation

Board means the Homes Tasmania Board established under section 14;

borrower means a person who has obtained an advance;

building works includes –

- (a) the construction, structural alteration, repair, demolition or maintenance (including the re-pointing, re-decoration and external cleaning) of a building or structure; and
- (b) the preparation for, and laying of, the foundations of a proposed building or structure;

capital cost, in relation to residential premises, includes –

- (a) a sum that Homes Tasmania determines to cover the cost, if any, of survey and subdivision, and the development, of the land on which the residential premises is erected (including the construction of streets); and
- (b) any other costs incidental to the acquisition, subdivision and development of the land and the erection of the residential premises; and

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Part 2 – Interpretation

s. 5

- (c) interest on all expenditure in connection with the land and residential premises up to the time of the completion of the residential premises;

community support services means services or facilities provided for the benefit of members of the community and includes, but is not limited to including, the following services and facilities:

- (a) counselling services;
- (b) health services and mental health services;
- (c) premises in which socially isolated persons may socialise with other persons;
- (d) any prescribed services or facilities that are for the benefit of the community;

community support provider means a person, or body, who or that –

- (a) is established solely or substantially for the purposes of providing community support services; and
- (b) provides community support services otherwise than for the purposes of profit;

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contract of sale means a contract for the sale by Homes Tasmania of land or of residential premises and land;

corporate plan means the corporate plan approved under section 25(4)(a) and in force;

eligible person means a person –

- (a) who is determined under section 6 to be an eligible person or who is within a class of persons determined under that section; or
- (b) who is a member of a class of persons that is prescribed for the purposes of this definition;

fixed rate, in relation to a purchase or advance, means the rate fixed under section 85 in relation to a purchase or advance, respectively, that is in force at the time when the purchase or advance is made;

fixed table means a table that is fixed under section 85;

hiring agreement means an agreement entered into under section 97;

holding means land of which an applicant or borrower is the beneficial owner in fee simple in possession;

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home purchase assistance scheme recipient
means a person who is within a class of persons that is approved by the Treasurer under section 76(2);

Homes Tasmania means Homes Tasmania established by section 9(1);

Homes Tasmania Board means the board of directors appointed under section 14(1);

Homes Tasmania CEO means the person appointed as chief executive officer of Homes Tasmania under section 19;

Homes Tasmania chair means the Homes Tasmania director appointed to be the chair of the Homes Tasmania Board under section 14(3);

Homes Tasmania director includes –

- (a) a person appointed as a director of the Homes Tasmania Board under section 14(1); and
- (b) a person appointed under section 16 to act as a Homes Tasmania director;

Homes Tasmania employee means a person who is appointed or employed, or who is made available to Homes Tasmania, under section 22;

housing assistance means –

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Part 2 – Interpretation

- (a) the provision to an eligible person of accommodation in residential premises in the short, medium or long term; or
- (b) the sale of residential premises to an eligible person; or
- (c) the lease, or sublease, of residential premises to an eligible person; or
- (d) the provision of financial assistance to, or on behalf of, an eligible person to enable the person to pay all or part of a bond or rent, or both, in relation to residential premises; or
- (e) the provision of financial assistance to an eligible person to enable the person to purchase, construct, alter, enlarge, repair or improve residential premises; or
- (f) the provision of financial assistance to an eligible person to assist the person to meet reasonable costs related to –
 - (i) moving to or from residential accommodation; or
 - (ii) homelessness; or

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(iii) obtaining essential goods and services; or

(iv) other prescribed matters;

housing provider has the meaning it has in section 7;

housing support provider means a person or body that provides housing support services to eligible persons, whether or not that person or body also provides housing support services to persons who are not eligible persons;

housing support services means –

(a) services, approved by Homes Tasmania –

(i) that may enable or assist persons, including eligible persons, to obtain or remain in residential premises; or

(ii) that coordinate the provision to persons, including eligible persons, of services that may enable or assist persons to obtain or remain in residential premises; and

(b) any class of services that is prescribed for the purposes of this definition;

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Part 2 – Interpretation

land includes –

- (a) any residential premises, or other structure, situated on land; and
- (b) vacant land; and
- (c) in relation to any remedy given to Homes Tasmania under this Act against or with respect to land – all improvements to the land;

material personal interest, in relation to a person, includes, but is not limited to including –

- (a) a direct or indirect interest of the person; and
- (b) a pecuniary or non-pecuniary interest of the person; and
- (c) an interest of a relative of the person; and
- (d) an interest, of the person, in a business or in a corporation, within the meaning of the *Corporations Act 2001* of the Commonwealth; and
- (e) the employment of the person by another person with a direct or indirect interest in Homes Tasmania; and
- (f) the holding by the person of an office where there arises or may

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arise a conflict between the person's duties in that office and the person's duties under this Act; and

- (g) the holding by the person of the office of member in another statutory authority or in the governing authority of another statutory authority; and
- (h) any other interest of the person that does, or may, give rise to a conflict of interest;

Ministerial direction means a direction of the Minister that is in force under section 24(1);

movable residential premises – see section 8;

plant includes any machine, tool, appliance, equipment, and building materials, used, or designed for use, in or in connection with the carrying out of building works;

purchaser means a person who has purchased from Homes Tasmania land or land and residential premises;

Register has the same meaning as it has in the *Land Titles Act 1980*;

regulations means the regulations made under this Act;

relative, in relation to a person, means –

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Part 2 – Interpretation

- (a) a spouse, de facto spouse, or partner of the person; and
- (b) a parent, grandparent, child, brother, sister or cousin of the person; and
- (c) a person who is in a significant relationship, within the meaning of the *Relationships Act 2003*, with the person;

repealed Act means the *Homes Act 1935*, as in force immediately before the day on which it is repealed by the *Homes Tasmania (Consequential Amendments) Act 2022*;

residential premises includes –

- (a) a house and its appurtenances, necessary outbuildings, fences, and any facilities that enable electricity, telecommunications, gas, water-supply, drainage, or sewerage, services to be provided to the house; and
- (b) any unit, or apartment, that is used for the provision of residential accommodation, whether on a temporary basis or otherwise and any facilities that enable electricity, telecommunications, gas, water-supply, drainage, or sewerage,

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services to be provided to the unit or apartment; and

- (c) any land on which such a house, unit or apartment is situated and any common property, within the meaning of the *Strata Titles Act 1998*, in relation to such a unit or apartment;

spouse, in relation to a person, includes a person with whom the person is in a significant relationship, within the meaning of the *Relationships Act 2003*;

statement of expectations means a statement of expectations provided to the Homes Tasmania Board by the Minister under section 23(1) and in force;

statutory authority means an incorporated or unincorporated body that –

- (a) is established, constituted or constituted by or under an Act or under the royal prerogative; and
- (b) is a body which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another statutory authority, including a Government Business Enterprise under the *Government Business Enterprises Act 1995*.

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Part 2 – Interpretation

6. Meaning of *eligible person*

- (1) Homes Tasmania may determine –
 - (a) that a person is an eligible person; or
 - (b) a class of persons, the members of which are to be eligible persons by virtue of the determination.
- (2) Homes Tasmania may only make a determination under subsection (1) in relation to a person, or a class of persons, if Homes Tasmania is satisfied that the person, or a member of the class of persons, is, or will be, in need of housing assistance under this Act because of particular circumstances or characteristics of –
 - (a) the person or member of the class of persons (in this section referred to as the ***assisted person***); or
 - (b) another person, or a member of another class of persons, (in this section referred to as the ***associated person***) with whom the person or member of a class of persons resides or is to reside.
- (3) For the purposes of subsection (2), Homes Tasmania must, in determining whether an assisted person is, or will be, in need of housing assistance, take into account the following:
 - (a) whether the assisted person, or any associated person, is reasonably likely to be able to obtain accommodation that

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- will meet the reasonable accommodation requirements of the assisted person or the associated person only if the housing assistance is provided to the assisted person;
- (b) the health needs, or mobility needs, of the assisted person or any associated person;
 - (c) the safety of the assisted person or any associated person.
- (4) Nothing in subsection (3) is to be taken to limit the circumstances or characteristics, of a person or member of a class, that Homes Tasmania may take into account in deciding whether to make a determination under subsection (2) in relation to a person or a class of persons.
- (5) Homes Tasmania may, by notice to a person, require a person to provide to Homes Tasmania, within a period specified in the notice –
- (a) evidence as to whether the person is an eligible person; or
 - (b) evidence, of a kind specified in the notice, as to whether the person is an eligible person.
- (6) If a person, after having been given a notice under subsection (5), fails, within the period specified in the notice, to provide to Homes Tasmania the evidence that the person is required by the notice to provide, Homes Tasmania may, in its discretion, assume that the

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person is not an eligible person, unless there is evidence before Homes Tasmania that there were reasonable grounds for the failure.

7. Meaning of *housing provider*

- (1) For the purposes of this Act, a housing provider is a person or body –
 - (a) that –
 - (i) constructs, alters, enlarges, repairs or improves residential premises so that the residential premises may be sold or leased to, or used to provide residential accommodation to, eligible persons; or
 - (ii) manages residential premises that are leased or subleased to, or used to provide residential accommodation to, eligible persons; and
 - (b) that is a body corporate, a trust, or an entity of the Crown, the objects or purposes of which include –
 - (i) the sale or lease of residential premises to, or the provision of residential accommodation to, eligible persons; or
 - (ii) the management of residential premises that are leased or

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subleased to, or used to provide residential accommodation to, eligible persons.

- (2) For the purposes of determining whether a person or body is a housing provider for the purposes of subsection (1), it is irrelevant whether or not –
- (a) the person or body also constructs, alters, enlarges, repairs or improves residential premises so that the residential premises may be sold or leased to, or used to provide residential accommodation to, persons who are not eligible persons; or
 - (b) the person or body also manages residential premises that are leased or subleased to, or used to provide residential accommodation to, person who are not eligible persons.
- (3) For the purposes of determining whether a body corporate, a trust, or an entity of the Crown, is a housing provider for the purposes of subsection (1), it is irrelevant whether or not that body corporate, trust or entity also sells, leases, or subleases residential premises, or who provides residential accommodation to, persons who are not eligible persons.

8. Meaning of *movable residential premises and ancillary features*

- (1) For the purposes of this Act, movable residential premises are a structure –

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- (a) that is designed for use as residential accommodation; and
 - (b) is capable of being transferred from place to place reasonably easily.
- (2) In this Act, a reference to the ancillary features of movable residential premises is a reference to –
 - (a) any component or other part of the movable residential premises; and
 - (b) any fittings, equipment, or furniture, provided for use in connection with the movable residential premises; and
 - (c) any foundations, footings, steps, or other works, required for the erection or use of the movable residential premises.

PART 3 – HOMES TASMANIA

Division 1 – Establishment of Homes Tasmania

9. Homes Tasmania established

- (1) Homes Tasmania is established.
- (2) Homes Tasmania –
 - (a) is a body corporate with perpetual succession; and
 - (b) may have a seal; and
 - (c) may sue and be sued in its corporate name; and
 - (d) is an instrumentality of the Crown.

10. Application of purposes of Act and housing principles

- (1) In performing a function, or exercising a power, under this Act, Homes Tasmania must take into account the purposes of this Act specified in section 3.
- (2) In performing a function, or exercising a power, under this Act, Homes Tasmania must also have regard to the following principles:
 - (a) that strategic planning and development of land for use primarily for residential purposes, and effective allocation of financial and other resources for those

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purposes, are necessary to ensure that the purposes of this Act can be achieved;

- (b) that housing is a basic human need and that it is desirable to ensure that housing assistance is, and that housing support services are able to be, provided –
 - (i) to the persons most in need of such assistance and services; and
 - (ii) for the period that such assistance and services are required to be provided to those persons;
- (c) that it is desirable to provide different housing options to address the differing needs and wishes of persons;
- (d) that it is desirable to encourage, enable and assist in the integration, into existing and new housing communities, of –
 - (i) persons with diverse characteristics and diverse financial, social and personal circumstances; and
 - (ii) residential premises that are owned or leased by such persons who reside in them or that are provided to such persons by way of housing assistance;
- (e) that it is desirable to promote and secure the development and sustainability of Tasmania's housing sector;

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- (f) that it is important to recognise, respect, and promote the fulfilment of, the wishes and needs of persons to whom housing assistance is to be provided and those persons with whom they reside or are to reside;
 - (g) that, in order to secure the long term social and economic requirements of Tasmania, it is important to balance appropriately –
 - (i) the requirement for the provision of housing, housing support services and community support services; and
 - (ii) the level of debt that Homes Tasmania may incur in performing its functions.

11. Functions and powers of Homes Tasmania

- (1) In addition to any other functions conferred on Homes Tasmania under this or any other Act, Homes Tasmania has the following functions:
 - (a) to support, and fund, the provision of appropriate, affordable and safe accommodation to eligible persons, and persons on low or moderate incomes, in the short, medium or long term;
 - (b) to develop plans for the strategic acquisition and development of land for the purposes of providing housing to

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eligible persons and persons on low or moderate incomes and to ensure that such plans assist in integrating the occupants of such housing into the community in which the housing is situated and fostering wellbeing;

- (c) to manage, or facilitate the management of, residential accommodation provided to eligible persons;
 - (d) to manage schemes to assist persons in need of housing assistance or housing support services or who are home purchase assistance scheme recipients;
 - (e) to identify and report on the needs of eligible persons in the short, medium or long term, and to assist in enabling those needs to be met;
 - (f) to provide assistance and support to housing providers, housing support providers and community support providers;
 - (g) to conduct research, and develop policy, related to the provision of housing and services related to homelessness;
 - (h) to collect information in relation to, and to monitor, the state of the Tasmanian housing market.
- (2) In addition to any other powers conferred on Homes Tasmania under this or any other Act, Homes Tasmania has the following powers:

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- (a) to acquire, hold, dispose of and otherwise deal with property;
 - (b) to enter into contracts;
 - (c) to appoint agents and attorneys;
 - (d) to act as agent for another person;
 - (e) to enter into a contract with another person for the performance or exercise of any of Homes Tasmania's functions or powers either jointly with that other person or by that other person;
 - (f) to engage consultants and provide consultancy services;
 - (g) to do all other things that it is authorised to do by or under this or any other Act;
 - (h) to do all things necessary or convenient to be done in connection with, or incidental to, the performance and exercise of its functions and powers.

12. Delegation

- (1) Homes Tasmania may, by instrument in writing, delegate, to a person who is specified in the instrument, the performance or exercise of any functions or powers of Homes Tasmania under this Act or any other Act (other than this power of delegation and the power to borrow money) that are specified in the instrument.

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- (2) Homes Tasmania may, by instrument in writing, revoke wholly or in part a delegation under subsection (1).

13. Homes Tasmania to comply with Treasurer's Instructions

- (1) Subject to this section, Treasurer's Instructions issued under the *Financial Management Act 2016* apply to Homes Tasmania as if it were an Agency within the meaning of that Act.
- (2) The Treasurer, by notice in writing to Homes Tasmania, may modify the application to Homes Tasmania of the Treasurer's Instructions referred to in subsection (1).
- (3) If the Treasurer, under subsection (2), issues a notice to Homes Tasmania modifying the application to Homes Tasmania of the Treasurer's Instructions issued under the *Financial Management Act 2016*, the Treasurer's Instructions that apply to and in relation to Homes Tasmania are to be taken to be, for the purposes of this Act and the *Financial Management Act 2016*, modified in accordance with the notice.

Division 2 – Board of Homes Tasmania

14. Homes Tasmania Board

- (1) The Minister is to appoint a board of directors of Homes Tasmania that consists of no more than 7 and no fewer than 5 members.

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- (2) Before appointing a person as a director of Homes Tasmania, the Minister is to ensure that the directors, in aggregate, have –
- (a) the relevant knowledge and skills to ensure that the functions and powers of Homes Tasmania are performed and exercised appropriately; and
 - (b) commercial skills and experience; and
 - (c) skills and experience in the provision or management of housing and homelessness services.
- (3) The Minister may appoint a Homes Tasmania director to be the chair of the Homes Tasmania Board (the *Homes Tasmania Board chair*).
- (4) Schedule 1 has effect in respect of –
- (a) the Homes Tasmania directors; and
 - (b) the meetings of the Homes Tasmania Board.

15. Functions and powers of Homes Tasmania Board

- (1) The Homes Tasmania Board has the following functions:
- (a) to ensure that the functions and powers of Homes Tasmania are performed and exercised in an appropriate manner; and

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- (b) to ensure that the business and affairs of Homes Tasmania are managed and conducted –
 - (i) in accordance with sound business practice; and
 - (ii) in accordance with a statement of expectations; and
 - (iii) in a manner that achieves the objectives specified in the corporate plan; and
 - (iv) in a manner that is consistent with each applicable Ministerial direction; and
 - (c) to establish the annual performance objectives of the Homes Tasmania CEO.
- (2) The Homes Tasmania Board has the power to do all things necessary or convenient to perform its functions under this Act.
 - (3) The Homes Tasmania Board may delegate, by written notice, any or all of its functions or powers under this Act, other than this power of delegation, as specified in the notice.
 - (4) The Homes Tasmania Board may establish committees, comprised of the persons whom the Board thinks fit (who may be, but are not required to be, Homes Tasmania directors), for the purposes of providing advice to the Board in relation to matters to which this Act relates.

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16. Appointment of acting director

- (1) The Minister may appoint a person to act as a Homes Tasmania director if a Homes Tasmania director is absent (the ***absent Homes Tasmania director***).
- (2) For the purposes of subsection (1), a Homes Tasmania director is absent if the director –
 - (a) is absent from his or her duty as a Homes Tasmania director; or
 - (b) is otherwise unable to perform the functions of the office of Homes Tasmania director.
- (3) A person appointed to act as a Homes Tasmania director under this section –
 - (a) is taken, for the purposes of this Act, to be a Homes Tasmania director; and
 - (b) if the relevant absent Homes Tasmania director is the Homes Tasmania Board chair, is not taken to be the Homes Tasmania Board chair solely by virtue of the person's appointment under this section.
- (4) The appointment of a person under this section to act as a Homes Tasmania director terminates when whichever of the following first occurs:
 - (a) the absent Homes Tasmania director, for whom the person has been appointed to

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act, resumes performing the functions of
a Homes Tasmania director;

- (b) the absent Homes Tasmania director resigns;
- (c) the Minister revokes the appointment to the Homes Tasmania Board of the absent Homes Tasmania director;
- (d) the Minister revokes the appointment of the person to act as a Homes Tasmania director.

17. Director must disclose interest

- (1) If a Homes Tasmania director has a material personal interest in a matter being considered, or about to be considered, by the Homes Tasmania Board, the Homes Tasmania director must, as soon as practicable after the relevant facts come to the Homes Tasmania director's knowledge, disclose the nature of the interest to the Homes Tasmania Board.

Penalty: Fine not exceeding 100 penalty units.

- (2) Subsection (1) does not apply –
 - (a) in respect of a contract for goods or services supplied by Homes Tasmania if those goods or services are ordinarily supplied by Homes Tasmania and are supplied on the same terms as they are ordinarily supplied to other persons in the same situation; or

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- (b) in respect of an interest that arises only because the Homes Tasmania director is also a State Service officer or State Service employee.

18. Homes Tasmania Board to notify Minister in certain circumstances

The Homes Tasmania Board is to notify the Minister, as soon as practicable, of any matter or circumstance that, in the opinion of the Homes Tasmania Board, may –

- (a) significantly affect the ability of Homes Tasmania to comply with –
 - (i) any Ministerial directions that are in force; or
 - (ii) a statement of expectations; or
- (b) prevent or significantly affect the ability of Homes Tasmania to act in accordance with the corporate plan; or
- (c) significantly affect the financial viability or operating ability of Homes Tasmania; or
- (d) significantly affect any other objective, policy or program specified in the corporate plan.

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Division 3 – Homes Tasmania staff

19. Chief executive officer

- (1) Subject to and in accordance with the *State Service Act 2000*, a person, other than the Homes Tasmania Board chair, is to be appointed as the chief executive officer of Homes Tasmania (the ***Homes Tasmania CEO***).
- (2) The Homes Tasmania CEO appointed under subsection (1) is entitled to be paid the remuneration and allowances specified in the instrument of appointment.
- (3) The Homes Tasmania CEO appointed under subsection (1) holds that office, subject to this Act and the *State Service Act 2000* –
 - (a) for a term of not more than 5 years specified in the instrument of appointment; and
 - (b) on the conditions specified in the instrument of appointment.
- (4) The Homes Tasmania CEO must not engage in paid employment outside the duties of the office unless he or she is allowed to do so by his or her instrument of appointment.
- (5) The appointment of a person as the Homes Tasmania CEO is not invalid merely because of a defect or irregularity in relation to his or her appointment.

20. Powers and functions of Homes Tasmania CEO

- (1) The Homes Tasmania CEO is responsible to the Homes Tasmania Board for the general administration and management of Homes Tasmania.
- (2) The Homes Tasmania CEO –
 - (a) must perform any functions, and may exercise any powers, granted to the Homes Tasmania CEO under this Act or any other Act; and
 - (b) must perform any functions, and may exercise any powers, delegated to the Homes Tasmania CEO by Homes Tasmania or the Homes Tasmania Board.
- (3) The Homes Tasmania CEO may delegate, by written notice, any or all of his or her functions or powers (other than this power of delegation) under this Act, including any function or power delegated to him or her by Homes Tasmania or the Homes Tasmania Board, as specified in the notice.

21. Acting Homes Tasmania CEO

- (1) In this section –

absent, in relation to the Homes Tasmania CEO, means the Homes Tasmania CEO –

 - (a) is absent from duty; or

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- (b) is absent from Australia; or
 - (c) is otherwise unable to perform and exercise the functions and powers of the office of Homes Tasmania CEO; or
 - (d) has died, resigned or been removed from office and a new Homes Tasmania CEO has not been appointed.
- (2) A person, other than the Homes Tasmania Board chair, may be appointed to act as the Homes Tasmania CEO during any or every period during which the Homes Tasmania CEO is absent.
- (3) Except as otherwise provided under this section, this Act applies to the appointment of a person under subsection (2) as if the appointment were the appointment of the Homes Tasmania CEO.

22. Staff of Homes Tasmania

- (1) The employees of Homes Tasmania are to be appointed or employed subject to and in accordance with the *State Service Act 2000*.
- (2) The Homes Tasmania CEO may make arrangements with another Head of a State Service Agency for State Service officers and State Service employees employed in that Agency to be made available to Homes Tasmania to enable Homes Tasmania to perform

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and exercise its functions and powers under this Act.

PART 4 – GUIDANCE AND REPORTING

23. Statement of expectations

- (1) The Minister must provide the Homes Tasmania Board with a statement of expectations for Homes Tasmania that specifies the expectations of the Minister in relation to strategic objectives, and policy, of Homes Tasmania.
- (2) Before providing a statement of expectations under subsection (1), the Minister is to consult with the Homes Tasmania Board in respect of the statement of expectations.
- (3) A statement of expectations provided under subsection (1) –
 - (a) is to be in writing and signed by the Minister; and
 - (b) is to be prepared in consultation with the housing and homelessness sector; and
 - (c) takes effect on the day on which it is provided to the Homes Tasmania Board under subsection (1) or a later day that is specified in the statement.
- (4) The Minister may, at any time, on the Minister's own initiative or on the application of the Homes Tasmania Board –
 - (a) amend a statement of expectations provided under subsection (1); or

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- (b) revoke a statement of expectations, provided under subsection (1) and provide a new statement of expectations under that subsection.
 - (5) The Minister must table, before both Houses of Parliament –
 - (a) a copy of a statement of expectations, provided under subsection (1); or
 - (b) an amendment or revocation, provided under subsection (4), of a statement of expectations –

within 10 sitting-days after the statement of expectations was signed by the Minister.

24. Ministerial directions

- (1) The Minister may give the Homes Tasmania Board directions at any time regarding the performance and exercise of the functions and powers of Homes Tasmania, if the Minister is satisfied that it is in the public interest to do so.
- (2) Before giving a direction under subsection (1), the Minister is to consult with the Homes Tasmania Board.
- (3) In giving a direction under subsection (1), the Minister –
 - (a) is to have regard to the objectives, functions and powers of Homes Tasmania; and

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- (b) may not give a direction that conflicts with, or contradicts, a statement of expectations.
- (4) A direction under subsection (1) is not to purport to exert control or influence over the exercise by Homes Tasmania, or the Homes Tasmania Board, of its powers under this Act or any other Act.
- (5) A direction under subsection (1) must –
 - (a) specify the date on which the direction is to take effect; and
 - (b) be in writing and signed by the Minister.
- (6) Within 21 days after being given a direction under subsection (1), the Homes Tasmania Board may object to the direction.
- (7) An objection under subsection (6) is to –
 - (a) be in writing; and
 - (b) specify the grounds on which the Homes Tasmania Board objects to the direction; and
 - (c) be provided to the Minister.
- (8) If the Minister receives an objection under subsection (6) to a direction and the direction is not, or has not been, amended or revoked, the Minister is to cause a copy of the direction and the objection to be laid before each House of Parliament within 5 sitting-days after the receipt of the objection.

25. Corporate plan

- (1) In each year, the Homes Tasmania Board is to prepare a draft corporate plan in respect of a period of at least 3 years commencing on 1 July in that year.
- (2) The draft corporate plan is to include the following:
 - (a) a statement of Homes Tasmania's objectives, policies and programs and how they comply with the statement of expectations;
 - (b) a statement of Homes Tasmania's financial plans for the period to which the plan is to relate;
 - (c) the major strategies to be used to achieve the objectives of Homes Tasmania and give effect to the policies, programs and financial plans;
 - (d) the targets to be met by Homes Tasmania in achieving its objectives, policies, programs and financial plans and the criteria for assessing the achievement of those targets.
- (3) The Homes Tasmania Board is to provide the Minister with a copy of a draft corporate plan, prepared under subsection (1), at least 2 months before the plan is to commence.
- (4) The Minister, in consultation with the Treasurer, may –

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- (a) approve the draft corporate plan provided under subsection (3) or in accordance with a requirement under paragraph (b); or
 - (b) require the Homes Tasmania Board to amend the draft corporate plan one or more times before the Minister approves it under paragraph (a).
- (5) On being approved by the Minister under subsection (4)(a), the draft corporate plan becomes the corporate plan of Homes Tasmania for the period specified in the plan.
- (6) The Homes Tasmania Board may draft an amendment of the corporate plan at any time.
- (7) A draft of an amendment of the corporate plan under subsection (6) takes effect when the Minister, in consultation with the Treasurer, approves it.
- (8) Unless otherwise authorised by the Minister, in consultation with the Treasurer, Homes Tasmania must act in accordance with the corporate plan.

26. Annual reports

- (1) As soon as practicable after the end of a financial year, the Homes Tasmania Board is to prepare an annual report, in respect of Homes Tasmania, for the financial year.

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- (2) An annual report, prepared in respect of Homes Tasmania under subsection (1), is to include the following information and documents in respect of the financial year to which the annual report relates:
- (a) the Homes Tasmania financial statements prepared under section 32;
 - (b) a copy of the report of the Auditor-General received under section 19 of the *Audit Act 2008* in respect of those Homes Tasmania financial statements;
 - (c) the details of –
 - (i) each Ministerial direction in force during the financial year; and
 - (ii) each action taken, or why no action has been taken, by the Homes Tasmania Board in respect of a Ministerial direction; and
 - (iii) any major building or construction project, excluding residential projects, that Homes Tasmania undertakes for the purposes of this Act, as defined in the statement of expectations;
 - (d) the details of –
 - (i) each statement of expectations that has been in force during the financial year; and

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- (ii) any action taken by the Homes Tasmania Board in respect of those statements of expectations;
- (e) a summary of the corporate plan in force in respect of the financial year;
- (f) a report on the performance of Homes Tasmania with reference to the following, as set out in the corporate plan:
 - (i) the targets to be met by Homes Tasmania in achieving its objectives, policies, programs and financial plans;
 - (ii) the criteria for assessing the achievement of those targets;
- (g) a report on the operations of Homes Tasmania during the financial year;
- (h) any information that the Minister has requested that relates to the Homes Tasmania directors, the Homes Tasmania CEO or the Homes Tasmania employees;
- (i) any other information that the Minister has requested;
- (j) any other information that the Homes Tasmania Board considers relevant, appropriate or necessary to properly inform the Minister and Parliament in relation to the performance and progress of Homes Tasmania in the financial year.

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- (3) As soon as practicable after preparing an annual report under this section, the Homes Tasmania Board is to provide the annual report to the Minister.

27. Tabling of annual report

- (1) The Minister is to lay a copy of the annual report of Homes Tasmania, that is provided to the Minister under section 26(3), before each House of Parliament within 4 months after the end of the financial year to which the annual report relates.
- (2) If the Minister is unable to comply with subsection (1) for a reason other than that a House of Parliament is not sitting at the expiry of the period specified in that subsection, the Minister, before the expiry of that period, is to lay before each House of Parliament a statement specifying –
- (a) the reasons for the failure to comply with that subsection; and
 - (b) an estimate of the day by which a copy of the annual report of Homes Tasmania may be ready to be laid before each House of Parliament.
- (3) If the Minister is unable to lay a copy of the annual report of Homes Tasmania before a House of Parliament –
- (a) within the period specified in subsection (1); or

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- (b) by the day specified in a statement referred to in subsection (2) in respect of the report –

because either House of Parliament is not sitting at the expiration of that period or on that day, the Minister is to –

- (c) provide a copy of the annual report to the Clerk of that House of Parliament as soon as possible after the expiration of that period or that day; and
- (d) lay a copy of the annual report before that House within the next 7 sitting-days of that House.

PART 5 – FINANCIAL MATTERS

Division 1 – Funding

28. Funds of Homes Tasmania

- (1) The funds of Homes Tasmania consist of any money –
 - (a) transferred to it under this or any other Act; and
 - (b) received by it by way of fees, levies and charges; and
 - (c) otherwise received by it in the course of performing its functions and exercising its powers; and
 - (d) received by it, or the Homes Tasmania Board, from any other source.
- (2) The funds of Homes Tasmania are to be applied –
 - (a) in the payment of the remuneration of the Homes Tasmania directors, the Homes Tasmania CEO and Homes Tasmania employees; and
 - (b) in the payment or discharge of the expenses, charges and obligations incurred or undertaken by Homes Tasmania in the performance and exercise of its functions and powers.

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Part 5 – Financial Matters

29. Borrowing from Treasurer

- (1) The Treasurer may lend to Homes Tasmania, out of money provided by Parliament for the purpose, the money that the Treasurer considers appropriate for the performance of the functions and exercise of the powers of Homes Tasmania under this Act.
- (2) A loan to Homes Tasmania under subsection (1) is subject to any conditions determined by the Treasurer.
- (3) An amount lent under subsection (1) and any interest payable in respect of the loan is a debt repayable by Homes Tasmania to the Public Account.

30. Borrowing from person other than Treasurer

- (1) Homes Tasmania may –
 - (a) borrow money from the Tasmanian Public Finance Corporation; and
 - (b) with the approval of the Treasurer, borrow money from a person other than the Treasurer or the Tasmanian Public Finance Corporation –

for the purposes of performing the functions and exercising the powers of Homes Tasmania under this Act.

- (2) The total of all amounts of money borrowed under this section during a financial year is not to exceed the maximum amount determined by

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the Treasurer, in writing, in respect of that financial year.

- (3) Homes Tasmania may use all or part of its assets as security for –
 - (a) money borrowed under subsection (1); and
 - (b) any interest or charges payable in respect of that borrowing.
- (4) If requested to do so by Homes Tasmania, the Treasurer may guarantee the payment, or repayment, to a person from whom Homes Tasmania borrows money under subsection (1), of any or all of the following:
 - (a) the amount borrowed;
 - (b) any interest payable in respect of the amount borrowed;
 - (c) any charges relating to the borrowing;
 - (d) any expenses of that person that are incurred in relation to the borrowing and are payable by Homes Tasmania.
- (5) A guarantee is subject to the conditions, if any, determined by the Treasurer.
- (6) A payment, or repayment, that is required under a guarantee is payable from money provided by Parliament for the purpose.

31. Financial arrangements

(1) In this section –

financial arrangement means –

- (a) an interest rate swap; and
 - (b) a forward interest rate agreement;
and
 - (c) a futures contract or futures option, within the meaning of the Corporations Act, relating to an interest rate or a foreign currency;
and
 - (d) an option in respect of an existing financial security or a security which Homes Tasmania has authority to create; and
 - (e) any other transaction or arrangement that has been approved by the Treasurer in writing for the purposes of this section.
- (2) Homes Tasmania may enter into and perform a financial arrangement in accordance with any guidelines in force under subsection (3).
- (3) The Treasurer may issue guidelines relating to financial arrangements or the exercise of the power of Homes Tasmania to enter into and perform financial arrangements.

Division 2 – Reporting and information

32. Homes Tasmania financial statements

- (1) Within 45 days after the end of each financial year, the Homes Tasmania Board is to –
 - (a) prepare the financial statements for the financial year in accordance with –
 - (i) the *Audit Act 2008*; and
 - (ii) each relevant direction of the Treasurer under subsection (2); and
 - (iii) the accounting standards; and
 - (b) as soon as practicable after preparing the financial statements under paragraph (a) for a financial year, provide a copy of the statements to the Auditor-General.
- (2) The Treasurer may give written directions to the Homes Tasmania Board in respect of the form and content of the financial statements.

33. Accounts to be kept by Homes Tasmania

In addition to any other accounts that Homes Tasmania is required by this Act to keep, Homes Tasmania must keep the accounts, in the form, and containing the particulars, that the Treasurer may direct.

34. Duty of Homes Tasmania to provide information, &c., to Treasurer

Homes Tasmania must, as and when requested by the Treasurer –

- (a) provide to the Treasurer the information that the Treasurer requests; and
- (b) produce to the Treasurer for examination the books, accounts, vouchers, and records, relating to the receipt and expenditure of moneys by Homes Tasmania under or for the purposes of this Act, that the Treasurer requests.

35. Report of Auditor-General

The Auditor-General must provide each of the following to the Treasurer, the Minister and the Homes Tasmania Board:

- (a) each opinion of the Auditor-General, prepared under section 19 of the *Audit Act 2008*, in respect of the financial statements prepared by the Homes Tasmania Board under section 32;
- (b) each formal communication of audit findings of the Auditor-General, under section 19 of the *Audit Act 2008*, in respect of the financial statements prepared by the Homes Tasmania Board under section 32.

**PART 6 – ACQUISITION OF LAND AND ERECTION
OF PREMISES**

36. Transfer of Crown land

- (1) The Minister, by notice published in the *Gazette*, may transfer Crown land, that is specified in the notice, to Homes Tasmania if –
 - (a) the Treasurer and the Minister administering the *Crown Lands Act 1976* approve that transfer; and
 - (b) Homes Tasmania has agreed to the transfer of the land.
- (2) On the day on which a notice under subsection (1) takes effect, the Crown land specified in the notice vests in Homes Tasmania –
 - (a) subject only to those estates in the land specified in the notice; or
 - (b) if the notice does not specify that the land vests subject to an estate, free from all encumbrances.
- (3) On the recommendation of the Minister, the Treasurer, by notice in the *Gazette*, may exempt Homes Tasmania from any liability to pay any State charges, taxes or duties specified in the notice in respect of the vesting of land under this section.
- (4) A notice under subsection (1) or (3) –

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- (a) takes effect on the day on which it is published in the *Gazette* or a later day, if any, that is specified in the notice; and
- (b) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

37. Transfer of property and liabilities

- (1) The Minister, by notice published in the *Gazette*, may transfer one or more of the following, as specified in the notice, to Homes Tasmania:
 - (a) any property and rights, other than Crown land, of the Crown;
 - (b) each liability and obligation transferred under the notice becomes a liability and obligation of Homes Tasmania.
- (2) On the day on which a notice under subsection (1) takes effect –
 - (a) each property and right transferred under the notice vests in Homes Tasmania; and
 - (b) each liability and obligation transferred under the notice becomes a liability and obligation of Homes Tasmania.
- (3) A notice under subsection (1) –
 - (a) takes effect on the day on which it is published in the *Gazette* or a later day, if any, that is specified in the notice; and

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- (b) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

38. Power of Homes Tasmania to acquire land

- (1) Homes Tasmania may acquire –

- (a) any land, including but not limited to land containing buildings or other improvements, that is required for the purposes of this Act; or
- (b) any interest in land that is an interest required to be acquired for the purposes of this Act.

- (2) If Homes Tasmania acquires any land under this Act, Homes Tasmania –

- (a) may purchase or otherwise acquire any chattels on, or used in connection with, the land; and
- (b) may use or dispose of any chattels so acquired in the manner that Homes Tasmania thinks fit.

- (3) The *Land Acquisition Act 1993* applies in relation to the acquisition of land or of an interest in land, and the land or interest acquired, by Homes Tasmania under subsection (1).

39. Purchase of easements, &c.

Homes Tasmania may, for the purposes of this Act –

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- (a) purchase any easement; and
- (b) obtain any covenant or licence touching and concerning other land –

which is usual and proper for the enjoyment of any land vested in Homes Tasmania.

40. Subdivision, &c., of land

- (1) Homes Tasmania may cause a plan of subdivision, showing the proposed roads and reserves and the land set apart as sites for residential premises or other premises, to be made of –
 - (a) any Crown land set apart for the purposes of this Act; or
 - (b) any land acquired by agreement for the purposes of this Act.
- (2) Homes Tasmania may cause any work to be done on land, shown on a plan of subdivision to which subsection (1) applies, for the purpose of rendering the land fit for the use to which the land may be put under this Act.
- (3) Homes Tasmania, with the consent of the Minister, may dedicate reserves for public recreation, or for other public purposes, on land vested in Homes Tasmania and fence, plant, and improve such reserves.

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41. Grant of easements, &c.

- (1) Homes Tasmania may grant any easement or licence, over any land vested in Homes Tasmania, which will not be inconsistent with the use of the land for the purposes of this Act.
- (2) Homes Tasmania may covenant touching and concerning any lands vested in Homes Tasmania with the owners of adjoining lands, or with purchasers, for the purpose of securing the better enjoyment, for residential premises, of the lands vested in Homes Tasmania.
- (3) Homes Tasmania, with the consent of the Minister, may, except as otherwise provided in this Act, do all such acts in relation to any land vested in Homes Tasmania as a prudent owner of a building estate or subdivision would do, which are not inconsistent with the purposes of this Act.

42. Sale of premises before cost of subdivision is determined

- (1) If premises are erected by Homes Tasmania on a lot in a subdivision, the premises, together with the lot on which they are erected, may be sold, even if the cost of subdivision has not been finally determined.
- (2) For the purposes of this section, the purchase-price of residential premises, together with the lot on which they are erected, is to be the sum that Homes Tasmania certifies to be the best estimate of the capital cost of the residential

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premises and lot that can be made at the time of sale and that, in the opinion of Homes Tasmania, should be sufficient to ensure that the sale does not result in a capital loss.

- (3) For the purposes of this section, the purchase-price of premises, other than residential premises, together with the lot on which they are erected, is to be the sum that Homes Tasmania determines, being a sum that is at least sufficient to ensure that the sale does not result in a capital loss.

43. Power of Homes Tasmania to erect premises

- (1) On any Crown land set apart under section 12 of the *Crown Lands Act 1976*, or acquired, for the purposes of this Act, or on the holding of an eligible person, Homes Tasmania may do one or more of the following:
- (a) erect residential premises or cause residential premises to be erected;
 - (b) convert any buildings into residential premises;
 - (c) alter, enlarge, repair and improve such residential premises.
- (2) On any Crown land set apart under section 12 of the *Crown Lands Act 1976*, or acquired, for the purposes of this Act, that is land to which a proposed subdivision by, or for the purposes of, Homes Tasmania, for the primary purpose of providing residential accommodation, relates,

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Homes Tasmania may do one or more of the following:

- (a) erect, or cause to be erected, premises to be used to provide housing support services or community support services;
- (b) erect, or cause to be erected, premises to be used for commercial purposes;
- (c) alter, enlarge, repair and improve such premises.

44. Power to enter into partnerships, joint ventures, &c.

- (1) Homes Tasmania may, subject to this section, enter into partnerships, trusts and joint ventures.
- (2) Homes Tasmania may only enter into a partnership, trust or joint venture –
 - (a) if the partnership, trust or joint venture is for purposes that include –
 - (i) enabling the development of housing for provision to eligible persons or persons on low or moderate incomes; or
 - (ii) enabling the development of land (including by way of subdivision) so that some or all of the land may be used for the development of housing for provision to eligible persons or persons on low or moderate incomes; and

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- (b) with the approval of the Treasurer, if the total capital expenditure required to fulfil the purpose for which Homes Tasmania is entering into the partnership, trust or joint venture, is estimated to be more than the amount determined by the Treasurer under subsection (3).
- (3) The Treasurer may, by instrument in writing provided to Homes Tasmania, determine an amount for the purposes of subsection (2)(b).

45. Development of land for ancillary purposes

- (1) If any land has become available, or has been acquired, for the purposes of this Act, Homes Tasmania may take the steps that Homes Tasmania considers necessary or desirable to promote or ensure the development or use of, or dealing in, the land for the purposes of this Act.
- (2) The powers of Homes Tasmania under this section in relation to any land include, but are not limited to including, powers –
 - (a) to erect, construct, alter, maintain, or use, any buildings or works on the land; and
 - (b) to develop, lay out, maintain, or use, the land for any purpose; and
 - (c) to sell or lease, or enter into any other transactions in respect of, the land or any buildings or works on the land.

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46. Power of Homes Tasmania, &c., to enter on lands

A person who is authorised to do so by Homes Tasmania, or who is a Homes Tasmania employee, may at any time, under or for the purposes of this Act –

- (a) enter any Crown land set apart under section 12 of the *Crown Lands Act 1976*, or land acquired, for the purposes of this Act; and
- (b) enter on the land with the employees, agents, assistants, vehicles, plant and animals that the person thinks fit; and
- (c) on that land –
 - (i) erect residential premises or other premises that Homes Tasmania may erect under this Act; and
 - (ii) carry out any works that are required for the purposes of, or are incidental to, the subdivision and development of that land (including the construction of streets) and the erection of residential premises, and other premises, on the land.

47. Homes Tasmania to provide residential premises to certain persons other than eligible persons

- (1) In this section –

public authority means –

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(a) a person or body of persons, whether incorporated or unincorporated, that is –

(i) appointed or constituted by or under any Act or Commonwealth Act; or

(ii) appointed in the exercise of the prerogative rights of the Crown –

to administer or control any department, business, or undertaking, on behalf of the State or of the Commonwealth; and

(b) a statutory authority appointed or constituted under any Act or Commonwealth Act to carry on any public industrial undertaking; and

(c) a council.

(2) If Homes Tasmania is satisfied that –

(a) a public authority; or

(b) a person who is carrying on, or about to carry on, an industrial undertaking –

permanently requires residential premises for its or the person's employees, Homes Tasmania may, with the consent of the Minister –

(c) erect residential premises; and

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- (d) despite Part 8, sell or lease them to that public authority or person upon the terms and conditions, if any, that the Minister approves.
- (3) For the purposes of this section –
- (a) the provisions of this Part have effect as if, for any reference in the provisions to an eligible person, there were substituted a reference to a public authority or person carrying on or about to carry on an industrial undertaking; and
- (b) the powers conferred on Homes Tasmania by those provisions may be exercised accordingly.

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Part 7 – Leasing and Subleasing of Land and Premises

**PART 7 – LEASING AND SUBLEASING OF LAND AND
PREMISES**

48. Homes Tasmania may lease and sublease residential premises

- (1) Homes Tasmania may lease from any person, including an entity of the Crown, residential premises for the purpose of enabling Homes Tasmania to –
 - (a) sublease the residential premises to an eligible person under section 49; or
 - (b) sublease the residential premises to a person to whom the premises may be subleased under subsection (2).
- (2) Homes Tasmania may lease residential premises owned by Homes Tasmania, or sublease residential premises that are leased by Homes Tasmania, to –
 - (a) a person for the purpose of enabling the person, or another person who is to sublease the premises from the person, to sublease the residential premises to, or to provide, or arrange for the provision of, residential accommodation to, an eligible person; or
 - (b) a housing support provider for the purpose of enabling the provider to provide housing support services; or

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- (c) a community support provider for the purpose of enabling the provider to provide community support services; or
- (d) a person, if the premises, or a part of the premises, are not to be, in the short term, used by Homes Tasmania for the provision of residential accommodation to eligible persons but are intended, in the longer term, to be developed or used for such purposes.

49. Leasing and subleasing by Homes Tasmania of residential premises to eligible persons

- (1) Subject to this section, Homes Tasmania may –
 - (a) lease to an eligible person any residential premises owned by Homes Tasmania; and
 - (b) sublease to an eligible person any residential premises leased by Homes Tasmania.
- (2) Subject to the *Residential Tenancy Act 1997*, residential premises that are leased, or subleased, to an eligible person by Homes Tasmania in accordance with this section are to be leased, or subleased, to the eligible person on the terms and conditions that Homes Tasmania thinks fit.
- (3) Despite the terms of a lease entered into by Homes Tasmania and an eligible person, Homes Tasmania may determine that the amount of rent

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payable by the eligible person under the lease is to be reduced as specified in the determination.

- (4) Despite the terms of a sublease entered into by Homes Tasmania and an eligible person, Homes Tasmania may determine that the amount of rent payable by the eligible person under the sublease is to be reduced as specified in the determination.

50. Homes Tasmania may subsidise rent and bonds payable by eligible persons

- (1) Homes Tasmania may provide to –
- (a) an eligible person who leases or subleases, or who intends to lease or sublease, residential premises; or
 - (b) any housing provider, or other person, who leases out, or intends to lease out, residential premises to an eligible person –

an amount or amounts for the purpose of paying all or part of, or paying all or part of by instalment, a bond, or rent, that is payable by the eligible person under the lease or sublease.

- (2) Homes Tasmania may provide to a housing support provider an amount or amounts for the purpose of paying all or part of, or paying all or part of by instalment, a bond, or rent, that is payable by an eligible person under a lease or sublease in relation to residential premises.

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51. Leasing and subleasing by Homes Tasmania of premises

- (1) Homes Tasmania may lease premises (other than residential premises) from a person if the premises are to be –
 - (a) used to provide administrative services for Homes Tasmania; or
 - (b) used for the purposes of this Act; or
 - (c) subleased under this section to another person.
- (2) Homes Tasmania may lease to a person premises (other than residential premises) owned by Homes Tasmania, or sublease to a person premises (other than residential premises) leased by Homes Tasmania, if –
 - (a) the premises are to be used by the person to provide administrative services for Homes Tasmania or for administrative purposes that relate to the provision of housing for eligible persons; or
 - (b) the person is a housing support provider; or
 - (c) the person is a community support provider; or
 - (d) development or use of the premises for residential purposes is not authorised under the *Land Use Planning and Approvals Act 1993* but the premises are

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situated within an area of land, or within a building, that has been developed, or is being used, for the primary purpose of enabling Homes Tasmania, or a housing support provider, to provide residential accommodation; or

- (e) the premises, or a part of the premises, are not to be, in the short term, used under the lease, or sublease, for the provision of residential accommodation to eligible persons but are intended, in the longer term, to be developed or used for such purposes.

- (3) Homes Tasmania may lease from any person, including an entity of the Crown, land for the purpose of enabling Homes Tasmania to –

- (a) situate movable residential premises on the land for the purposes of enabling residential accommodation to be provided to eligible persons; and
- (b) perform or exercise on the land functions or powers for the purposes of this Act.

52. Repair by Homes Tasmania of premises

- (1) This section applies in relation to land, or land and premises, if –
 - (a) the land, or land and premises, are leased to an eligible person; or

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- (b) the land, or land and premises, are leased to Homes Tasmania and subleased by Homes Tasmania to an eligible person; or
 - (c) the land, or land and premises, are leased to Homes Tasmania and are subleased by Homes Tasmania to another person.
 - (2) If this section applies in relation to land, or land and premises, Homes Tasmania, or any person authorised by Homes Tasmania to do so, may, with the agreement of the owner of the land, enter the land, or premises on the land, and carry out on the land, or premises, the works, or other activities, that Homes Tasmania considers necessary –
 - (a) to ensure the safety of persons on the land; or
 - (b) to prevent the land, or premises on the land, falling into a state of disrepair; or
 - (c) to ensure that the land, or premises on the land, is or are properly maintained; or
 - (d) to ensure that the requirements of any law as to the provision of accommodation are satisfied.
 - (3) Homes Tasmania may, under subsection (2), enter land, or premises on land, and carry out on the land or premises works or other activities, only if Homes Tasmania has given to the owner of the land, and the occupier of the land or the premises, a notice in writing specifying that

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Homes Tasmania intends to carry out, or to ensure the carrying out of, on the land or in relation to the premises situated on the land, the works, or other activity, on the land, specified in the notice.

53. Leasing of land, &c., not immediately required

(1) If Homes Tasmania is satisfied that any land, or land and premises, that –

- (a) are vested in, or held by, Homes Tasmania under or for the purposes of this Act; or
- (b) have been granted to Homes Tasmania under section 12 of the *Crown Lands Act 1976*; or
- (c) Homes Tasmania is entitled to be granted under section 12 of the *Crown Lands Act 1976* –

are not immediately required for the purposes of this Act, Homes Tasmania may lease to another person that land, or that land and premises, at the price, and on the terms and conditions, that Homes Tasmania thinks fit.

(2) Without limiting the generality of subsection (1), Homes Tasmania may be satisfied that land, or land and premises, are not immediately required for the purposes of this Act if Homes Tasmania is satisfied that –

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- (a) other land, or other land and premises, are likely to be more suited to the provision of accommodation to eligible persons; or
 - (b) it is necessary or convenient to lease the land, or other land and premises, so as to obtain funds that may be used for the purposes of this Act.

**PART 8 – DISPOSAL OF RESIDENTIAL PREMISES TO
ELIGIBLE PERSONS**

Division 1 – Interpretation of Part 8

54. Interpretation of Part 8

In this Part, unless the contrary intention appears –

adjustment rate, in relation to a year, means, subject to section 60(2), the rate calculated in accordance with section 60 for that year;

costs of administration means the costs referred to in section 55(6)(b)(v);

March quarter, in relation to a year, means January, February and March of that year;

year, for the purposes of calculating the adjustment rate for a year, means –

- (a) the period of 12 months commencing on 1 July 2023; or
- (b) a subsequent period of 12 months commencing on 1 July.

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Division 2 – Sale of land

55. Sale of land to eligible persons, whether or not residential premises situated on land

- (1) Subject to this Act, Homes Tasmania may sell, to any eligible person, land, or a share of or interest in land, whether or not there are residential premises situated on the land, if –

- (a) the person; or
- (b) the person’s spouse, if any –

is not the owner of any residential premises, whether situated within or outside Australia.

- (2) A person who wishes to purchase under subsection (1) land, or a share of or interest in land, may apply, in the prescribed manner and form, if any, to Homes Tasmania.
- (3) Homes Tasmania, if it is satisfied that it is proper that an application under subsection (2) in relation to land, or a share or interest in land, be granted, may enter into a contract for the sale, in accordance with this Part, of the land, or of a share of or interest in the land, to –
- (a) the applicant; or
 - (b) the applicant and any other eligible person stipulated by the applicant.
- (4) The sale may be at the price, and upon the terms and conditions, that are determined by Homes Tasmania.

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- (5) If Homes Tasmania so determines, land or a share of or interest in land may be sold under this section to an eligible person without a deposit.
- (6) The purchaser of land, or a share of or interest in land, on which are situated residential premises that are sold to the purchaser in accordance with this section may occupy as a tenant the residential premises –
 - (a) on the terms and conditions that Homes Tasmania determines; and
 - (b) at a rental, determined by Homes Tasmania, which is sufficient to cover –
 - (i) interest at a rate to be determined by Homes Tasmania that is not more than the maximum annual rate of interest in respect of purchasers fixed by the Treasurer under section 85 on the capital cost of the residential premises less any deposit paid; and
 - (ii) insurance and rates; and
 - (iii) any repairs effected by or on behalf of Homes Tasmania under section 88; and
 - (iv) a sum, to be determined by Homes Tasmania, in reduction of the purchase-money; and

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- (v) subject to section 59(3), the costs of administration determined in accordance with section 58.
- (7) Subject to this section, if the purchaser of land, or of a share of or interest in land, has complied to the satisfaction of Homes Tasmania with the conditions contained in the contract of sale, Homes Tasmania, upon payment by the purchaser to Homes Tasmania of all moneys owing to Homes Tasmania under the contract of sale, may transfer the land, or a share of or interest in the land, to the purchaser.
- (8) For the purposes of this section, the amount standing to the credit of the purchaser by way of –
- (a) deposits paid in pursuance of section 87(1); and
- (b) interest accumulated on those deposits –
- is to be taken to be money paid in reduction of the purchase-money.
- (9) Subject to this Act, the cost and expenses of any transfer or mortgage executed in pursuance of this section are to be borne by the purchaser.

56. Sale by Homes Tasmania subject to mortgage

- (1) Subject to this Act, Homes Tasmania may, under this section, sell, to any eligible person, land, or a share of or interest in land, whether or not

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there are residential premises situated on the land, if –

- (a) the person; or
- (b) the person’s spouse, if any –

is not the owner of residential premises within this State.

- (2) A person who wishes to purchase land or a share of or interest in land under this section may make, in the prescribed manner and form, if any, an application to Homes Tasmania.
- (3) The sale may be at the price, and upon the terms and conditions, that are determined by Homes Tasmania.
- (4) A contract of sale under this section is to be a contract of sale –
 - (a) with the applicant as the purchaser; or
 - (b) if the purchaser so stipulates in the purchaser’s application under subsection (2), with the applicant and any eligible person so stipulated.
- (5) If the purchaser stipulates in the purchaser’s application under subsection (2) that the contract of sale under this section is to be a contract of sale with the applicant and an eligible person, the transfer in accordance with the contract is to be to the applicant and that person as joint tenants.

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- (6) If Homes Tasmania determines to sell or transfer land or a share of or interest in land to an applicant, Homes Tasmania may require the applicant to provide to Homes Tasmania the security that Homes Tasmania thinks fit.
- (7) Without limiting the generality of subsection (6), if Homes Tasmania determines to sell and transfer land, or a share of or interest in land, to an applicant under this section, Homes Tasmania may require the applicant to –
- (a) pay to Homes Tasmania as a deposit a sum being at least 5% of the total purchase-price; and
 - (b) execute in favour of Homes Tasmania a memorandum of mortgage for –
 - (i) the balance of any money unpaid and due under the contract of sale; and
 - (ii) the payment of the interest payable on that balance by combined instalments.
- (8) Subject to section 57(4) –
- (a) the annual rate of interest to be charged to a purchaser; and
 - (b) the amounts of the monthly or quarterly instalments of principal and interest combined –

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are to be fixed in accordance with the fixed rate, and the fixed table, respectively, at the time when the purchase is made.

- (9) For the purposes of subsection (7)(b), it is not necessary for a mortgage to be a first mortgage.

57. Contract of sale subject to mortgage

- (1) A person who is specified in a contract of sale under section 55 as the purchaser may apply under section 56 to purchase under section 56 the land, or the share of or interest in the land, to which the contract under section 55 relates.
- (2) If a person who, in accordance with subsection (1), applies under section 56 to purchase under section 56 land, or a share of or interest in land, to which a contract under section 55 relates is specified alone in the contract under section 55 as the purchaser of the land or the share or interest in the land, the contract of sale under section 56 may be –
- (a) with the person alone; or
 - (b) if the person so stipulates in the application, with the person and an eligible person so stipulated.
- (3) If an application under section 56 is made in accordance with subsection (1), section 56(7) applies in relation to the applicant with the following changes:

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- (a) the deposit referred to in section 56(7)(a) is reduced by the amount that the purchase-price specified in the contract of sale under section 55 has been paid, together with the deposits (if any) paid under section 87 and the interest on those deposits; and
- (b) if the amounts paid in reduction of the purchase-price together with those deposits and interest are more than 5% of that purchase-price, the deposit is constituted by the total of those amounts, those deposits and that interest; and
- (c) if the outstanding liability of the purchaser by virtue of the contract of sale under section 55 is not more than 90% of the then current market value as assessed by Homes Tasmania, the deposit is constituted by an amount representing the difference between that liability and that market value –

and the total purchase-price is the price specified in the contract of sale entered into under section 55.

- (4) If a purchaser under section 56 is a purchaser to whom this section and section 56(7) apply –
 - (a) the annual rate of interest to be charged to the purchaser; and
 - (b) the amounts of the fortnightly, monthly, or quarterly instalments of principal and interest combined –

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are to be so fixed that the maximum annual rate of interest charged as provided by the contract of sale under section 55 is not exceeded at any time.

Division 3 – Costs of administration

58. Costs of administration where land purchased

- (1) For the year commencing on 1 July 2023 (in this section referred to as ***the new base year***), the costs of administration are to be \$156.00.
- (2) After the new base year, the costs of administration are to be adjusted annually in accordance with this Part.
- (3) Despite subsection (2), the Minister may determine that the costs of administration, for any year after the new base year, are to be the same as the costs of administration for the immediately preceding year.
- (4) A determination under subsection (3) is of no effect unless Homes Tasmania is given written notice of it before the beginning of the year to which the determination applies.

59. Claim for reduction of costs of administration due to hardship

- (1) A purchaser of land under section 55 may, by notice to Homes Tasmania, claim that the imposition of a charge for costs of administration, or an increase in that charge, will cause the purchaser hardship.

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- (2) A claim under subsection (1) is to be accompanied by a statutory declaration of the incomes of the residents of the land that the purchaser is purchasing under section 55.
 - (3) If Homes Tasmania is satisfied, on the basis of a claim under subsection (1) made by the purchaser, that hardship would be caused to the purchaser, Homes Tasmania must grant a total or partial exemption from the payment of the charge or increase to which the claim relates.
 - (4) An exemption granted under subsection (3) in respect of land is to be such that the total rental payable in respect of the land is whichever is the higher of the following:
 - (a) not more than 25% of the combined incomes of the residents in relation to the land;
 - (b) the rental payable immediately before the charge was imposed or increased.

Division 4 – Adjustment rate

60. Calculation of adjustment rate

- (1) For the purposes of the definition of *adjustment rate* in section 54, the rate for a year is the ratio between –
 - (a) the Consumer Price Index: All Groups Index for Hobart published by the Australian Statistician under the authority of the *Census and Statistics Act*

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*1905 of the Commonwealth for the
March quarter of that year; and*

- (b) the Consumer Price Index: All Groups Index for Hobart for the March quarter of the previous year.
- (2) If the rate for a year calculated in accordance with this section is 1, there is taken to be no adjustment rate for that year.
- (3) If, under subsection (2), there is taken to be no adjustment rate for a year, then, for the purposes of calculating the adjustment rate for the next year, the Consumer Price Index: All Groups Index for Hobart for the March quarter of the last year for which there was an adjustment rate is taken also to be the Consumer Price Index: All Groups Index for Hobart for the March quarter of the first-mentioned year.
- (4) If at any time, whether before or after the commencement of this section, the Australian Statistician has published for the March quarter of a year an index in substitution for the Consumer Price Index: All Groups Index for Hobart for the March quarter previously published by the Australian Statistician in respect of that year –
 - (a) if the Minister so directs, regard is to be had to the later index for the purposes of this section; or
 - (b) if the Minister does not so direct, the publication of the later index is to be

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disregarded for the purposes of this section.

61. Adjustment of costs of administration

- (1) If there is an adjustment rate for a year, the amount specified in section 58(1) is, in relation to a contract of sale under section 55, adjusted by that rate by virtue of this section, on and from a date (not later than 31 December of that year) to be determined by Homes Tasmania in respect of that contract.
- (2) If an amount adjusted under subsection (1) comprises, in addition to a number of dollars, a number of cents that is not a multiple of 5, that number of cents is to be calculated as the next higher number that is a multiple of 5.

62. Homes Tasmania to notify adjustment in *Gazette*

If there is an adjustment rate for a year, Homes Tasmania, before 1 August of that year, is to publish in the *Gazette* a notice of the amount payable in respect of costs of administration as a consequence of the adjustment made by the operation of section 61.

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Part 9 – Sale or Transfer of Land by Homes Tasmania for Other Purposes

**PART 9 – SALE OR TRANSFER OF LAND BY HOMES
TASMANIA FOR OTHER PURPOSES**

Division 1 – Interpretation

63. Meaning of *associated land*

In this Part –

associated land, in relation to a housing
provider, means any land that –

- (a) is not sold or transferred by
Homes Tasmania to the provider;
and
- (b) is, by the terms and conditions of
a contract, or arrangement under
section 75, under which other
land is sold or transferred to the
provider by Homes Tasmania
under this Part, required to be –
 - (i) leased to, or for the
provision of residential
accommodation to,
eligible persons; or
 - (ii) sold to an eligible person;
or
 - (iii) used for the construction,
alteration, enlargement,
repair or improvement, of
residential premises that
are, or are to be, situated
on the land, so that the

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residential premises may
be leased or sold to, or
used for the provision of
residential
accommodation to,
eligible persons.

Division 2 – Sale or transfer of land

64. Sale or transfer of land to housing providers

- (1) Homes Tasmania may sell or transfer land to a housing provider for the purpose of enabling the provider to –
- (a) lease to eligible persons, or arrange for the lease to eligible persons of, residential premises that are situated on the land or associated land; or
 - (b) provide, for the residential accommodation of eligible persons, residential premises that are situated on the land or associated land; or
 - (c) arrange for the provision, for residential accommodation of eligible persons, of residential premises that are situated on the land or associated land; or
 - (d) sell to eligible persons, or arrange for the sale to eligible persons of, residential premises that are situated on the land or associated land; or

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- (e) construct, alter, enlarge, repair or improve, or arrange for the construction, alteration, enlargement, repair or improvement of, residential premises that are, or are to be, situated on the land or associated land, so that the residential premises may be leased or sold to, or used to provide residential accommodation to, eligible persons –

whether or not other residential premises that are, or are to be, situated on the land or associated land may also be leased or sold to, or used to provide residential accommodation to, persons who are not eligible persons and whether or not there are situated on the land premises other than residential premises.

- (2) Homes Tasmania may sell or transfer land to a housing provider for the purpose of enabling part or all of the land to be used by the provider as security to raise finance to enable the provider to –
 - (a) lease to eligible persons, or arrange for the lease to eligible persons of, residential premises that are situated on any land or associated land; or
 - (b) provide, for the residential accommodation of eligible persons, residential premises that are situated on any land or associated land; or
 - (c) arrange for the provision, for residential accommodation of eligible persons, of

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residential premises that are situated on
the land or associated land; or

- (d) sell to eligible persons, or arrange for the sale to eligible persons of, residential premises that are situated on any land or associated land; or
- (e) construct, alter, enlarge, repair or improve, or arrange for the construction, alteration, enlargement, repair or improvement of, residential premises that are, or are to be, situated on any land or associated land, so that the residential premises may be leased or sold to, or used to provide residential accommodation to, eligible persons –

whether or not the funds so raised may also be used to provide other residential premises for sale to, or for the residential accommodation of, persons who are not eligible persons and whether or not there are situated on the land premises other than residential premises.

- (3) Homes Tasmania may sell or transfer land to a housing provider for the purpose of enabling part or all of the land to be sold or leased to any person to provide funds to enable the provider to –
 - (a) lease to eligible persons, or arrange for the lease to eligible persons of, residential premises that are situated on any land or associated land; or

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- (b) provide, for the residential accommodation of eligible persons, residential premises that are situated on any land or associated land; or
- (c) arrange for the provision, for residential accommodation of eligible persons, of residential premises that are situated on the land or associated land; or
- (d) sell to eligible persons, or arrange for the sale to eligible persons of, residential premises that are situated on any land or associated land; or
- (e) construct, alter, enlarge, repair or improve, or arrange for the construction, alteration, enlargement, repair or improvement of, residential premises that are, or are to be, situated on any land or associated land, so that the residential premises may be leased or sold to, or used to provide residential accommodation to, eligible persons –

whether or not the funds so raised may also be used to provide other residential premises for sale to, or for the residential accommodation of, persons who are not eligible persons and whether or not there are situated on the land premises other than residential premises.

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Part 9 – Sale or Transfer of Land by Homes Tasmania for Other Purposes

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65. Sale or transfer of land to housing support providers

- (1) Homes Tasmania may sell or transfer land to a housing support provider for the purpose of enabling the provider to provide housing support services to eligible persons, whether or not the provider also provides housing support services to persons who are not eligible persons.
- (2) Homes Tasmania may sell or transfer land to a housing support provider for the purpose of enabling the land to be used by the provider as security to raise finance to enable the provider to provide housing support services to eligible persons, whether or not the provider also provides housing support services to persons who are not eligible persons.
- (3) Homes Tasmania may sell or transfer land to a housing support provider for the purpose of enabling the land to be sold or leased by the provider to any person so as to provide funds to the provider to enable the provider to provide housing support services to eligible persons, whether or not the provider also provides housing support services to persons who are not eligible persons.

66. Sale of land, &c., not immediately required

- (1) If Homes Tasmania is satisfied that any land that –
 - (a) is vested in, or held by, Homes Tasmania under or for the purposes of this Act; or

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- (b) has been granted to Homes Tasmania under section 12 of the *Crown Lands Act 1976*; or
- (c) Homes Tasmania is entitled to be granted under section 12 of the *Crown Lands Act 1976* –

is not immediately required for the purposes of this Act, Homes Tasmania may sell that land at the price, and on the terms and conditions, that Homes Tasmania thinks fit.

- (2) Without limiting the generality of subsection (1), Homes Tasmania may be satisfied that land is not immediately required for the purposes of this Act if Homes Tasmania is satisfied that –
 - (a) other land is likely to be more suited to the provision of accommodation to eligible persons; or
 - (b) it is necessary or convenient to sell the land so as to obtain funds that may be used for the purposes of this Act.

67. Terms and conditions of sale or transfer of land under this Part

- (1) Subject to this Act –
 - (a) a sale of land under this Part is to be at the price, and on the terms and conditions, that Homes Tasmania determines; and

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- (b) a transfer, other than by sale, of land under this Part is to be on the terms and conditions that Homes Tasmania determines.
- (2) The terms and conditions are to be determined for the purposes of subsection (1) by Homes Tasmania –
 - (a) in the contract for sale, or the transfer of the land, to which the terms and conditions relate; or
 - (b) as part of an arrangement under section 75, in relation to the land, to which the terms and conditions relate.
- (3) Despite subsection (2), Homes Tasmania must, if required by a direction under subsection (4), ensure that the terms and conditions determined by Homes Tasmania under subsection (2) –
 - (a) include, or are constituted by, as the case may be; and
 - (b) are consistent with –

any terms or conditions that Homes Tasmania is directed to determine in accordance with subsection (4).
- (4) The Minister may direct Homes Tasmania as to the terms and conditions for the purposes of subsection (1) that Homes Tasmania is to include –

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- (a) in a particular contract for sale or transfer, or all contracts or transfers of land; or
 - (b) in a particular arrangement, or all arrangements, under section 75.
- (5) The terms and conditions determined by Homes Tasmania for the purposes of subsection (1), or included by the Minister in a direction under subsection (4), in relation to land must include terms and conditions that are, in the opinion of Homes Tasmania, or the Minister, respectively, reasonably necessary to ensure that –
 - (a) all or part of the land is used for the purpose for which it is sold or transferred; and
 - (b) all or part of any associated land is used to enable residential premises on the land to be sold or leased to eligible persons or used to provide residential accommodation to eligible persons.
- (6) Without limiting the generality of subsection (5), the terms and conditions may include terms or conditions designed to effect all or any of the following purposes:
 - (a) restricting, during a specified period, dealings in all or part of the land and all or part of any associated land;
 - (b) requiring the construction, alteration, enlargement, repair or improvement, or the commencement of the construction,

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alteration, enlargement, repair or improvement, during a specified period, of residential premises on all or part of the land or on all or part of any associated land.

Division 3 – Enforcement of restrictions on transfers, &c., of land sold

68. Interpretation of Division 3

(1) In this Division –

Recorder means the Recorder of Titles;

transaction, in relation to any land, means any transfer or transmission of the fee simple in the land.

(2) Unless the contrary intention appears, the expressions used in this Division have the same meaning as they have for the purposes of the *Land Titles Act 1980*.

69. Enforcement of restriction on transfers, &c., of land sold

(1) This section applies in relation to land if –

(a) the land –

(i) is sold or transferred by Homes Tasmania in pursuance of a contract entered into by Homes Tasmania for the purposes of this Part; or

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- (ii) is associated land pursuant to such a contract or an arrangement entered into under section 75; or
 - (b) the land is owned by a housing provider and it is a term of a grant to the housing provider, or an agreement between Homes Tasmania and the housing provider, that the land is to be subject to section 70; or
 - (c) the land is owned by a person other than Homes Tasmania and it is a term of an agreement, between Homes Tasmania and the person, that relates to the land, that the land is to be subject to section 70.
- (2) Homes Tasmania may, in relation to land to which this section applies, lodge with the Recorder a notification specifying –
 - (a) that the land, or the associated land, is subject to section 70; and
 - (b) the period, of not less than 5 years, and not more than 50 years, after the notification, for which the land, or the associated land, is to be subject to section 70.
- (3) A notification lodged under this section is to contain –
 - (a) particulars of the title of the land to which it relates; and

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- (b) the other particulars, if any, prescribed under the *Land Titles Act 1980*.
 - (4) Regulations may be made under the *Land Titles Act 1980* for the purposes of subsection (3).
 - (5) The Recorder must register a notification lodged with the Recorder under this section by recording –
 - (a) the notification on the folio of the Register constituting the title to which the notification relates; and
 - (b) the period, specified in the notification, for which the land is to be subject to section 70.
 - (6) If, in the circumstances of a particular case, Homes Tasmania considers that a notification lodged with the Recorder under this section should cease to be of further effect, Homes Tasmania may lodge with the Recorder a notice withdrawing that notification.
 - (7) On a notice being lodged under subsection (6) in relation to a notification, the notification ceases to be of further effect.
 - (8) On a notice being lodged with the Recorder under subsection (6), the Recorder –
 - (a) must cancel the registration of the notification to which it relates on the folio of the Register, under the *Land Titles Act 1980*, for the land; and

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(b) may make a corresponding recording on the certificate of title, if any, of the land, if it is produced to the Recorder.

(9) No fee is payable to the Recorder for registering or cancelling the registration of a notification under this section.

70. Restrictions on transfer to which notification under section 69(2) relates

(1) If a notification is lodged with the Recorder under section 69(2) in respect of land, no transaction entered into without the consent of Homes Tasmania during the period, specified in the notification, for which the land is to be subject to this section, is capable of taking effect unless it is an excluded transaction.

(2) For the purposes of this section, a transaction is an excluded transaction if –

(a) it arises through the operation of the law relating to bankruptcy; or

(b) it is made by a person acting in the capacity of legal personal representative of the person or one of the persons to whom the land was transferred by Homes Tasmania; or

(c) it is made in the execution of a judgment or order of a court.

(3) Unless the Recorder is otherwise directed by an order of the Supreme Court, the Recorder must

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not register a transaction referred to in subsection (2)(c) if Homes Tasmania has certified to the Recorder that Homes Tasmania is of the opinion that the judgment or order enforced by the execution was obtained as a result of collusion between the parties to the proceedings in which the judgment or order was given.

- (4) The Supreme Court may make an order directing the registration of a transaction to which subsection (3) applies if it is satisfied that there are not sufficient grounds for the opinion of Homes Tasmania certified to the Recorder for the purposes of that subsection in respect of the transaction.
- (5) If the Supreme Court makes an order under subsection (4) in relation to a transaction, the transaction is not capable of taking effect unless the court so orders.

PART 10 – GUARANTEES

71. Guarantee by Treasurer

- (1) The Treasurer may execute a guarantee guaranteeing the repayment of any loan –
 - (a) that is to be made by a person to a third person; and
 - (b) that is lending money for housing purposes to that third person or to another person.
- (2) A guarantee given by the Treasurer under subsection (1) in relation to a loan –
 - (a) is to be in the prescribed form; and
 - (b) is to be subject to the prescribed terms and conditions and other terms and conditions, if any, that the Treasurer thinks fit; and
 - (c) is not enforceable against the Treasurer unless the person making the loan has, to the Treasurer's satisfaction, exercised that person's rights and remedies under all securities held by or for that person in respect of the loan and interest charges and expenses.
- (3) The amounts that may from time to time become due and payable by the Treasurer under any guarantee authorised by this section are to be paid out of the Public Account, which is, to the necessary extent, appropriated accordingly.

72. Guarantee and indemnity by Treasurer

- (1) The Treasurer may execute a guarantee, in favour of any person, guaranteeing the repayment of any amount borrowed for the purposes of this Act, other than a loan referred to in section 29 or section 71(1).
- (2) The Treasurer may provide an indemnity –
 - (a) in favour of any person; and
 - (b) in respect of any liability approved by Homes Tasmania, that 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 Treasurer under subsection (1) or (2) is subject to the terms and conditions, if any, that the Treasurer thinks fit.
- (4) Any amounts that from time to time become due and payable under a guarantee or an indemnity authorised by this section are to be paid out of the Public Account, which is, to the necessary extent, appropriated accordingly.

73. Guarantee subject to security, &c.

- (1) Before a guarantee is given under section 71 or 72, the borrower must, if the Treasurer so requires, give to the Treasurer the security that the Treasurer specifies and must execute the instruments that are necessary for the purpose of giving the guarantee and the security.

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(2) A guarantee under section 71 or 72 operates so as to guarantee –

- (a) the repayment of money lent, or agreed to be lent, to the borrower; and
- (b) the payment of interest and other charges in respect of that money –

only to the extent that the aggregate of those amounts does not exceed \$3 000 000.

PART 11 – GRANTS AND ARRANGEMENTS

74. Grants

- (1) Homes Tasmania may grant, from the funds of Homes Tasmania, money to a person.
- (2) Homes Tasmania may not grant money to a person under subsection (1) unless Homes Tasmania is satisfied that the person intends to use the money –
 - (a) to sell or lease residential premises to persons, or to provide residential accommodation to persons, some or all of whom are eligible persons; or
 - (b) to provide housing support services to persons, some or all of whom are eligible persons.
- (3) A grant of money under subsection (1) is to be on the terms and conditions specified in the grant.
- (4) If at any time, in the opinion of Homes Tasmania, any money granted under this Part –
 - (a) has not been applied for the purpose for which it was granted; or
 - (b) has not been carefully and economically expended –

Homes Tasmania may refuse to pay any further instalment of the proposed grant.

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Part 11 – Grants and Arrangements

75. Arrangements

- (1) Homes Tasmania may enter into an arrangement with a person under which Homes Tasmania agrees to exercise a power of Homes Tasmania under another section of this Act.
- (2) Homes Tasmania may not enter into an arrangement under subsection (1) with a person, unless Homes Tasmania is satisfied that the person intends, in accordance with the arrangement –
 - (a) to sell or lease residential premises to persons, or to provide residential accommodation to persons, some or all of whom are eligible persons; or
 - (b) to provide housing support services to persons, some or all of whom are eligible persons.
- (3) An arrangement under subsection (1) with a person is to be on the terms and conditions specified in the arrangement, including terms and conditions included in accordance with section 67.
- (4) If at any time, in the opinion of Homes Tasmania, a person has not complied with the terms or conditions of an arrangement under this section, Homes Tasmania may refuse to carry out any further obligations of Homes Tasmania under the arrangement.

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PART 12 – ADVANCES BY HOMES TASMANIA

76. Advances for homes

(1) In this section –

approved person means –

- (a) an eligible person; or
 - (b) a home purchase assistance scheme recipient.
- (2) The Treasurer may, in writing, approve a class of persons, members of which (*home purchase assistance scheme recipients*) are to be eligible to receive advances under this Act.
- (3) Subject to this Act, Homes Tasmania may make advances to any approved person on a security, if any, satisfactory to Homes Tasmania, for the purpose of enabling the approved person –
- (a) to erect, as a home for the approved person and the person's dependants, residential premises on the approved person's holding; or
 - (b) to purchase land and erect residential premises on the land; or
 - (c) to purchase residential premises, together with the land –
 - (i) on which the residential premises are erected; or

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- (ii) with which the residential premises are occupied –

as a home for the approved person and the person's dependants or to alter, enlarge, repair, or improve the residential premises; or
 - (d) to complete residential premises, owned by the approved person, that have been partially erected; or
 - (e) to enlarge residential premises owned by the approved person; or
 - (f) to discharge any mortgage, charge, or incumbrance, already existing on the approved person's holding; or
 - (g) to defray the cost of any work that Homes Tasmania has caused to be done on the holding of such person under the provisions of section 88.
- (4) Any advance may be made by instalments and be subject to the conditions that are prescribed.
- (5) If an advance is for any of the purposes mentioned in subsection (3), other than the purposes mentioned in subsection (3)(c) or (f) –
- (a) an instalment of the advance may be made before the building is commenced, provided that the total of the amounts advanced as instalments do not exceed four-fifths of the fair estimated value of the applicant's estate or interest in the

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holding and the permanent improvements
on the holding; and

- (b) the total of the amounts advanced up to any given time must not be more than the value of the progress already made with the building, as certified in writing by a valuer to the satisfaction of Homes Tasmania, in addition to the amount, if any, advanced in accordance with paragraph (a).

77. Advances to councils

- (1) Homes Tasmania, with the approval of the Treasurer, may make an advance to a council for the purpose of enabling the council to carry out, on land set apart or acquired for the purposes of this Act, work that appears to Homes Tasmania to be necessary for the purpose of rendering the land fit for the use to which it may be put under this Act.
- (2) An advance may only be made under subsection (1) if the Treasurer is satisfied that the council does not have sufficient funds available for carrying out the work for which the advance is to be made.
- (3) An advance under this section is to be repayable on the terms, and subject to the conditions, that are agreed between Homes Tasmania and the council.

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Part 12 – Advances by Homes Tasmania

78. Advances to housing providers, housing support providers and other persons

- (1) Homes Tasmania may make an advance to a housing provider, or a housing support provider, for the purpose of enabling the provider –
 - (a) to sell or lease residential premises to persons, or to provide residential accommodation to persons, some or all of whom are eligible persons; or
 - (b) to provide housing support services to persons, some or all of whom are eligible persons.
- (2) Homes Tasmania may make an advance to a person for the purpose of enabling the person –
 - (a) to purchase land so as to enable the construction, alteration, enlargement, repair or improvement of residential premises on the land so that some or all of such residential premises may be sold or leased to, or used to provide residential accommodation to, eligible persons or persons on low or moderate incomes; or
 - (b) to construct, alter, enlarge, repair or improve residential premises on land so that some or all of such residential premises on the land may be sold or leased to, or used to provide residential accommodation to, eligible persons.

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- (3) An advance under this section to a housing provider, housing support provider or person is to be repayable on the terms, and subject to the conditions, that are agreed between Homes Tasmania and the housing provider, housing support provider, or person, respectively.

79. Application for advance

- (1) A person may, in a form approved by Homes Tasmania, apply for an advance under this Part.
- (2) The applicant must lodge with the applicant's application a statutory declaration in the prescribed form setting out the purposes to which the advance is to be applied.
- (3) An application under subsection (1) is to be supported by the evidence, if any, that Homes Tasmania thinks necessary.
- (4) If an application under subsection (1) is made for an advance for the purpose of erecting, completing or enlarging residential premises, the applicant must satisfy Homes Tasmania, before the advance is made, that –
- (a) the residential premises, when so erected, completed or enlarged, will be substantial and durable; and
 - (b) the plans and specifications for the proposed work comply with the prescribed conditions and the requirements of Homes Tasmania.

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- (5) Homes Tasmania may refuse any application in relation to which Homes Tasmania is not satisfied that the applicant has complied with all the prescribed conditions.

80. Advances by instalments

- (1) If at any time, in the opinion of Homes Tasmania, any money advanced under this Part has not been applied for the purpose for which it was advanced, or has not been carefully and economically expended, Homes Tasmania –
 - (a) may refuse to pay any further instalment of the proposed advance; and
 - (b) may, by notice in writing, at once call in the whole, or part, of the amount already advanced.
- (2) If Homes Tasmania, under this section, calls in the whole, or part, of an amount advanced to a borrower, the borrower must immediately repay the whole, or the part, respectively, of the amount advanced.
- (3) If the borrower fails to immediately repay to Homes Tasmania the whole, or the part, respectively, of the amount advanced, that Homes Tasmania has called in, Homes Tasmania has the same remedies in respect of –
 - (a) the recovery of the amount called in; or
 - (b) any part of the amount called in that remains unpaid –

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as the remedies under this Act for the recovery of sums payable by the borrower.

81. Security for advances

- (1) Homes Tasmania may require a borrower to provide the security that Homes Tasmania thinks fit.
- (2) A security required under subsection (1) may be, but is not required to be, a security consisting of a mortgage.
- (3) The provisions of the *Personal Property Securities Act 2009* of the Commonwealth –
 - (a) do not apply to any mortgage, or other security, executed under the provisions of this Act; and
 - (b) do not affect the validity of any such mortgage or security in respect of any chattels forming all or part of the security.

82. How advances repayable

- (1) Subject to subsection (2), repayments of an advance must be made in monthly or quarterly instalments in accordance with –
 - (a) the mortgage executed at the time of the advance; or
 - (b) the terms and conditions of the advance.

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- (2) The period over which repayments of an advance are to be made must not be more than 53 years.

83. Provisions relating to advances

- (1) An advance, if made in one sum, is to date as from the first day of the month next following the month in which the advance is made.
- (2) An advance made by instalments is to date as from the first day of the month next following the month in which the final instalment is made.
- (3) Interest at the fixed rate per annum is to be paid on an advance, or each instalment of an advance, calculated from the date on which the advance or instalment is made.
- (4) If an advance is made in one sum –
 - (a) interest, at the fixed rate per annum, is to be calculated from the date on which the advance is made to the first day of the next following month; and
 - (b) the interest is to be paid to, or may be deducted by, Homes Tasmania at the time at which the advance is made.
- (5) If an advance is made by instalments, then, until and including the first day of the month next following after the month in which the final instalment is made, interest, on all instalments already made, must be –

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- (a) paid to Homes Tasmania on the first day of each month; or
 - (b) deducted by Homes Tasmania from any instalment of the advance.
- (6) After the first day of the month next following the month in which an advance, or the final instalment of an advance, is made, the principal, with the interest referred to in subsection (3), is to be repaid to Homes Tasmania by instalments as agreed between Homes Tasmania and the borrower to whom the advance is made.

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Part 13 – Conditions of Contracts of Sale and Advances

**PART 13 – CONDITIONS OF CONTRACTS OF SALE
AND ADVANCES**

**84. Homes Tasmania may refuse to enter into contract,
&c.**

- (1) Homes Tasmania may refuse –
 - (a) to enter into a contract for the sale to an eligible person of any land or land and residential premises; and
 - (b) to make an advance to an applicant under this Act; and
 - (c) to make a grant, or enter into an arrangement, with any person under Part 11.
- (2) A decision of Homes Tasmania under this section is final.

**85. Power of Treasurer to fix or annul rate of interest
or table of instalments**

- (1) The Treasurer, by notice published in the *Gazette*, may fix –
 - (a) the maximum annual rate of interest to be charged to any purchaser in respect of any purchase-money in accordance with this Act; and
 - (b) the annual rate of interest to be charged to any borrower in respect of any advance in accordance with this Act; and

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- (c) tables of the amounts of the monthly or quarterly instalments of principal and interest combined to be paid by borrowers in respect of advances under this Act, showing the amounts payable for the various terms of years during which repayment of an advance may be made –

and may, in the same manner, annul any rate or table so fixed.

- (2) A fixed rate or fixed table –

- (a) comes into force 14 days after the date on which the notice fixing the rate or table is published in the *Gazette*; and
- (b) continues in force until 14 days after the date on which a notice annulling the fixed rate, or fixed table, is published in the *Gazette*.

86. Power of Treasurer to authorise variable interest rates

Despite any other provision of this Act, the Treasurer may, by instrument in writing and subject to the terms and conditions, if any, specified in the instrument, authorise Homes Tasmania, or another person, to provide for the payment of interest in a mortgage under this Act at a rate which may be varied from time to time at the discretion of Homes Tasmania.

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87. Purchaser or borrower to pay amounts on account

- (1) A purchaser or borrower may, in addition to making any payment in accordance with the purchaser's or borrower's contract, deposit with Homes Tasmania any sum –
 - (a) that is not less than \$10; and
 - (b) that is \$10 or a multiple of \$10.
- (2) A sum deposited in accordance with subsection (1) is to be credited to the purchaser or borrower with compound interest calculated yearly at the same rate as is charged on the purchase-money or advance to which the sum relates.
- (3) Deposits and interest accumulated to the credit of a purchaser or borrower under this section are to be available for payment of any instalments, arrears of instalments, or other payments, due to Homes Tasmania by the purchaser or borrower.

88. Property to be kept in repair until payment in full

- (1) A purchaser, and a borrower, must, until the whole amount of purchase-money or advance due by the purchaser or borrower has been paid or repaid, insure and keep in good and tenantable repair, to the satisfaction of Homes Tasmania, all buildings, fences, fixtures, and improvements upon the land to which the contract of sale, mortgage, or other security, of the purchaser or borrower, relates.

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(2) Unless Homes Tasmania takes action under subsection (3), if, after the expiry of one month's notice in writing given by Homes Tasmania to a purchaser, or borrower, in relation to land, or land and residential premises, the purchaser or borrower has not complied with the requirements of this section –

(a) Homes Tasmania, or any person authorised by Homes Tasmania to do so, may enter and take possession of the land, or the land and residential premises, as the case may be; and

(b) there are to apply, to –

(i) a breach of the terms or conditions of the contract of sale, mortgage, or other security; or

(ii) a default made in the payment of any instalment of money payable in respect of any contract of sale or advance under this Act –

the same consequences as those provided by section 93.

(3) Unless Homes Tasmania takes action under subsection (2), if, after the expiry of one month's notice in writing given by Homes Tasmania to a purchaser, or borrower, in relation to land, or land and residential premises, the purchaser or borrower has not complied with the requirements of this section –

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- (a) Homes Tasmania, or any person authorised by Homes Tasmania to do so, may enter the land, or residential premises on the land, and carry out the repairs that Homes Tasmania considers necessary; and
 - (b) the expenses incurred in carrying out those repairs, with interest at the same annual rate as that which is payable on the purchase-money or advance, as the case may be, must be paid to Homes Tasmania by the purchaser or borrower on demand; and
 - (c) until the expenses are repaid, the expenses are a charge under the contract of sale or mortgage or other security upon the property, even though the amount of the purchase-money or advance is, by the addition of the amount of the expenses and interest, increased to more than the amount of the maximum cost or advance, as the case may be, applicable under this Act in respect of the land or the land and the residential premises.
- (4) Despite subsection (1), Homes Tasmania –
- (a) may insure and keep insured all buildings, fences, fixtures, and improvements, upon any land referred to in that subsection; and

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- (b) may collect the amount required for the payment of such insurance from the purchaser or borrower by way of the imposition of a charge as a component, of the cost of rental, charged by Homes Tasmania under section 55(6)(b)(ii).

89. Disposal without consent

- (1) If any money, due to Homes Tasmania under a contract of sale, mortgage or other security, remains unpaid in respect of land, or land and residential premises, forming the subject of the contract of sale, mortgage or other security, with a purchaser or borrower –
 - (a) the land, or land and residential premises, as the case may be, must not be sold, leased, subleased, mortgaged or otherwise charged or disposed of by the purchaser or borrower without the consent in writing of Homes Tasmania; and
 - (b) a sale, lease, sublease, mortgage, charge, or agreement, entered into or made in contravention of this section is void and of no effect.
- (2) If a purchaser or borrower, in contravention of this section, sells, leases, subleases, mortgages or otherwise charges or disposes of the land or land and residential premises, or any part of the land or the land and residential premises, Homes Tasmania may –

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Part 13 – Conditions of Contracts of Sale and Advances

- (a) in the case of a purchaser, cancel the contract of sale, and, in the discretion of Homes Tasmania, forfeit the instalments previously paid by the purchaser; and
- (b) in the case of a purchaser as provided by section 56, or a borrower, sell the estate and interest of the borrower in the land or land and residential premises.

90. Sale if borrower bankrupt

If a borrower's title, to any land, or land and residential premises, over which Homes Tasmania holds a mortgage in pursuance of this Act, is divested from the borrower under a law relating to bankruptcy, Homes Tasmania may cause the borrower's estate and interest in the land, or in the land and residential premises, to be sold –

- (a) at the time and place; and
- (b) in the manner; and
- (c) on the terms and conditions –

that Homes Tasmania thinks fit.

91. Application of section 93 to sales under section 89 or 90

The provisions of section 93 as to –

- (a) the sale of any land, or of land and residential premises; and

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- (b) the application of the proceeds of the sale –

apply to any sale made in pursuance of section 89 or 90.

92. Land, &c., not to be transferred while subject to mortgage, &c.

- (1) In this section –

transfer includes conveyance, assignment and surrender.

- (2) While any land, or land and residential premises, is or are subject to a contract of sale, mortgage, or other security, in accordance with this Act –

- (a) a transfer of the land or the land and residential premises; or

- (b) a transfer of any estate or interest in the land or the land and residential premises –

is of no force or effect and must not be registered in the Land Titles Office or Registry of Deeds.

- (3) Subsection (2) does not apply in relation to a transfer if the transfer –

- (a) arises through the operation of any law relating to bankruptcy; or

- (b) is made to a devisee by a person acting in the capacity of executor or administrator of the purchaser or borrower; or

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- (c) is made with the consent in writing of Homes Tasmania.
- (4) Homes Tasmania must not consent under subsection (3)(c) to a transfer, of land or land and residential premises, or of any estate or interest in the land or the land and residential premises, unless –
 - (a) the proposed transferee is an eligible person and the consent is on the conditions determined by Homes Tasmania; or
 - (b) the proposed transferee is not an eligible person, the transfer occurs within 5 years after the sale and transfer or the making of the advance and it is proved to the satisfaction of Homes Tasmania that refusal to consent to the transfer would inflict great hardship; or
 - (c) the proposed transferee is not an eligible person, the transfer occurs after the sale or transfer or the expiry of 5 years after the making of the advance and the consent is given on the conditions that Homes Tasmania determines.
- (5) In dealing with applications for consent to any transfer, Homes Tasmania must, as between 2 alternative transferees, one of whom is an eligible person and the other is not, give preference, as far as reasonably practicable, to the former.

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93. Remedies for recovery of instalments

- (1) If an instalment, or money, payable to Homes Tasmania under any contract of sale or advance under this Act, or any part of such an instalment or money, is unpaid for 30 days after the time for the payment of the instalment or money, Homes Tasmania may, without having made a legal demand for the payment of the amount –
 - (a) enter the land, or the land and residential premises, to which the contract of sale or advance relates and recover, by distress and sale of any goods and chattels on the land or on the land or residential premises, the amount due; or
 - (b) recover the amount in a court of competent jurisdiction from the owner of the land or of the land and residential premises.
- (2) The remedy provided under subsection (1) is in addition to, and without prejudice to, any other remedy that may be available to Homes Tasmania.
- (3) If an instalment, or a part of an instalment, payable to Homes Tasmania in relation to an advance in respect of land, or land and residential premises, is unpaid by the borrower for one month after the time appointed for the payment of the instalment, Homes Tasmania, without having made a legal demand for the payment of the amount, may –

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- (a) enter, and take possession of, the land or the land and residential premises; and
 - (b) subject to this section, sell the estate and interest of the borrower in the land or the land and residential premises.
- (4) If an instalment, or a part of an instalment, payable to Homes Tasmania under a contract of sale in respect of land, or land and residential premises, is, for one month after the time appointed for the payment of the instalment, unpaid by a purchaser who has obtained from Homes Tasmania a transfer and executed a mortgage to Homes Tasmania of the land, or of the land and residential premises, Homes Tasmania, without having made a legal demand for the payment of the amount, may –
 - (a) enter, and take possession of, the land or land and residential premises; and
 - (b) cancel the contract of sale in respect of the land or the land and residential premises; and
 - (c) subject to this section, sell the estate and interest of the purchaser in the land or the land and residential premises; and
 - (d) in the discretion of Homes Tasmania, forfeit the deposits and instalments or any part of the deposits or instalments previously paid by the purchaser.
- (5) If, under this section, Homes Tasmania may sell the estate and interest, in land or the land and

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residential premises, of a borrower or a purchaser in relation to the land or the land and residential premises, Homes Tasmania –

- (a) may, after giving the notice of the time, place, terms, and conditions of sale that Homes Tasmania thinks fit, sell the estate and interest either by private sale or public tender or auction, subject to the terms and conditions of sale that Homes Tasmania thinks fit; and
 - (b) give time for payment of the purchase-money or allow the purchase-money to remain on mortgage at the risk of the borrower; and
 - (c) vary or rescind any contract for sale; and
 - (d) buy in, at any auction, the land, or the land and residential premises, and resell the land, or the land and residential premises, without being answerable for any loss; and
 - (e) transfer the land, or the land and residential premises, to the person who is, after the sale, the purchaser, and give a good title to the land or the land and residential premises.
- (6) Before any land, or land and residential premises, is sold by private sale under this section, it must first be offered at a public auction, notice of which has been given in a newspaper published in, and circulating generally in, Tasmania.

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- (7) Homes Tasmania may, pending the sale of any land, or land and residential premises, under this section, lease the land, or the land and residential premises, to a person whom Homes Tasmania thinks fit –
 - (a) at the rent that Homes Tasmania thinks fit; and
 - (b) on the terms and conditions that Homes Tasmania thinks fit.
- (8) As against mortgagors, Homes Tasmania is not responsible for involuntary losses or the default of agents or auctioneers.
- (9) Homes Tasmania must –
 - (a) apply the proceeds derived from any sale, made in pursuance of this Part, of land, or of land and residential premises, in payment of –
 - (i) all moneys due in respect of the land or land and residential premises; and
 - (ii) in payment, or repayment, of any amount charged on those moneys due in favour of Homes Tasmania, or of so much of the amount as remains unpaid; and
 - (iii) expenses incurred by Homes Tasmania in relation to the sale, or otherwise with respect to the

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land or the land and residential
premises; and

- (b) pay the balance, if any, to the persons appearing to Homes Tasmania to be entitled to receive all or part of the amount of the balance.

94. Money due by purchaser or borrower is debt due to Crown

In addition to any other remedy provided by this Act for the recovery of any sum of money payable under any provision of this Act to Homes Tasmania by a purchaser or borrower, the sum of money –

- (a) is, and remains until it is paid to Homes Tasmania, a debt due by the purchaser or borrower to the Crown; and
- (b) is recoverable, with interest, by Homes Tasmania.

95. If no purchaser, land to revert to Crown

- (1) Subsection (2) applies to land, or land and residential premises, authorised to be sold by Homes Tasmania under this Act, if –
 - (a) the land, or land and residential premises, is offered for sale by public auction; and
 - (b) either –

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- (i) the amount of the highest bidding at the sale is not sufficient to satisfy the moneys due to Homes Tasmania, together with the cost and expenses of, or related to, the attempted sale by public auction; or
 - (ii) there is no bid for the land, or land and residential premises, at the public auction.
- (2) If this subsection applies to land, or land and residential premises, Homes Tasmania may, in –
 - (a) the *Gazette*; and
 - (b) at least one newspaper, once at least in each of three successive weeks –advertise the land, or the land and residential premises, for private sale.
- (3) An advertisement under subsection (2) in relation to land, or land and residential premises, is to specify a day and time and is to specify that on and at, or after, that day and time, the land, or the land and residential premises, with all improvements, are to revert to the Crown, unless, before the day and the time, enough money has been obtained from the sale of the land, or the land and residential premises, to satisfy –
 - (a) the moneys due to Homes Tasmania; and

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- (b) all the costs and expenses of, and related to, the sale and related proceedings.
 - (4) The day named in an advertisement under subsection (2) in relation to land, or land and residential premises, is to be a day that is not less than one month from the date of the first of the advertisements under that subsection in relation to the land or the land and residential premises.
 - (5) If, by the day and time specified in advertisement under subsection (2) in relation to land, or land and residential premises, insufficient money has been obtained from the sale of the land, or the land and residential premises, to satisfy the moneys due to Homes Tasmania and all the costs and expenses of, and related to, the sale and related proceedings –
 - (a) the land, or the land and residential premises, with all improvements, revert to the Crown; and
 - (b) on the reversion, the land, or the land and residential premises, revests in the Crown.

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Part 14 – Movable Residential Premises

PART 14 – MOVABLE RESIDENTIAL PREMISES

96. Provision of movable residential premises

- (1) Homes Tasmania may provide, or make arrangements for the provision of, movable residential premises and ancillary features, for the purpose of enabling the movable residential premises to be used as residential premises by a person or persons, at least one of whom is an eligible person.
- (2) Homes Tasmania may carry out, or arrange for the carrying out of, any work necessary in connection with the erection, maintenance, use or removal of movable residential premises and ancillary features that Homes Tasmania has provided or in relation to which Homes Tasmania has made provision under subsection (1).

97. Agreements in relation to movable residential premises

- (1) Homes Tasmania may enter into, and carry into effect, an agreement (a ***hiring agreement***) in respect of the erection and use of movable residential premises in accordance with this Part.
- (2) Without prejudice to the generality of subsection (1), a hiring agreement in respect of movable residential premises may make provision in relation to the following matters:

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- (a) the hiring charges payable in respect of the movable residential premises or any of their ancillary features, including the fixing of the amount, the manner of payment, and recovery, of any such charges;
 - (b) the maintenance of the movable residential premises, or any of their ancillary features, and their preservation from damage;
 - (c) the provision and maintenance of the services required in connection with the use of the movable residential premises for residential accommodation;
 - (d) the removal of the movable residential premises or any of their ancillary features and the restoration of the site from which movable residential premises or ancillary features are removed;
 - (e) the persons who may be allowed to use the movable residential premises for residential accommodation;
 - (f) the –
 - (i) terms and conditions on which persons may be allowed to use the movable residential premises for residential accommodation; and
 - (ii) charges that may be made in respect of any such use;

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- (g) the notifications required to be given with respect to the use of the movable residential premises or the occupation or ownership of the land on which they are situated;
 - (h) the effect of a failure to comply with any of the terms of the agreement.
- (3) Movable residential premises and the ancillary features of movable residential premises –
 - (a) are the property of Homes Tasmania; and
 - (b) remain personal property; and
 - (c) are not to be affixed, within the meaning of any law relating to real property, to any land upon which movable residential premises are for the time being situated.
- (4) A hiring agreement –
 - (a) may provide for the termination of the hiring agreement, by an act of a party to the agreement or otherwise; and
 - (b) may alter or replace a previous hiring agreement.

98. Registration of hiring agreement

- (1) Homes Tasmania may cause a hiring agreement to be registered.
- (2) A hiring agreement that is to be registered in accordance with subsection (1) is to be

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registered by lodging with the Recorder of Titles –

- (a) a copy of the agreement; and
 - (b) particulars of the title to the land on which the movable residential premises to which the agreement relates are, or are to be, erected.
- (3) If a hiring agreement is registered under subsection (2), the Recorder of Titles must record the agreement on the folio of the Register constituting the title to the land to which the agreement relates.
- (4) If the whole or any part of the land referred to in subsection (2) is not under the *Land Titles Act 1980*, the Recorder of Titles must bring under that Act so much of the land as is not under that Act, by registering a qualified title to the land in accordance with section 21 of the *Land Titles Act 1980*.
- (5) If part only of the land referred to in subsection (2) is required by subsection (4) to be brought in under the *Land Titles Act 1980*, the Recorder of Titles –
 - (a) must issue a consolidated title to the whole of the land so referred to; and
 - (b) for that purpose may call in and cancel the certificates of title to the parts of the land in accordance with section 163 of the *Land Titles Act 1980*.

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- (6) If Homes Tasmania registers a hiring agreement in accordance with subsection (1) –
 - (a) Homes Tasmania must, if the agreement terminates, serve on the Recorder of Titles a notice that the agreement has terminated; and
 - (b) the Recorder must make an entry on the relevant folium of the register book that the agreement so registered has been terminated.
- (7) A fee is not payable in respect of the registration of a hire agreement, or the termination of a hire agreement, under this section.

99. Power to remove movable residential premises

If –

- (a) a hiring agreement in relation to movable residential premises is registered in accordance with section 98(1); and
- (b) Homes Tasmania becomes entitled, on the termination of the agreement or otherwise, to remove the movable residential premises or any ancillary features of it from the land in respect of which the agreement was registered –

a person authorised by Homes Tasmania, and any person acting under the direction of the person, may enter the land and remove, or assist

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in removing, the movable residential premises or
that ancillary feature.

PART 15 – MISCELLANEOUS

100. Protection from liability

- (1) A Homes Tasmania director, the Homes Tasmania CEO, a Homes Tasmania employee, and a delegate of such a person, does not incur any personal liability in respect of any act, matter, or thing, done or omitted to be done, in good faith –
 - (a) in the performance or exercise, or purported performance or exercise, of a function or power under this Act or a function or power of Homes Tasmania under any other Act; or
 - (b) in the administration or execution, or purported administration or execution, of a provision of this Act.
- (2) A civil liability that would, but for subsection (1), lie against a person lies against the Crown.

101. Extension of time for repayment

- (1) In cases of hardship, Homes Tasmania may extend, for the period and on the terms and conditions it thinks fit, the time for making any payment required by this Act to be made to Homes Tasmania.
- (2) If the time for making any payment has been extended under subsection (1), the payment bears interest, for the time so extended, at the

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same annual rate as that which is payable on the purchase-money, or advance, to which the payment relates.

102. Homes Tasmania to obtain reports from inspectors and valuers

- (1) Homes Tasmania must obtain from an inspector or valuer a report –
 - (a) as to the manner in which any advance under this Act has been expended and used by the borrower; and
 - (b) generally as to the state and condition of any land, or land and residential premises, or any improvements, in respect of which a contract of sale or tenancy has been entered into or an advance has been made.
- (2) An inspector or valuer directed by Homes Tasmania to make a report for the purposes of subsection (1) may, at any reasonable hour in the daytime, enter and make an inspection of any land, or land and residential premises, or improvements, for the purpose of making the report.

103. Register of purchases, tenancies and advances

Homes Tasmania must keep –

- (a) a register or list of all purchases, tenancies and advances made or granted under this Act; and

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- (b) an alphabetical list of the names of the persons included in each register or list.

104. Power of Homes Tasmania to sell or hire plant to persons erecting residential premises

Homes Tasmania may sell or hire plant to –

- (a) persons who wish to provide homes for themselves; and
- (b) to building contractors –

at the price or rate, and on the terms and conditions, that Homes Tasmania thinks fit.

105. Sale, &c., of plant not immediately required

If Homes Tasmania is satisfied that any plant held by, or vested in, Homes Tasmania under or for the purposes of this Act is not immediately required for the purposes of this Act, Homes Tasmania may sell or hire all or any of that plant to the persons, and on the terms and conditions, that Homes Tasmania thinks fit.

106. Work for other State instrumentalities

- (1) In this section –

State instrumentality means any person or body (whether incorporate or unincorporate) established to administer or control any department, business or undertaking on behalf of the State.

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- (2) Subject to this section, Homes Tasmania may, with the approval of the Minister, enter into and carry out arrangements for the carrying out of any work for or on behalf of the State or any State instrumentality.
- (3) Homes Tasmania must not enter into any arrangements under this section for the carrying out of any work unless Homes Tasmania is satisfied that –
 - (a) the work can be carried out by persons engaged by Homes Tasmania; and
 - (b) the work can be carried out without affecting the carrying out of other work required to be carried out for the performance of Homes Tasmania's functions under this Act; and
 - (c) the arrangements make adequate recompense to Homes Tasmania in respect of the cost of the carrying out of the work.

107. Power of Homes Tasmania to compound in case of breach of contract

Homes Tasmania may compound and agree with any person –

- (a) who has entered into any contract in pursuance of or under the authority of this Act; or
- (b) against whom any action is brought –

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- (i) for any penalty contained in the contract, or in any bond or other security for the performance of such a contract; or
- (ii) for or on account of any breach of performance of such a contract, bond, or security –

for the sum of money, or other consideration that
Homes Tasmania thinks fit.

108. Judgment of court not to affect contract of sale or mortgage

- (1) A judgment, order, or decree, of any court must not in any way affect the security or remedies of Homes Tasmania under a contract of sale or mortgage.
- (2) Until a contract of sale with Homes Tasmania has been fully performed, or the terms and conditions of a mortgage with Homes Tasmania are complied with, no process of law may interfere with the security or remedies of Homes Tasmania.

109. Judicial notice

- (1) All courts, judges and persons acting judicially must take judicial notice of the official seal of Homes Tasmania that has been affixed to a document and must, unless the contrary is proved, presume that the seal was properly affixed.

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- (2) All courts, judges and persons acting judicially must take judicial notice of –
- (a) the official signature of a person who is or has been the Homes Tasmania CEO, a Homes Tasmania director or the Homes Tasmania Board chair; and
 - (b) the fact that the person holds or has held the office concerned.

110. Misuse of information

- (1) A person who is, or was, the Homes Tasmania CEO, a Homes Tasmania director or a Homes Tasmania employee must not use improperly, whether in Tasmania or elsewhere, information acquired as the Homes Tasmania CEO, a Homes Tasmania director or a Homes Tasmania employee –
- (a) to gain, whether directly or indirectly, a personal advantage or an advantage for another person; or
 - (b) to cause damage to Homes Tasmania.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 5 years, or both.

- (2) A person who is, or was, the Homes Tasmania CEO, a Homes Tasmania director or a Homes Tasmania employee must not use improperly, whether in Tasmania or elsewhere, his or her position as the Homes Tasmania CEO, a Homes

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Tasmania director or a Homes Tasmania employee, or a former Homes Tasmania CEO, Homes Tasmania director or Homes Tasmania employee –

- (a) to gain, whether directly or indirectly, a personal advantage or an advantage for another person; or
- (b) to cause damage to Homes Tasmania.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 5 years, or both.

111. Savings and transitional provisions

The savings and transitional provisions specified in Schedule 2 have effect.

112. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may –
 - (a) prescribe the duties of valuers and the scale of their remuneration; and
 - (b) fix the scale of costs and fees for the preparation and completion of leases and rent-purchase contracts, and for the valuation of securities; and

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- (c) prescribe the accounts, registers and books to be kept and the manner of keeping them.
 - (3) The regulations may –
 - (a) provide that a contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 50 penalty units.
 - (4) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
 - (5) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Minister, Homes Tasmania or the Homes Tasmania CEO.
 - (6) The regulations may adopt, either wholly or in part and with or without modification, and either specifically or by reference, any standards, rules, codes or specifications, whether the standards, rules, codes or specifications are published or issued before or after the commencement of a provision of this Act.
 - (7) The regulations may rescind regulations or other subordinate legislation made under the repealed Act.
 - (8) The regulations may –

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- (a) provide for savings or transitional matters necessary or expedient for bringing this Act into operation; and
- (b) provide for any of those savings or transitional matters to take effect on a day on which a provision of this Act commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.

113. Additional regulations of a savings and transitional nature

- (1) In addition to section 112, the Governor may also make regulations of a savings and transitional nature, consequent on the enactment of this Act, to effect and facilitate the transition from the repealed Act to this Act.
- (2) Without limiting the generality of subsection (1), regulations made under that subsection may –
 - (a) provide for the preservation, continuation, variation or revocation of decisions or actions taken under the repealed Act; and
 - (b) provide for the preservation, continuation, variation or revocation of notices, instruments or other documents given or issued under the repealed Act; and

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- (c) deal with any other incidental, transitional or ancillary matter in respect of the repealed Act.
- (3) Regulations made under subsection (1) may –
 - (a) take effect on the day on which a provision of this Act commences or a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made; and
 - (b) be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations; and
 - (c) authorise any matter to be from time to time determined, applied or regulated by –
 - (i) the Secretary of the Department;
or
 - (ii) the Homes Tasmania Board.
- (4) The amendment by this Act of a provision of any subordinate legislation does not prevent that provision, or any other provisions, of that subordinate legislation from being amended or rescinded by subordinate legislation.

114. Review of Act

- (1) In this section –

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independent review means a review carried out by persons who –

- (a) in the Minister's opinion, are appropriately qualified for that task; and
 - (b) include one or more persons who are not State Service employees or State Service officers or employees of any agency of the State.
- (2) The Minister is to cause an independent review of the operation of this Act to be carried out as soon as practicable after the fourth anniversary of the commencement of this section.
- (3) The persons who carry out the independent review are to give the Minister a written report on its outcome.
- (4) The Minister is to cause a copy of the report to be tabled in each House of Parliament within 10 sitting-days of the House after the report has been given to the Minister.

115. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for State Development, Construction and Housing; and

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- (b) the department responsible to that Minister in relation to the administration of this Act is Homes Tasmania.

SCHEDULE 1 – BOARD

Section 14(4)

PART 1 – HOMES TASMANIA DIRECTORS

1. Term of office

- (1) A Homes Tasmania director –
 - (a) is appointed for the period, of not more than 3 years, that is specified in the Homes Tasmania director's instrument of appointment; and
 - (b) subject to subclause (2), may be reappointed.
- (2) A Homes Tasmania director may only be reappointed as a Homes Tasmania director for 2 further consecutive terms.

2. Holding other office

The holder of an office who, under the terms of his or her employment in that office, is required to devote the whole of his or her time to the duties of that office is not disqualified from –

- (a) holding that office in addition to the office of Homes Tasmania director; or
- (b) accepting any remuneration payable to a Homes Tasmania director.

3. Application of State Service Act 2000

- (1) The *State Service Act 2000* does not apply in relation to a Homes Tasmania director in his or her capacity as a Homes Tasmania director.
- (2) Nothing in subclause (1) prevents a person from holding the office of Homes Tasmania director in conjunction with State Service employment.

4. Remuneration and conditions of appointment

- (1) A Homes Tasmania director is entitled to be paid the remuneration and allowances that the Minister determines.
- (2) A Homes Tasmania director who is a State Service officer or State Service employee is not entitled to remuneration or allowances under this clause, except with the approval of the Minister administering the *State Service Act 2000*.
- (3) A Homes Tasmania director holds office on the conditions, that are not provided for by this Act, that are specified in the Homes Tasmania director's instrument of appointment.

5. Vacation of office

- (1) A Homes Tasmania director vacates office if he or she –
 - (a) dies; or
 - (b) resigns by written notice provided to the Minister; or

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- (c) is removed from office under subclause (2) or (3).
- (2) The Minister may remove a Homes Tasmania director from office if the Homes Tasmania director –
- (a) is absent from 3 consecutive meetings of the Homes Tasmania Board without the permission of the other Homes Tasmania directors; or
 - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the Homes Tasmania director's creditors or makes an assignment of the Homes Tasmania director's remuneration or estate for the benefit of the director; or
 - (c) is convicted, in Tasmania or elsewhere, of an offence punishable by a term of imprisonment of 12 months or longer; or
 - (d) is convicted of an offence under this Act; or
 - (e) fails to disclose a material personal interest as required under section 17; or
 - (f) has benefited from, or claimed to be entitled to benefit from, a contract made by or on behalf of the Homes Tasmania Board, other than a contract for goods or services ordinarily supplied by Homes Tasmania and supplied on the same

terms as those goods or services are ordinarily supplied to other persons in the same situation.

- (3) The Minister may remove a Homes Tasmania director from office if satisfied that the Homes Tasmania director is unable to perform adequately or competently the duties of office.
- (4) A Homes Tasmania director must not be removed from office otherwise than in accordance with this clause.

6. Filling of vacancies

If the office of a Homes Tasmania director becomes vacant, the Minister may appoint a person to the vacant office for the remainder of that Homes Tasmania director's term of office.

7. Validation of proceedings &c.

An act or proceeding of the Homes Tasmania Board or of a person acting under any delegation or direction of the Homes Tasmania Board is not invalidated solely on the basis that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the office of a Homes Tasmania director or a defect in the appointment of a Homes Tasmania director.

8. Presumptions

In any proceeding by or against the Homes Tasmania Board, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the Homes Tasmania Board; or
- (b) the appointment of any Homes Tasmania director.

PART 2 – MEETINGS OF BOARD

1. Frequency of meetings

The Homes Tasmania Board is to meet no fewer than 6 times in each calendar year.

2. Convening of meetings

- (1) The Homes Tasmania Board chair, after giving each Homes Tasmania director reasonable notice of a meeting –
 - (a) may convene a meeting at any time; and
 - (b) must convene a meeting when requested to do so by 2 or more other Homes Tasmania directors.
- (2) If the Homes Tasmania Board chair is absent from duty or otherwise unable to perform the duties of the office, a meeting of the Homes Tasmania Board may be convened, after

reasonable notice of the meeting has been given of the meeting, by –

- (a) 2 or more other Homes Tasmania directors; or
 - (b) a person authorised by the Homes Tasmania Board to do so.
- (3) For the purposes of subclauses (1) and (2), what constitutes reasonable notice is to be determined by the Homes Tasmania Board.

3. Presiding at meetings

- (1) The Homes Tasmania Board chair is to preside at all meetings of the Homes Tasmania Board at which he or she is present.
- (2) If the Homes Tasmania Board chair is not present at a meeting of the Homes Tasmania Board, a Homes Tasmania director elected by the Homes Tasmania directors present at the meeting is to preside.

4. Quorum and voting at meetings

- (1) A quorum of a meeting of the Homes Tasmania Board is constituted by a clear majority of the Homes Tasmania directors appointed to the Board at the time of the meeting.
- (2) A meeting of the Homes Tasmania Board at which a quorum is present is competent to transact any business of the Homes Tasmania Board.

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- (3) At a meeting of the Homes Tasmania Board –
 - (a) the Homes Tasmania director presiding has a deliberative vote only; and
 - (b) a question is decided –
 - (i) by a majority of votes of the Homes Tasmania directors present and voting; or
 - (ii) in the negative, if there is an equality of votes of the Homes Tasmania directors present and voting.
- (4) At a meeting of the Homes Tasmania Board at or from which a Homes Tasmania director is excluded from being present and taking part in the consideration and decision of the Homes Tasmania Board in relation to a matter, a quorum for the purposes of considering and making a decision in relation to that matter is constituted by the number of Homes Tasmania directors specified as constituting a quorum in subclause (1), less the number of Homes Tasmania directors so excluded.

5. Conduct of meetings

- (1) Subject to this Act, the Homes Tasmania Board may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.

- (2) The Homes Tasmania Board may permit Homes Tasmania directors to participate in a particular meeting or all meetings by –
 - (a) telephone; or
 - (b) video conference; or
 - (c) any other means of communication approved by the Homes Tasmania Board.
- (3) A Homes Tasmania director who participates in a meeting as permitted under subclause (2) is taken to be present at the meeting.
- (4) Without limiting subclause (1), the Homes Tasmania Board may allow a person to attend a meeting for the purpose of advising or informing it on any matter.

6. Resolutions without meetings

- (1) If a clear majority of the Homes Tasmania directors sign a document containing a statement that they are in favour of a resolution in the terms set out in the document, a resolution in those terms is taken to have been passed at a meeting of the Homes Tasmania Board held –
 - (a) on the day on which the document is signed; or
 - (b) if the Homes Tasmania directors do not sign the document on the same day, on the day on which the last of the Homes Tasmania directors signs the document.

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- (2) If a resolution is taken to have been passed under subclause (1), each Homes Tasmania director is to be –
 - (a) advised immediately of the matter; and
 - (b) provided with a copy of the terms of the resolution.
- (3) For the purposes of subclause (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more Homes Tasmania directors, are taken to constitute one document.

7. Minutes

The Homes Tasmania Board is to keep accurate minutes of its meetings.

8. Disclosure of interests

- (1) Unless the Homes Tasmania Board otherwise determines, a Homes Tasmania director who has made a disclosure required under section 17(1) in relation to a matter must not –
 - (a) be present during any deliberation of the Homes Tasmania Board in relation to the matter; or
 - (b) take part in any decision of the Homes Tasmania Board in relation to the matter.
- (2) A Homes Tasmania director must not –

- (a) be present during any deliberation of the Homes Tasmania Board for the purpose of making a determination under subclause (1) in relation to the Homes Tasmania director; or
- (b) take part in making a determination under subclause (1) that relates to the Homes Tasmania director.

9. General procedure

Except as provided by this Act, the Homes Tasmania Board may regulate its own proceedings.

**SCHEDULE 2 – SAVINGS AND TRANSITIONAL
PROVISIONS**

Section 111

1. Interpretation

In this Schedule –

commencement day means the day on which
section 111 commences;

Director of Housing means the Director of
Housing appointed under the repealed
Act and established as a corporation sole
under the repealed Act.

2. Termination of certain employment

(1) On the commencement day –

(a) the appointment of a person under the
repealed Act as the Director of Housing
is terminated; and

(b) the *State Service Act 2000* ceases to
apply to the person referred to in
paragraph (a) in respect of his or her
appointment under the repealed Act as
the Homes Tasmania chief executive
officer.

(2) The termination of a person's appointment as the
Director of Housing under this clause does not
entitle the person to compensation, or another
form of consideration or payment, solely due to
the termination of appointment under this clause.

3. Employees generally

A person (other than the Director of Housing) who was appointed or employed under the *State Service Act 2000* for the purposes of the repealed Act and holds that appointment or employment immediately before the commencement day is to be taken to have been appointed or employed for the purposes of this Act.

4. Legal matters

- (1) For the avoidance of doubt, legal proceedings may be continued against Homes Tasmania on and after the commencement day if the proceedings –
 - (a) are instituted by or against –
 - (i) the former Director of Housing;
or
 - (ii) the Crown in respect of the former Director of Housing; and
 - (b) are pending or on foot on the commencement day.
- (2) For the avoidance of doubt, legal proceedings may be instigated by or against Homes Tasmania on and after the commencement day if the proceedings –
 - (a) relate to a right or liability that had accrued, and was in existence, immediately before the commencement day; and

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- (b) if this Act had not commenced, could have been instituted by or against –
 - (i) the former Director of Housing;
or
 - (ii) the Crown in respect of the former Director of Housing.
- (3) For the avoidance of doubt, a judgement or order of a court obtained by or against the former Director of Housing may, on and after the commencement day, be enforced by or against Homes Tasmania.

5. References to Director of Housing taken to be references to Homes Tasmania

- (1) A reference to the Director of Housing in any contract, instrument, security, guarantee, indemnity, loan, mortgage, lease, notice, or other document, that was, before the commencement day, entered into, issued, given or created, under or for the purposes of the repealed Act and that is in effect immediately before the commencement day, is to be taken to be a reference to Homes Tasmania.
- (2) A reference in any register, including the register kept under the *Land Titles Act 1980*, or any document issued under or for the purposes of that Act, to the Director of Housing is to be taken to be a reference to Homes Tasmania.
- (3) An approval, determination, delegation, or other decision, that –

(a) is made or given, by or on behalf of the Director of Housing, under or for the purposes of a provision of the repealed Act; and

(b) is in effect immediately before the commencement day –

is to be taken to be an approval, determination, delegation, or other decision, respectively, made or given by Homes Tasmania under the provision, if any, of this Act that most closely approximates the provision of the repealed Act.

(4) A reference, in an order made under section 12 of the *Crown Lands Act 1976*, to the Director of Housing or the *Homes Act 1935* is to be taken to be a reference to Homes Tasmania and this Act, respectively.

6. Recorder of Titles to alter references in Register to Director of Housing

The Recorder of Titles must, as soon as reasonably practicable after the commencement day, alter references, to the Director of Housing, in the register kept under the *Land Titles Act 1980*, so that the references refer instead to Homes Tasmania.

7. Saving of guidelines

(1) Any guidelines issued by the Treasurer under section 8B of the repealed Act and in effect immediately before the commencement day are

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to be taken to be, after the commencement day, guidelines, issued by the Treasurer under section 31 of this Act, that apply to the provisions of this Act that most closely approximate the provisions to which the guidelines relate.

- (2) Nothing in subclause (1) is to be taken to prevent the amendment or revocation, under section 31 of this Act, of the guidelines to which that subclause relates.

8. Saving of certain directions

- (1) A direction that was given under section 18AC of the repealed Act by the Minister and that is in effect immediately before the commencement day is to be taken, after the commencement day, to be a direction given under section 67(4) of this Act to Homes Tasmania.
- (2) Nothing in subclause (1) is to be taken to prevent the amendment or revocation, under section 67(4) of this Act, of a direction to which subclause (1) relates.

9. Saving of notices in *Gazette*

- (1) A notice that was, under a provision of the repealed Act, published in the *Gazette* and that was in effect immediately before the commencement day is to be taken to be a notice so published for the purposes of the provision of this Act that most closely approximates the provision of the repealed Act.

- (2) Nothing in subclause (1) is to be taken to prevent the amendment or revocation, under a provision of this Act, of a notice to which that subclause relates.

10. Records, other documents and Register or list

- (1) A record, statement or other document required to be kept by the former Director of Housing under the repealed Act is to be taken to be, on and after the commencement day –
- (a) a record, statement or document in relation to Homes Tasmania; and
 - (b) a record, statement or document required to be kept under the equivalent provision of this Act in respect of Homes Tasmania.
- (2) A register or list kept for the purposes of section 41 of the repealed Act is to be taken, after the commencement day, to be a register, or list, respectively, kept for the purposes of section 103.
- (3) A reference, in a notification that is lodged with the Recorder under section 18B of the repealed Act and registered in accordance with that section, to land being subject to that section, is to be taken, after the commencement day, to be a reference to the land being subject to section 70.