

. CLAUSE NOTES

Homes Tasmania Bill 2022

Clause 1 Short title

This clause specifies the name of the proposed Act.

Clause 2 Commencement

This clause provides that the Act commences on proclamation.

Clause 3 Purposes of Act

This clause specifies the purposes of the Act.

Several purposes in this clause are derived and adapted from section 6B of the *Homes Act 1935* (the Repealed Act) which lists the purposes that the Director of Housing must consider when performing a function or exercising a power. New purposes are also included, which align with the broader purpose of Homes Tasmania compared to that of the former Director of Housing.

New additions include enabling the strategic acquisition of land and premises for certain purposes, promoting the desirability of integrated and liveable communities when planning housing development, encouraging development and implementation of certain strategies, and promoting efficient and effective administration of housing services, housing support services and community support services.

Clause 4 Act binds Crown

This clause provides that the Act binds the Crown.

Clause 5 Interpretation

This clause defines certain words and expressions used in provisions of the Act. Definitions for several terms have been carried over from the Repealed Act, such as *borrower*, *building works* and *plant*. However, the list is more extensive than that in the Repealed Act and includes definitions of other terms relevant to the new structure and role of Homes Tasmania, such as *Board*, *Ministerial direction* and *material personal interest*.

One of the key terms of the Act is *eligible person*, which is defined in clause 5 to mean a person who is determined to be eligible under clause 6 or within a class of persons under that clause, as well as a member of a class of persons that is prescribed for the purposes of the definition of *eligible person*.

Clause 6 Meaning of *eligible person*

Clause 6(1) allows Homes Tasmania to determine that a person is an eligible person or that a class of persons are eligible persons.

In making such a determination, Homes Tasmania must, pursuant to clause 6(2), be satisfied that the person or class of persons require or will require housing assistance under the Act for certain specified reasons. Clause 6(3) outlines

particular considerations that Homes Tasmania must take into account when determining whether a person needs or will need housing assistance.

Clause 6(5) authorises Homes Tasmania may issue a notice requiring a person to provide evidence to show they are an eligible person, while clause 6(6) gives Homes Tasmania discretion to assume a person is not an eligible person if they have failed to provide such evidence within the period specified in the notice, unless Homes Tasmania has evidence that there were reasonable grounds for the failure.

Clause 7 Meaning of *housing provider*

This clause provides a definition of *housing provider* that captures providers who construct, alter, enlarge, repair or improve residential premises for purposes stated in this provision as well as providers who manage residential premises for purposes state in this provision.

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

Clause 8 provides definitions of *movable residential premises* and *ancillary features* (of movable residential premises), which are most relevant to provisions in Part 14 of the Act.

Clause 9 Homes Tasmania established

This clause establishes Homes Tasmania as a body corporate with perpetual succession and instrumentality of the Crown, which may have a seal and may sue or be sued in its corporate name.

Clause 10 Application of purposes of Act and housing principles

Clause 10(1) requires Homes Tasmania to take into account the Act's purposes when performing its functions or exercising its powers.

Clause 10(2) lists a number of principles that Homes Tasmania must also have regard to when performing its functions or exercising its powers. Some of these principles are derived and/or adapted from section 6B of the Repealed Act, such as the desirability of encouraging, enabling and assisting the integration into existing and new housing communities, of persons with diverse characteristics and diverse financial, social and personal circumstances.

Other principles in this clause are new and reflect the broader remit of Homes Tasmania compared to the Director of Housing. These principles include reference to housing as a basic human need, the need for strategic planning and development and effective allocation of resources, the desirability of providing different housing options, the desirability of promoting and securing the development and sustainability of Tasmania's housing sector, and the need to balance the provision of housing and services under the Act with the level of the Authority's debt.

Clause 11 Functions and powers of Homes Tasmania

Clause 11(1) lists eight key functions of Homes Tasmania. These functions primarily relate to eligible persons and persons on low or moderate incomes, covering areas such as – supporting and funding provision of appropriate,

affordable and safe accommodation; developing plans for the strategic acquisition and development of land; managing or facilitating the management of residential accommodation; and managing home purchase assistance schemes. Other functions relate to areas such as research, policy development, information gathering and reporting.

Clause 11(2) provides a non-exhaustive list of the powers of Homes Tasmania. Other powers are found throughout the Act. The powers listed in this clause include, among others, the power to – acquire, hold, dispose of and otherwise deal with property; enter into contracts; appoint agents and attorneys; act as an agent; and engage consultants. A broad power for Homes Tasmania 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 is also included.

Clause 12 Delegation

This clause permits Homes Tasmania to delegate the performance or exercise of its functions or powers, except for the power of delegation and the power to borrow money.

Clause 13 Homes Tasmania to comply with Treasurer's Instructions

While Homes Tasmania will not be subject to the *Financial Management Act 2016* (FMA), clause 13 provides that Treasurer's Instructions issued under the FMA will apply to Homes Tasmania as if it were an Agency within the meaning of that Act.

Clause 13(2) authorises the Treasurer to modify the application of Treasurer's Instructions to Homes Tasmania. Current Treasurer's Instructions relate to issues such as financial control, financial reporting and budget management.

Clause 14 Homes Tasmania Board

This clause requires the Minister to appoint a board of 4-6 directors. Before appointing directors, the Minister must consider whether, in aggregate, the directors possess the knowledge, skills and experience specified in clause 14(2).

Clause 14(3) allows the Minister to appoint one of the directors to be the Chair of the Board. Further specifications about the directors of the Board and meetings of the Board are located in Schedule 1 of the Act.

Clause 15 Functions and powers of Homes Tasmania Board

Clause 15(1) lists the functions of the Board, which chiefly relate to directing and managing the business and affairs of Homes Tasmania.

Clause 15(2) outlines the powers of the Board to do all things necessary and convenient to perform its functions, while clause 15(3) allows the Board to delegate its functions.

Clause 15(4) allows the Board to establish committees to advise the Board.

Clause 16 Appointment of acting director

Clause 16 authorises the Minister to appoint an acting director when a standing director is absent, and outlines when such an acting appointment terminates. It

provides that where the absent director is the Chair of the Board, the acting director does not automatically assume that role.

Clause 17 Director must disclose interest

This clause requires directors to disclose any material personal interest in a matter being considered, or about to be considered, by the Board, except as provided by clause 17(2). This disclosure requirement is enforceable by way of a fine.

Clause 18 Homes Tasmania Board to notify Minister in certain circumstances

This clause requires the Board to notify the Minister of any matter or circumstance that may significantly affect certain issues related to the functioning and financial viability of Homes Tasmania.

Clause 19 Chief executive officer

This clause provides for the appointment of a person, other than the Chair of the Board, to be the Chief Executive Officer (CEO) of Homes Tasmania.

It specifies that such an appointment is to be subject to the *Homes Tasmania Act* and *State Service Act 2000*, as well as conditions in the instrument of appointment.

The clause precludes the CEO from engaging in paid employment outside the duties of their office unless their instrument of appointment permits.

Clause 20 Powers and functions of Homes Tasmania CEO

Clause 20(1) provides that the CEO is responsible to the Board for the general administration and management of Homes Tasmania.

Clause 20(2) outlines the functions that the CEO is required to perform and the powers they are permitted to use.

Clause 20(3) allows the CEO to delegate their functions and powers.

Clause 21 Acting Homes Tasmania CEO

This clause provides for the appointment of an Acting CEO, other than the Chair of the Board, when the standing CEO is absent (as defined in this clause).

Clause 22 Staff of Homes Tasmania

This clause provides for the appointment or employment of Homes Tasmania employees.

Clause 23 Statement of expectations

Clause 23 requires the Minister, after consulting with the Board, to provide the Board with a Statement of Expectations (SOE) outlining the Minister's expectations in relation to the strategic objectives and policy of Homes Tasmania. It allows the Minister to amend or revoke an SOE and requires the Minister to table, in both Houses of Parliament, a copy of the SOE or any amendment or revocation thereof.

Clause 24 Ministerial directions

This clause allows the Minister, after consulting with the Board, to give the Board directions regarding Homes Tasmania's performance and the exercise of its functions and powers, if satisfied it is in the public interest to do so.

Ministerial directions must comply with other specifications included in this provision, and the Board may object to a Ministerial direction in accordance with clauses 24(6)-(7).

Clause 25 Corporate plan

This clause requires the Board to develop a draft corporate plan each year, which is to include the specified statements, strategies and targets in clause 25(2).

The clause requires the Board to give a copy of the draft plan to the Minister who, in consultation with the Treasurer, may approve the draft or require amendment prior to approval.

Homes Tasmania must generally act in accordance with the approved plan, unless otherwise authorised. The corporate plan may be amended by the Board subject to the approval of the Minister in consultation with the Treasurer.

Clause 26 Annual reports

This clause requires the Board to prepare and provide to the Minister an annual report in respect of Homes Tasmania. Clause 26(2) specifies the information to be included in the report.

Clause 27 Tabling of annual report

This clause requires the Minister to lay a copy of the annual report developed pursuant to clause 26 before both Houses of Parliament, and outlines the process that applies where the Minister is unable to do so.

Clause 28 Funds of Homes Tasmania

This clause outlines the sources of money that may contribute to the funds of Homes Tasmania and how those funds are to be applied.

Clause 29 Borrowing from Treasurer

This clause allows the Treasurer to lend money to Homes Tasmania, in accordance with the specifications in this clause.

Clause 30 Borrowing from person other than Treasurer

Clauses 30(1)-(2) allow Homes Tasmania to borrow money from persons other than the Treasurer, subject to certain requirements and limitations.

Clause 30(3) specifies what Homes Tasmania may use its assets as security for, and clause 30(4) allows the Treasurer to guarantee the payment or repayment of certain liabilities to a person from whom Homes Tasmania has borrowed money under subsection (1).

Clause 31	Financial arrangements <p>This clause allows Homes Tasmania to enter into and perform specified financial arrangements, in accordance with any guidelines the Treasurer may have issued pursuant to subsection (3).</p>
Clause 32	Homes Tasmania financial statements <p>Clause 32 requires the Board to prepare financial statements each year in accordance with the legislation, directions and standards specified in this clause, and to provide a copy to the Auditor-General.</p>
Clause 33	Accounts to be kept by Homes Tasmania <p>In addition to any other accounts it is required to keep, this clause requires Homes Tasmania to keep any accounts, in the form and containing the particulars that the Treasurer may direct.</p>
Clause 34	Duty of Homes Tasmania to provide information &c., to Treasurer <p>This clause requires Homes Tasmania to provide or produce to the Treasurer, on the Treasurer's request, information or materials related to expenditure, such as accounts, vouchers and records.</p>
Clause 35	Report of Auditor-General <p>This clause requires the Auditor-General to provide to the Minister, the Treasurer and the Board any opinion or formal communication of audit findings made in respect of Homes Tasmania's financial statements.</p>
Clause 36	Transfer of Crown land <p>This clause outlines the process by which the Minister may transfer Crown land to Homes Tasmania and specifies when the vesting of such land takes effect.</p> <p>It also permits the Treasurer, on the Minister's recommendation, to exempt Homes Tasmania from any liability to pay State charges, taxes or duties associated with the vesting of land under this clause.</p>
Clause 37	Transfer of property and liabilities <p>This clause outlines the process by which the Minister may transfer to Homes Tasmania any property and rights of the Crown, other than Crown land, and specifies when the vesting takes effect.</p>
Clause 38	Power of Homes Tasmania to acquire land <p>This clause gives Homes Tasmania the power to acquire for the purposes of this Act any land including, but not limited to, land containing buildings or other improvements, or any interest in land.</p> <p>It provides that the <i>Land Acquisition Act 1993</i> applies in respect of such an acquisition and the land so acquired.</p>
Clause 39	Purchase of easements, &c.

This clause gives Homes Tasmania the power to purchase an easement and obtain a covenant or licence touching and concerning land in certain circumstances.

Clause 40 Subdivision, &c., of land

This clause gives Homes Tasmania the power to cause a plan of subdivision to be made in relation to land that is vested in or acquired by Homes Tasmania. It specifies certain actions Homes Tasmania may take in relation to land shown on such a plan of subdivision, and in relation to land vested in Homes Tasmania.

Clause 41 Grant of easements, &c.

This clause gives Homes Tasmania power, for particular purposes, to grant an easement or licence over land vested in Homes Tasmania, and to covenant touching and concerning such land. It permits further actions in relation to land with the Minister's consent.

Clause 42 Sale of premises before the cost of subdivision is determined

This clause allows Homes Tasmania, in accordance with requirements set by this provision, to sell premises it has erected on a lot in a subdivision (together with the associated lot) before the cost of subdivision has been finally determined.

Clause 43 Power of Homes Tasmania to erect premises

This clause gives Homes Tasmania the power to, in accordance with requirements set by this provision, erect certain premises or cause certain premises to be erected, convert buildings into residential premises, and alter, enlarge, repair and improve certain premises.

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

This clause gives Homes Tasmania the power to enter into partnerships, trusts and joint ventures, in accordance with the limitations set by this provision.

Clause 45 Development of land for ancillary purposes

This clause allows Homes Tasmania to, in relation to certain land and in accordance with the specifications in this provision, take steps to promote or ensure the development or use of, or dealing in, that land.

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

This clause outlines actions that a Homes Tasmania employee, or a person authorised by Homes Tasmania, may take in relation to certain land specified in this provision, including entering the land, bringing certain persons, animals and equipment onto the land, and carrying out certain works, including works required for subdivision.

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

This clause authorises Homes Tasmania to provide residential premises to a public authority or person carrying on (or about to carry on) an industrial

undertaking, where such premises are permanently required for authority's or the person's employees.

Clause 48 Homes Tasmania may lease residential premises from others

This clause gives Homes Tasmania the power to lease residential premises in order to sub-lease them to certain persons, including eligible persons. It further empowers Homes Tasmania to sub-lease residential premises it has leased to entities specified in subsection (2) for the purposes stated therein.

Clause 49 Leasing and sub-leasing by Homes Tasmania of residential premises to eligible persons

This clause gives Homes Tasmania the power to lease a residential property it owns or sub-lease a residential property it has leased, subject to provisions in the *Residential Tenancy Act 1997*, to eligible persons on terms it thinks fit. It also allows Homes Tasmania to reduce the rent payable by an eligible person, despite the terms of the relevant lease or sub-lease agreement.

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

This clause authorises Homes Tasmania to pay all or part of a bond or rent that is payable by an eligible person in respect of a lease or sub-lease of residential premises, and to pay the bond or rent by instalment.

Clause 51 Leasing and sub-leasing by Homes Tasmania of land and premises

Clause 51(1) authorises Homes Tasmania to lease from a person premises to be used for a purpose specified in this subsection, including for use in providing administrative services for Homes Tasmania.

Clause 51(2) authorises Homes Tasmania to lease or sub-lease premises to a person in circumstances listed in this subsection, including where the premises are to be used to provide administrative services for Homes Tasmania.

Clause 51(3) authorises Homes Tasmania to lease land for the purposes specified in this subsection, including to situate movable residential premises on the land to provide residential accommodation to eligible persons.

Clause 52 Repair by Homes Tasmania of premises

This clause applies to certain land or land and premises specified in subsection (1).

Clause 52(2) allows Homes Tasmania, or a person authorised by Homes Tasmania, to (with the owner's agreement) enter such land or land and premises and carry out maintenance-related works or other activities in accordance with the purposes specified in this subsection, such as preventing the premises from falling into a state of disrepair.

Homes Tasmania may only take action pursuant to subsection (2) where written notice has been provided to the owner and occupier of the land (or land and premises) in accordance with subsection (3).

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

This clause allows Homes Tasmania to let certain land specified in subsection (1), on terms and conditions it thinks fit, where such land is not immediately required for the purposes of the Act.

Further guidance on determining whether land is immediately required is provided in subsection (2).

Clause 54 Interpretation of part 8

This clause provides a list of definitions relevant to Part 8 of the Act, which relates to disposal of residential premises to eligible persons.

Clause 55 Sale of land whether or not residential premises situated on the land

This clause outlines the circumstances in which, and the processes by which, Homes Tasmania may sell land, or a share of or interest in land, to an eligible person.

It provides that a person who wishes to make such a purchase may apply to Homes Tasmania in the prescribed manner, and permits such a sale to occur, if Homes Tasmania so determines, without a deposit.

Subsection (6) outlines the terms and conditions on which a purchaser under this provision, of land or a share of or interest in land on which residential premises are situated, may occupy the residential premises as a tenant.

Clause 56 Sale by Homes Tasmania subject to mortgage

This clause outlines the circumstances in which, and the processes by which, Homes Tasmania may sell land, or a share of or interest in land, to an eligible person.

It allows Homes Tasmania to require an applicant under this provision to provide such security as Homes Tasmania thinks fit, and to require the applicant to pay a minimum deposit and execute in favour of Homes Tasmania a mortgage for the balance of moneys owed and interest on that balance.

Clause 56(8) specifies the how the annual rate of interest, and the instalment amounts of principal and interest, are to be fixed.

Clause 57 Contract of sale subject to mortgage

Clause 57(1) allows a purchaser in a contract of sale under section 55 to apply under section 56 to purchase the land, or the share of or interest in the land, to which the section 55 contract relates.

Clause 57(2) specifies who may be listed as a purchaser in a contract of sale under section 56 in circumstances where a person who makes an application referred to in subsection (1) is the only purchaser specified in the section 55 contract.

Clause 57(3) outlines certain changes to the operation of section 56(7) that apply where an application under section 56 is made in accordance with subsection (1).

Clause 57(4) specifies how the annual rate of interest to be charged to a purchaser and the amounts of the instalments of principal and interest are to be

fixed, where a purchaser under section 56 is a purchaser to whom this section and section 56(7) apply.

Clause 58 Costs of administration where land purchased

This clause specifies the costs of administration where land is purchased, which are to be adjusted annually in accordance with Part 8 of the Act, unless the Minister determines and provides notice in accordance with subsection (4), that the costs for a particular year are to remain the same as they were in the immediately preceding year.

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

This clause permits, and outlines the process by which, a purchaser under section 55 may claim that imposition of a charge for costs of administration, or an increase thereof, will cause the purchaser hardship.

Subsection (3) requires Homes Tasmania, if satisfied on the basis of a claim under subsection (1) that such hardship would be caused, to grant a total or partial exemption from the payment of the charge or increase to which the claim relates.

Subsection (4) outlines a mechanism for determining the total rent payable where an exemption is granted under subsection (3).

Clause 60 Calculation of adjustment rate

This clause outlines how the adjustment rate relevant to provisions in Part 8 of the Act is to be calculated.

Clause 61 Adjustment of costs of administration

This clause provides that where there is an adjustment rate for a particular year, the costs of administration specified in section 58(1) in relation to a contract of sale under section 55, are to be adjusted by that rate, in accordance with the specifications in this clause.

Clause 62 Homes Tasmania to notify adjustment in *Gazette*

This clause requires Homes Tasmania, where there is an adjustment rate for a particular year, to publish a notice in the *Gazette* as to the amount payable in respect of costs of administration as a result of the adjustment.

Clause 63 Meaning of *associated land*

This clause provides a definition of *associated land* relevant to Part 9 of the Act, which relates to sale or transfer of land by Homes Tasmania for other purposes.

Clause 64 Sale or transfer of land to housing providers

Clause 64(1) allows Homes Tasmania to sell or transfer land to a housing provider to enable the provider to achieve a purpose stated in this subsection, such as to lease to eligible persons residential premises situated on the land.

Clause 64(2) allows Homes Tasmania to sell or transfer land to a housing provider so the provider may use the land as security to raise finance to enable the provider to achieve a purpose stated in this subsection.

Clause 64(3) allows Homes Tasmania to sell or transfer land to a housing provider, to enable the land to be sold or leased, to provide funds that enable the provider to achieve a purpose stated in this subsection.

Homes Tasmania is permitted to take action under each subsection in this provision regardless of whether persons who are not eligible persons might also benefit.

Clause 65 Sale or transfer of land to housing support providers

This clause allows Homes Tasmania to sell or transfer land to a housing support provider to enable them to – provide housing support services to eligible persons; use the land as security to raise finance so they can provide housing support services to eligible persons; sell or lease the land to provide funds that enable them to provide housing support services to eligible persons.

Homes Tasmania is permitted to take action under each subsection in this provision regardless of whether persons who are not eligible persons might also benefit.

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

This clause allows Homes Tasmania to sell certain land specified in subsection (1) at the price and on the terms and conditions it thinks fit, where such land is not immediately required for the purposes of the Act. Further guidance on determining whether land is immediately required is provided in subsection (2).

Clause 67 Terms and conditions of sale or transfer of land under this part

This clause permits a sale of land or a transfer of land (other than by sale) under Part 9 to be at a price and subject to the terms and conditions that Homes Tasmania thinks fit.

It also permits the Minister to direct Homes Tasmania as to the terms and conditions to be included in a particular contract for sale or transfer of land (or all such contracts) or in a particular arrangement under section 75 of the Act (or all such arrangements).

Clause 68 Interpretation of division 3

This clause provides definitions relevant to Division 3 of Part 9 of the Act, which relates to enforcement of restrictions on transfers and other dealings in relation to land sold.

Clause 69 Enforcement of restrictions on transfers, &c., of land sold

This clause allows Homes Tasmania, in relation to land specified in subsection (1), to lodge certain notifications with the Recorder of Titles. It outlines, in subsection (3), what a notification lodged under this section is to contain and provides that regulations may be made under the *Land Titles Act 1980* for the purposes of subsection (3).

The clause also specifies how the Recorder of Titles is to register a notification lodged under this section and allows Homes Tasmania, pursuant to subsection (6), to lodge a notice withdrawing a notification previously lodged under this section where it considers the earlier notification should cease to be of further effect.

The clause specifies action that the Recorder of Titles must take, and action the Recorder may take, when a notice is lodged under subsection (6) and provides that no fee is payable to the Recorder for registering or cancelling a notification under this section.

Clause 70 Restrictions on transfers to which notifications under section 69(2) relates

This clause outlines certain restrictions on transactions in relation to land in circumstances where a notification has been lodged under section 69(2), as well as outlining exemptions to those restrictions, such as where a transaction is made in the execution of a judgment or court order.

Despite the exemption for a transaction made in the execution of a judgment or court order, subsection (3) provides that where such a transaction occurs the Recorder of Titles must not, unless otherwise directed by an order of the Supreme Court, register the transaction if Homes Tasmania has certified to the Recorder that it considers the judgment or order was obtained as a result of collusion between the parties to the proceedings.

Clause 70(4) allows the Supreme Court to make an order directing the registration of a transaction to which subsection (3) applies if satisfied there are not sufficient grounds for the opinion that Homes Tasmania certified to the Recorder. If the Supreme Court makes an order under subsection (4) the transaction is not capable of taking effect unless the court so orders.

Clause 71 Guarantee by Treasurer

This clause allows the Treasurer to guarantee repayment of certain loans specified in subsection (1) and outlines, in subsection (2), the requirements that must be satisfied for such a guarantee to be effective.

The clause specifies the terms and conditions that the guarantee is to be subject to and provides that any amounts that become due and payable under such a guarantee are to be paid out of the Public Account.

Clause 72 Guarantee and indemnity by Treasurer

This clause allows the Treasurer to guarantee 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).

It allows the Treasurer to provide an indemnity according to the limitations set out in subsection (2) and provides that a guarantee or indemnity under this section is subject to the terms and conditions, if any, that the Treasurer thinks fit.

Subsection (4) provides that any amounts that become due and payable under such a guarantee or indemnity are to be paid out of the Public Account.

- Clause 73** **Guarantee subject to security, &c.**
- This clause outlines certain actions a borrower must take, if the Treasurer so requires, before a guarantee is given under section 71 or 72. Subsection (2) specifies what is guaranteed by a guarantee issued under section 71 or 72.
- Clause 74** **Grants**
- This clause allows Homes Tasmania to provide a grant of money from its funds to a person, but precludes Homes Tasmania from making such a grant unless satisfied that the person intends to use the money for a purpose specified in subsection (2).
- Subsection (3) allows Homes Tasmania to refuse to pay any further instalment of a proposed grant in certain circumstances, such as where the money has not been carefully and economically expended.
- Clause 75** **Arrangements with housing providers and housing support providers**
- This clause authorises Homes Tasmania to enter an arrangement with a housing provider or housing support provider pursuant to which it agrees to exercise one of its powers under the Act. It precludes Homes Tasmania from entering such an arrangement unless satisfied the provider intends, in accordance with the arrangement, to undertake certain activities specified in subsection (2).
- Subsection (3) provides that such an arrangement is to be on the terms and conditions specified in the arrangement, including terms and conditions included in accordance with section 67, and subsection (4) allows Homes Tasmania to refuse to carry out any further obligations under the arrangement where the provider has not complied with the terms and conditions of the arrangement.
- Clause 76** **Advances for homes**
- This clause authorises the Treasurer to approve a class of persons to be *home purchase assistance scheme recipients*, members of which will be eligible to receive advances under the Act.
- It also allows Homes Tasmania to make an advance to an approved person (by lump sum or instalments), secured or otherwise, to enable them to perform an action specified in subsection (3), such as to purchase land and erect residential premises on the land or to enlarge residential premises owned by the approved person.
- Subsection (5) outlines the circumstances in which an instalment of an advance under this section may be paid before building is commenced.
- Clause 77** **Advance to council**
- This clause allows Homes Tasmania to advance funds to a council, with the Treasurer's approval and where the Treasurer is satisfied that the council does not itself have sufficient funds available, to enable the council to carry out work on land set apart or acquired for the purposes of this Act, so the land may be rendered fit for the use to which it may be put.
- Clause 78** **Advances to housing providers, housing support providers and other persons**

This clause allows Homes Tasmania to advance funds to a housing provider or housing support provider for certain purposes, including to enable the provider to sell or lease residential premises to persons, some or all of whom are eligible persons.

It also allows Homes Tasmania to advance funds to a person for certain purposes, including to enable the person to construct residential premises so that some or all such premises may be sold or leased to, or used to provide residential accommodation to, eligible persons.

Subsection (3) provides that an advance under this section is to be repayable subject to the terms and conditions agreed between Homes Tasmania and the grantee.

Clause 79 Application for advance

This clause allows a person to apply to Homes Tasmania for an advance by lodging the prescribed form together with a statutory declaration setting out the purposes to which the advance is to be applied.

It allows Homes Tasmania to require an applicant to provide any supporting evidence it considers necessary and, where the advance is for the purpose of erecting, completing, or enlarging residential premises, the applicant must satisfy Homes Tasmania that the resulting residential premises will be substantial and durable, and that the plans and specifications for the proposed work comply with the conditions and requirements prescribed by Homes Tasmania.

Homes Tasmania is given discretion to refuse an application where the applicant fails to comply with all the prescribed conditions.

Clause 80 Advances by instalments

This clause allows Homes Tasmania, where it considers that money advanced under Part 12 has not been applied for the purpose for which it was advanced or has not been carefully and economically expended, to refuse to pay any further instalment and to issue a written notice to call in the whole, or part, of the amount already advanced.

It further requires the recipient of such a notice to immediately repay the specified amount to Homes Tasmania and outlines the remedies available to Homes Tasmania if the recipient fails to do so.

Clause 81 Security for advances

This clause allows Homes Tasmania to require a borrower to provide the security that Homes Tasmania thinks fit. Such security may be a mortgage or some other security.

Subsection (3) provides that the *Personal Property Securities Act 2009* (Cth) does not apply to any security executed under this Act and does not affect the validity of any such security in respect of any chattels that form all or part of the security.

Clause 82 How advances repayable

This clause outlines the way in which advances made by Homes Tasmania are to be repaid.

Clause 83 Provisions relating to advances

This clause outlines when an advance is to date from, depending on whether it is made by way of lump sum or instalments, and specifies the dates relevant to the calculation of interest and when such interest is to be paid to, or deducted by, Homes Tasmania.

It also outlines when repayment of the principal and interest associated with an advance is to commence (by instalments agreed between Homes Tasmania and the borrower).

Clause 84 Homes Tasmania may refuse to enter into contract, &

This clause allows Homes Tasmania to refuse to enter into specified contracts or arrangements, or to make specified grants or advances. It provides that such a refusal is final.

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

This clause allows the Treasurer to fix or to annul, by way of notice in the *Gazette*, certain rates of interest payable in accordance with the Act, as well as tables of the instalment amounts of principal and interest to be paid by borrowers in respect of advances under the Act.

Subsection (2) specifies when such a fixed rate or fixed table comes into effect and the date until which it remains in force.

Clause 86 Power of Treasurer to authorise variable interest rates

This clause allows the Treasurer to 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.

Clause 87 Purchaser or borrower to pay amounts on account

This clause allows a purchaser or borrower to deposit with Homes Tasmania, in accordance with subsection (1), a sum 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.

Such deposits and accumulated interest are to be available for payment of any instalments, arrears of instalments, or other payments, due to Homes Tasmania by the purchaser or borrower.

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

Clause 88(1) requires purchasers and borrowers to insure and keep in repair, until the purchase-money or advance has been fully paid or repaid, all buildings and other fixtures specified in subsection (1) on the land to which the contract of sale, mortgage, or other security, relates.

Clause 88(2) allows Homes Tasmania, or a person authorised by Homes Tasmania, where no action is taken under sub-section (3), to enter and take possession of the land (or land and residential premises) if a purchaser or borrower fails to comply with this provision one month after receiving written

notice of their obligations. Additional consequences apply where there has been a breach of the terms and conditions of the contract of sale, mortgage, or other security, or a default in the payment of an instalment.

Clause 88(3) allows Homes Tasmania, or a person authorised by Homes Tasmania, where no action is taken under sub-section (2) and in circumstances where such action is permitted, to enter the land (or land and residential premises) and carry out necessary repairs. Homes Tasmania is to receive payment for this remedial work in accordance with this subsection.

Clause 88(4) allows Homes Tasmania, despite subsection (1), to take out its own insurance over the buildings and fixtures on land specified in subsection (1), and to impose a charge on the purchaser or borrower to cover the cost.

Clause 89 Disposal without consent

Clause 89(1) provides that a purchaser or borrower must not sell, let, sublet, mortgage or otherwise charge or dispose of land (or land and residential premises) without Homes Tasmania's written consent, where the purchaser or borrower owes money to Homes Tasmania in respect of such land (or land and residential premises). Any action in contravention of this provision will be void and of no effect.

Clause 89(2) outlines certain actions that Homes Tasmania may take if a purchaser or borrower contravenes subsection (1).

Clause 90 Sale if borrower bankrupt

This clause allows Homes Tasmania to cause a borrower's estate and interest in land (or land and residential premises) to be sold if Homes Tasmania holds a mortgage over it and the borrower's title has been divested from them under a law relating to bankruptcy.

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

This clause provides that certain provisions in section 93 apply to any sale made pursuant to section 89 or 90.

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

This clause provides that the transfer of land (or land and residential premises), or the transfer of any estate or interest therein, where it is subject to a contract of sale, mortgage, or other security in accordance with this Act, will be of no effect except in certain circumstances outlined in subsection (3), which includes where Homes Tasmania consents.

Subsection (4) outlines the limited circumstances in which Homes Tasmania may provide consent under subsection (3).

Subsection (5) requires Homes Tasmania, when dealing with applications for consent to transfer as between two alternative transferees, one of whom is an eligible person and the other is not, to give preference to the eligible person.

Clause 93 Remedies for recovery of instalments

This clause outlines remedies available to Homes Tasmania in certain circumstances where an instalment or money, or part of an instalment or money, which is payable to Homes Tasmania remains unpaid after it is due.

Sub-section (5) outlines various actions Homes Tasmania may take if one of the remedies available in the circumstances allows it to sell the estate and interest in land (or the land and residential premises) of a borrower or purchaser. For instance, it allows Homes Tasmania to vary or rescind the contract of sale or to buy in at auction and re-sell the land.

Subsections (6), (7) and (9) outline certain actions Homes Tasmania may take, and other actions it must take, where land (or land and residential premises) is sold or to be sold under this provision. For instance, it outlines how the proceeds of sale are to be applied.

Subsection (8) provides that as against mortgagors, Homes Tasmania is not responsible for involuntary losses or the default of agents or auctioneers.

Clause 94 Money due by purchaser or borrower is a debt due to the Crown

This clause provides that money due to Homes Tasmania by a purchaser or borrower is a debt due to the Crown and is recoverable, with interest, by Homes Tasmania.

Clause 95 If no purchaser, land to revert to Crown

This clause provides that where land (or land and residential premises), authorised to be sold by Homes Tasmania under this Act, is offered for sale at public auction and no bid is made or the highest bid is not sufficient (as defined in this provision), Homes Tasmania may advertise for private sale the land (or land and residential premises) in accordance with this provision. If by the day and time specified in advertisement insufficient money (as defined in this provision) has been obtained from the sale, the land (or the land and residential premises) with all improvements, revert to the Crown and on the reversion reverts in the Crown.

Clause 96 Provision of movable residential premises

This clause allows Homes Tasmania to provide, or to make arrangements for the provision of, movable residential premises and ancillary features to enable such premises to be used as residential premises by certain persons. It further allows Homes Tasmania to carry out, or arrange for the carrying out of, any work necessary in connection with the erection, maintenance, use or removal of such premises and ancillary features.

Clause 97 Agreements in relation to movable residential premises

This clause allows Homes Tasmania to enter into, and carry into effect, a *hiring agreement* related to the erection and use of movable residential premises in accordance with Part 14, and outlines certain matters that such a hiring agreement may provide for.

Subsection (3) provides that movable residential premises and their ancillary features are the property of Homes Tasmania and remain personal property, not real property, under the law.

Clause 98**Registration of hiring agreement**

This clause allows Homes Tasmania to register a hiring agreement related to the erection and use of movable residential premises.

It outlines the process for registering such an agreement and the requirements with which Homes Tasmania and the Recorder of Titles must comply. The process to be followed by the Recorder varies depending on whether the land or part of the land to which the agreement relates is under the *Land Titles Act 1980*.

Subsection (6) specifies the action that must be taken by Homes Tasmania and by the Recorder in circumstances where a registered hiring agreement terminates.

There is no fee for the registration or termination of a hiring agreement under this section.

Clause 99**Power to remove movable residential premises**

This clause allows a person authorised by Homes Tasmania, and any person acting under that person's direction, to enter onto land in respect of which a hiring agreement was registered and to remove or assist in removing movable residential premises or ancillary features on that land, if the conditions in subsection (1) are satisfied.

Clause 100**Protection from liability**

Clause 100(1) outlines the circumstances in which the CEO of Homes Tasmania, as well as any Homes Tasmania director or employee, or delegate of such a person, is protected from personal liability.

Clause 100(2) provides that a civil liability that would, but for subsection (1), lie against a person lies against the Crown.

Clause 101**Extension of time for repayment**

This clause allows Homes Tasmania to extend the time for making a payment to Homes Tasmania in cases of hardship.

Where such an extension is granted, the payment bears interest for the time so extended, in accordance with subsection (2).

Clause 102**Homes Tasmania to obtain reports from inspectors and valuers**

This clause requires Homes Tasmania to obtain from an inspector or valuer certain reports, including a report regarding a borrower's use of an advance under the Act.

Subsection (2) provides an inspector or valuer with certain powers required to produce such a report.

Clause 103**Register of purchases, tenancies and advances**

This clause requires Homes Tasmania to keep a register of all purchases, tenancies and advances made or granted under this Act.

Clause 104	<p>Power of Homes Tasmania to sell or hire plant to persons erecting residential premises</p> <p>This clause allows Homes Tasmania to sell or hire plant to certain persons erecting residential premises.</p>
Clause 105	<p>Sale, &c., of plant not immediately required</p> <p>This clause allows Homes Tasmania to sell or hire to a person any plant that is held by, or vested in, Homes Tasmania which is not immediately required for the purposes of the Act.</p>
Clause 106	<p>Work for other State instrumentalities</p> <p>This clause allows Homes Tasmania, with the Minister's approval, to enter into and carry out arrangements for the carrying out of any work for or on behalf of the State or any State instrumentality, where the Authority is satisfied of certain factors outlined in subsection (3).</p>
Clause 107	<p>Power of Homes Tasmania to compound in case of breach of contract</p> <p>This clause authorises Homes Tasmania to compound and agree with certain persons in cases where there is breach of contract.</p>
Clause 108	<p>Judgment of court not to affect contract of sale or mortgage</p> <p>This clause provides that a judgment, order or decree of any court is not to affect the security or remedies of Homes Tasmania under a contract of sale or mortgage.</p>
Clause 109	<p>Judicial notice</p> <p>This clause requires all courts, judges, and persons acting judicially to take judicial notice of the official seal of Homes Tasmania affixed to a document, and of the official signature of certain Homes Tasmania officer holders specified in subsection (2).</p>
Clause 110	<p>Misuse of information</p> <p>This clause prohibits a person who is or was the CEO of Homes Tasmania, or a director or employee thereof, from improperly using information acquired by virtue of their role, or improperly using their position, to achieve certain specified ends, including to gain a personal advantage.</p> <p>These prohibitions are enforceable by fine or imprisonment, or both.</p>
Clause 111	<p>Savings and transitional</p> <p>This clause provides that the savings and transitional provisions in schedule 2 have effect.</p>
Clause 112	<p>Regulations</p> <p>This clause authorises the Governor to make regulations for the purposes of this Act. Subsections (2) to (8) specify certain things that the regulations may do, prescribe or provide for.</p>

Clause 113	<p>Additional regulations of a savings and transitional nature</p> <p>This clause authorises the Governor to make, in addition to regulations under section 112, regulations of a savings and transitional nature, to effect and facilitate the transition from the Repealed Act to this Act.</p> <p>Subsections (2) and (3) outline some of the things that regulations made under subsection (1) may do.</p>
Clause 114	<p>Review of Act</p> <p>This clause requires the Minister to commission an independent review of the operation of this Act, in accordance with the requirements of this provision.</p> <p>The reviewer must give the Minister a written report on the outcome of the review and the Minister must table a copy in each House of Parliament.</p>
Clause 115	<p>Administration of Act</p> <p>This clause states that until provision is made in relation to this Act by order under section 4 of the <i>Administrative Arrangements Act 1990</i>, administration of this Act is assigned to the Minister for State Development, Construction and Housing, and the department responsible to that Minister in relation to the administration of this Act is Homes Tasmania.</p>
Schedule 1	<p>Board</p> <p>This schedule includes provisions related to directors of the Board in Part 1, such as their term of office, remuneration and conditions of employment, and includes provisions related to meetings of the Board in Part 2, such as frequency of meetings, quorum, voting and disclosure of interests.</p>
Schedule 2	<p>Savings and transitional provisions</p> <p>This schedule contains savings and transitional provisions.</p>