

# **AUSTRALIAN HOUSING CORPORATION ACT 1975**

## **No. 25 of 1975**

### **TABLE OF PROVISIONS**

#### **PART I—PRELIMINARY**

**Section**

1. Short title
2. Commencement
3. Interpretation
4. Extension to Territories

#### **PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE AUSTRALIAN HOUSING CORPORATION**

5. Australian Housing Corporation
6. Functions of Corporation
7. General powers of Corporation
8. Particular powers of Corporation
9. Corporation to comply with directions of Minister
10. Corporation to comply with State laws

#### **PART III—CONSTITUTION AND MEETINGS OF THE CORPORATION**

11. Nature of Corporation
12. Membership of Corporation
13. Period of appointment
14. Chairman and Deputy Chairman
15. Remuneration and allowances of part-time members
16. Resignation of part-time member
17. Acting part-time member
18. Dismissal of part-time member
19. Disclosure of interest by member
20. Meetings

#### **PART IV—THE GENERAL MANAGER OF THE CORPORATION**

21. General Manager
22. Period of appointment of General Manager
23. Remuneration and allowances of General Manager
24. Leave of absence of General Manager
25. Resignation of General Manager
26. Acting General Manager
27. Dismissal of General Manager

#### **PART V—PROVISION OF HOUSING AND FINANCE FOR HOUSING**

28. Approved lenders
29. Loans by Corporation
30. Grants by Corporation
31. Sales by Corporation
32. Leases by Corporation
33. Building of dwellings by Corporation
34. Assistance limited to one dwelling house
35. Part not to affect Defence Service Homes Act

**TABLE OF PROVISIONS—continued****PART VI—STAFF**

- 36. Staff of Corporation
- 37. Public servants to assist Corporation

**PART VII—FINANCE**

- 38. Capital of Corporation
- 39. Application of moneys
- 40. Payments to Australia
- 41. Estimates
- 42. Borrowing by Corporation
- 43. Bank accounts
- 44. Power to purchase and dispose of assets
- 45. Proper accounts to be kept
- 46. Audit
- 47. Taxation

**PART VIII—MISCELLANEOUS**

- 48. Annual reports
- 49. Acquisition
- 50. Superannuation
- 51. Rights of public servants
- 52. Delegation
- 53. Regulations

**PART IX—AMENDMENTS OF THE DEFENCE SERVICE HOMES ACT**

- 54. Citation
- 55. Interpretation
- 56. Corporation to administer Act
- 57. Transfer of assets and liabilities of Director, &c.  
Staff
- 58. Repeal of section 16 of Defence Service Homes Act
- 59. Financial provisions of Defence Service Homes Act
- 60. Further amendments of Defence Service Homes Act

# AUSTRALIAN HOUSING CORPORATION ACT 1975

## No. 25 of 1975

An Act to establish an Australian Housing Corporation.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

### PART I—PRELIMINARY

1. This Act may be cited as the *Australian Housing Corporation Act* 1975.<sup>1</sup> Short title.

2. This Act shall come into operation on a date to be fixed by Proclamation. Commence-  
ment.

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

“approved bank” means a bank approved by the Treasurer for the purposes of the provision in which the expression occurs;

“build”, in relation to a dwelling, includes—

- (a) extend, alter, repair or renovate the dwelling;
- (b) connect any service to the dwelling; and
- (c) do any work in relation to land associated with the dwelling;

“Chairman” means the Chairman of the Corporation;

“Corporation” means the Corporation established by this Act;

“Deputy Chairman” means the Deputy Chairman of the Corporation;

“dwelling” includes—

- (a) any building or part of a building that consists, or any associated buildings that consist, in whole or in substantial part, of residential accommodation, whether constituting a single unit of accommodation or 2 or more such units; and
- (b) any house or building that is a dwelling house within the meaning of the *Defence Service Homes Act* 1918-1975, but does not include a caravan, houseboat or other form of moveable residential accommodation;

“General Manager” means the General Manager of the Corporation;

“lease”, in relation to a dwelling, includes license the use of the dwelling;

“member” means a member of the Corporation, and includes a person referred to in sub-section (5) and a person acting as General Manager or as a part-time member;

“part-time member” means a member appointed as a part-time member.

(2) Unless the contrary intention appears, a reference in this Act to a dwelling shall be read as including a reference—

- (a) to a part of a dwelling;
- (b) to outbuildings, fences, paths and similar structures and works associated with a dwelling; and
- (c) except in relation to building a dwelling, to land that is, and interests in land that are, associated with a dwelling.

(3) A reference in this Act to the lending or granting of money for the building or purchase of a dwelling or for the purchase of land to be used for a dwelling includes a reference to the lending or granting of money for the repayment of a loan to which this sub-section applies.

(4) For the purposes of sub-section (3)—

(a) a loan to repay moneys lent and applied for the building or purchase of a dwelling or for the purchase of land to be used for a dwelling; or

(b) a loan to repay a loan to which that sub-section applies,  
are each a loan to which that sub-section applies.

(5) Where, for any reason, a person who does not hold the office of Secretary to the Department of Housing and Construction is performing the duties of that office, he has, and may exercise, all the powers and shall perform all the functions under this Act of a member.

Extension to  
Territories.

4. (1) Subject to sub-section (2), this Act extends to every external Territory.

(2) This Act does not extend to Papua New Guinea as part of the law of Papua New Guinea, but the Corporation may perform a function in or in relation to Papua New Guinea to the extent permitted by any other Act.

## PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE AUSTRALIAN HOUSING CORPORATION

Australian  
Housing  
Corporation.

5. There is established by this Act a Corporation by the name of the Australian Housing Corporation.

6. (1) The principal function of the Corporation is, subject to and in accordance with this Act, to lend money for the building or purchase of dwellings and the purchase of land to be used for dwellings. Functions of Corporation.

(2) The Corporation also has, subject to and in accordance with this Act, the following functions:—

- (a) to grant money for the building of dwellings, the purchase of dwellings and the purchase of land to be used for dwellings;
- (b) to build dwellings or take part in, or be associated with, the building of dwellings;
- (c) to sell and lease dwellings built, purchased or otherwise acquired by the Corporation;
- (d) to lend and grant money for the payment of rent in respect of dwellings;
- (e) to provide, or ensure the provision of, facilities and services for persons in dwellings with which the Corporation is concerned; and
- (f) such functions as are conferred on the Corporation by any Act.

(3) The Corporation may perform its functions to the extent only that they relate to matters with respect to which the Parliament has power to make laws and, in particular, may perform its functions—

- (a) in a Territory;
- (b) for the purpose of the provision of housing for members and former members of the Defence Force and for other persons who have participated in the defence of Australia;
- (c) by way of, or as incidental to, the provision of family allowances;
- (d) by way of the provision of benefits to students;
- (e) for the purpose of the provision of housing for the aboriginal people of Australia, immigrants to Australia, persons employed in or by Departments or authorities of Australia and persons engaged in work for Australia or an authority of Australia; or
- (f) for any purpose of Australia or an authority of Australia.

(4) Without limiting the application of sub-section (3), the Corporation may also perform its functions by way of assisting, by the making of grants or loans, Australian companies, being trading or financial corporations formed within the limits of Australia, to build dwellings, to purchase dwellings and to purchase land to be used for dwellings.

(5) This Act has effect subject to the *National Capital Development Commission Act 1957-1973* and to the *Albury-Wodonga Development Act 1973*, and the Corporation shall not, except as permitted by regulations, perform its functions in respect of matters that are within the functions of a prescribed authority.

(6) Nothing in this Act affects the operation of the *Urban and Regional Development (Financial Assistance) Act 1974* or of agreements made under that Act.

(7) This section shall not be read as limiting the powers or functions of Departments or authorities of Australia other than the Corporation.

General  
powers of  
Corporation.

7. The Corporation has power to do all things necessary or convenient to be done for or in connexion with, or as incidental to, the performance of its functions.

Particular  
powers of  
Corporation.

8. Without limiting the generality of section 7, the Corporation has power, for or in connexion with the performance of its functions—

- (a) to purchase or take on hire, and to dispose of, plant, machinery, equipment or other goods;
- (b) to enter into contracts;
- (c) to erect buildings and to demolish buildings;
- (d) to set out, construct and maintain roads, and construct and maintain shops and other buildings and works, for the provision of facilities and services to persons residing in dwellings built by the Corporation or with which the Corporation is otherwise concerned;
- (e) to make available, and for that purpose transfer, land in an area being developed for housing by the Corporation for use as a park or for recreation;
- (f) to sell or lease land or buildings in an area being developed for housing by the Corporation to any person for use for, or in relation to, the provision of educational, recreational, shopping or other facilities or services for persons residing in the area;
- (g) to charge interest at prescribed rates on moneys lent by, or otherwise owing to, the Corporation;
- (h) to take mortgages, including mortgages other than first mortgages, to secure the repayment of moneys lent by, or otherwise owing to, the Corporation and the payment of interest charged by the Corporation;
- (i) to make charges for work done or services rendered by, or on behalf of, the Corporation; and
- (j) to do anything incidental to any of its powers.

Corporation  
to comply  
with  
directions of  
Minister.

9. (1) The Corporation shall comply with any directions as to matters of general policy given to it by the Minister with respect to the performance of its functions and the exercise of its powers.

(2) Notwithstanding sub-section (1), the directions that may be given by the Minister with respect to the performance of the functions of the Corporation under the *Defence Service Homes Act 1918-1975* are such directions only as are authorized by that Act.

**10.** In the performance of its functions and the exercise of its powers, the Corporation shall, except as otherwise provided by this Act or the *Defence Service Homes Act 1918-1975*, comply with all laws of the States and Territories in which it operates.

Corporation  
to comply  
with State  
laws.

### PART III—CONSTITUTION AND MEETINGS OF THE CORPORATION

**11. (1)** The Corporation—

Nature of  
Corporation.

- (a) is a body corporate with perpetual succession;
- (b) shall have a common seal; and
- (c) may sue and be sued in its corporate name.

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Corporation affixed to a document and shall presume that it was duly affixed.

**12. (1)** The Corporation shall consist of 8 members, namely—

Membership  
of  
Corporation.

- (a) the Secretary to the Department of Housing and Construction;
- (b) the General Manager; and
- (c) 6 other members.

(2) The members referred to in paragraph (1) (c) shall be appointed by the Governor-General as part-time members.

(3) The performance of the functions or the exercise of the powers of the Corporation is not affected by reason only of there being a vacancy or vacancies in the membership of the Corporation.

**13.** Each part-time member shall be appointed for a period of 3 years, but is eligible for re-appointment.

Period of  
appointment.

**14. (1)** The Governor-General shall appoint a person who is, or is to be, a member, other than the General Manager, to be Chairman of the Corporation.

Chairman  
and Deputy  
Chairman.

(2) The Governor-General shall appoint a person who is, or is to be, a member, other than the Chairman, to be Deputy Chairman of the Corporation.

(3) Subject to this section, a person appointed under this section holds office as Chairman or Deputy Chairman until the expiration of his period of appointment as a member or until he sooner ceases to be a member.

(4) If the Secretary to the Department of Housing and Construction is appointed Chairman or Deputy Chairman, he holds office as Chairman or Deputy Chairman during the pleasure of the Governor-General.

(5) The Chairman or the Deputy Chairman may resign his office of Chairman or Deputy Chairman by writing signed by him and delivered to the Governor-General.

Remuneration and allowances of part-time members.

15. (1) A part-time member shall be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

(2) A part-time member shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act* 1973-1974.

Resignation of part-time member.

16. A part-time member may resign his office by writing signed by him and delivered to the Governor-General.

Acting part-time member.

17. (1) The Minister may appoint a person to act as a part-time member—

- (a) during a vacancy in the office of part-time member, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when a part-time member is acting as General Manager, is absent from duty or from Australia or, for any other reason, is unable to perform the functions of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) The Minister may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of an acting part-time member; and
- (b) at any time terminate such an appointment.

(3) The appointment of an acting part-time member ceases to have effect if he resigns the appointment by writing signed by him and delivered to the Minister.

(4) While the appointment of an acting part-time member remains in force, he has, and may exercise, all the powers and shall perform all the functions of a part-time member.

(5) The validity of anything done by a person appointed under this section shall not be called in question on the grounds that the occasion for his appointment had not arisen or that the appointment had ceased to have effect.

**18. (1)** The Governor-General may terminate the appointment of a part-time member by reason of misbehaviour or physical or mental incapacity. Dismissal of part-time member.

(2) If a part-time member—

- (a) is absent, except with the approval of the Minister, from 3 consecutive meetings of the Corporation;
- (b) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (c) fails to comply with his obligations under section 19,

the Governor-General shall terminate the appointment of the member.

**19. (1)** A member who is directly or indirectly interested in a contract made or proposed to be made by the Corporation, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Corporation. Disclosure of interest by member.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of the Corporation and the member—

- (a) shall not take part after the disclosure in any deliberation or decision of the Corporation with respect to the contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Corporation for any such deliberation or decision.

**20. (1)** Subject to this section, the Chairman shall convene such meetings of the Corporation as, in his opinion, are necessary for the efficient conduct of its affairs. Meetings.

(2) The Minister may convene a meeting of the Corporation.

(3) The Chairman shall, on receipt of a request in writing signed by 2 members, convene a meeting of the Corporation.

(4) At a meeting of the Corporation, a majority of the members constitute a quorum.

(5) The Chairman shall preside at all meetings of the Corporation at which he is present.

(6) In the event of the absence of the Chairman from a meeting of the Corporation, the Deputy Chairman shall preside at that meeting.

(7) In the event of the absence of the Chairman and of the Deputy Chairman from a meeting of the Corporation, the members present shall appoint one of their number to preside at the meeting.

(8) A question arising at a meeting of the Corporation shall be determined by a majority of the votes of the members present and voting.

(9) The member presiding at a meeting of the Corporation has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

#### PART IV—THE GENERAL MANAGER OF THE CORPORATION

General  
Manager.

**21. (1)** There shall be a General Manager of the Corporation who shall be appointed by the Governor-General.

(2) The General Manager shall be the chief executive officer of the Corporation and shall, subject to and in accordance with the directions of the Corporation, conduct the affairs of the Corporation.

(3) The General Manager holds office on such terms and conditions (if any), in respect of matters not provided for by this Act, as are determined by the Governor-General.

Period of  
appointment  
of General  
Manager.

**22. (1)** The General Manager shall be appointed for such period, not exceeding 6 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(2) A person who has attained the age of 65 years shall not be appointed or re-appointed as the General Manager and a person shall not be appointed or re-appointed as the General Manager for a period that extends beyond the date on which he will attain the age of 65 years.

Remunera-  
tion and  
allowances  
of General  
Manager.

**23. (1)** The General Manager shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

(2) The General Manager shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act* 1973-1974.

Leave of  
absence of  
General  
Manager.

**24.** The Minister may grant leave of absence to the General Manager on such terms and conditions as to remuneration and otherwise as the Minister directs.

Resignation  
of General  
Manager.

**25.** The General Manager may resign his office by writing signed by him and delivered to the Governor-General.

**26. (1)** The Minister may appoint a person (including a part-time member) to act as General Manager— Acting General Manager.

- (a) during a vacancy in the office of General Manager, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the General Manager is absent from duty or from Australia or, for any other reason, is unable to perform the duties of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

**(2)** The Minister may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of an acting General Manager; and
- (b) at any time terminate such an appointment.

**(3)** Where a person is acting as General Manager in accordance with paragraph (1) (b) and the office of General Manager becomes vacant while that person is so acting, that person may continue so to act until the Minister otherwise directs or the vacancy is filled, whichever first happens.

**(4)** The appointment of an acting General Manager ceases to have effect if he resigns the appointment by writing signed by him and delivered to the Minister.

**(5)** While the appointment of an acting General Manager remains in force, he has, and may exercise, all the powers and shall perform all the functions of the General Manager under sub-section 21 (2) and of a member.

**(6)** The validity of anything done by a person appointed under this section shall not be called in question on the grounds that the occasion for his appointment had not arisen or had ceased.

**27. (1)** The Governor-General may terminate the appointment of the General Manager for misbehaviour or physical or mental incapacity. Dismissal of General Manager.

**(2)** If the General Manager—

- (a) engages in paid employment outside the duties of his office without the approval of the Minister;
- (b) is absent from duty, except on leave granted by the Minister, for 14 consecutive days or for 28 days in any 12 months;
- (c) is absent, except on leave granted by the Minister or with the approval of the Minister, from 3 consecutive meetings of the Corporation;
- (d) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his

creditors or makes an assignment of his remuneration for their benefit; or

(e) fails to comply with his obligations under section 19,  
the Governor-General shall terminate the appointment of the General Manager.

## PART V—PROVISION OF HOUSING AND FINANCE FOR HOUSING

Approved  
lenders.

**28.** (1) The Minister may, by writing signed by him, declare a class of persons to be an approved class of lenders for the purposes of this Act.

(2) The Corporation may, by writing under its common seal, approve a person specified in the instrument of approval, being a person included in an approved class of lenders, as a lender for the purposes of this Act.

(3) The Corporation shall cause notice of the approval, or the revocation of the approval, of a person as a lender under this section to be published in the *Gazette*.

(4) A reference to a person in this section shall be read as including a reference to an unincorporated society or body.

Loans by  
Corporation.

**29.** (1) The Corporation may, in accordance with regulations, lend money to a person for the building or purchase of a dwelling, for the payment of rent in respect of a dwelling or for the purchase of land to be used for the erection of a dwelling, being regulations that prescribe the circumstances in which such loans may be made.

(2) The Corporation may make advances by way of loan to an approved lender for the purpose of the making of loans by the approved lender to other persons for the building or purchase of dwellings or for the payment of rent in respect of dwellings, but any such advances shall be made on terms and conditions that require the loans by the approved lender to be made only in prescribed circumstances and that are otherwise in accordance with the regulations.

(3) The matters by reference to which the circumstances referred to in sub-section (1) or (2) may be described include the classes of persons who are eligible for loans and the description of dwellings or land in respect of which loans may be made.

(4) Regulations for the purposes of sub-section (1) or (2) shall contain provisions relating to the maximum amounts of loans under sub-section (1) or the maximum amounts of moneys advanced by the Corporation that may constitute or be included in loans under sub-section (2), as the case may be, and relating to the terms and conditions of repayment of, and interest on, loans referred to in those sub-sections.

(5) The Corporation shall not lend money otherwise than in accordance with this section or in pursuance of its power to invest under sub-section 39 (2).

(6) In this section, “approved lender” means a person approved by the Corporation under section 28, but does not include a person whose approval under that section has been revoked.

**30. (1)** The Corporation may, in accordance with regulations, grant money to a person for the building or purchase of a dwelling, for the payment of rent in respect of a dwelling or for the purchase of land to be used for the erection of a dwelling, being regulations that prescribe the circumstances in which such grants may be made. Grants by Corporation.

(2) The matters by reference to which the circumstances referred to in sub-section (1) may be described include the classes of persons who are eligible for grants and the description of dwellings or land in respect of which grants may be made.

(3) Regulations for the purposes of sub-section (1) shall contain provisions relating to the maximum amounts of grants.

(4) The Corporation shall not grant money to a person otherwise than in accordance with this section.

**31. (1)** The Corporation may sell a dwelling in accordance with regulations that prescribe the circumstances in which dwellings may be so sold. Sales by Corporation.

(2) The matters by reference to which the circumstances referred to in sub-section (1) may be described include the classes of persons to whom sales may be made and the description of dwellings that may be sold.

(3) Regulations for the purposes of sub-section (1) shall contain provisions relating to the terms and conditions of sale.

(4) The Corporation shall not sell a dwelling otherwise than in accordance with sub-section (1).

**32. (1)** The Corporation may grant a lease of a dwelling in accordance with regulations that prescribe the circumstances in which dwellings may be so leased. Leases by Corporation.

(2) The matters by reference to which the circumstances referred to in sub-section (1) may be described include the classes of persons to whom dwellings may be leased and the description of the dwellings that may be leased.

(3) Regulations for the purposes of sub-section (1) shall contain provisions relating to the terms and conditions of leases in respect of rent and sub-letting.

(4) The Corporation shall not lease a dwelling otherwise than in accordance with sub-section (1).

Building of  
dwellings by  
Corporation.

33. (1) The Corporation may build a dwelling for sale or lease by the Corporation in accordance with this Act.

(2) The Corporation may build a dwelling for a person on land in which the person has a prescribed interest, including a prescribed leasehold interest, in pursuance of a contract that is in accordance with regulations that prescribe the circumstances in which dwellings may be so built.

(3) The matters by reference to which the circumstances referred to in sub-section (2) may be described include the class of persons for whom dwellings may be built and the description of the dwellings that may be built.

(4) Regulations for the purposes of sub-section (2) shall contain provisions relating to the terms and conditions on which dwellings may be built.

(5) The Corporation shall not build a dwelling otherwise than in accordance with this section.

Assistance  
limited to  
one dwelling  
house.

34. (1) Except as prescribed, the Corporation shall not assist a person in respect of more than one dwelling house.

(2) For the purposes of this section the Corporation assists a person in respect of a dwelling house if, and only if—

- (a) it builds the dwelling house for that person or that person's spouse;
- (b) it sells the dwelling house to that person or that person's spouse;  
or
- (c) it lends money to that person or that person's spouse in respect of the dwelling house.

Part not to  
affect  
Defence  
Service  
Homes Act.

35. This Part does not apply to the lending or granting of money, or to the sale, lease or building of dwellings, by the Corporation in accordance with the *Defence Service Homes Act* 1918-1975, but, while that Act remains in force, the Corporation shall not lend or grant money to, sell or lease a dwelling to, or build a dwelling for, a person, otherwise than in accordance with that Act, by reason only that he is a former member of the Defence Force or that he otherwise participated in the defence of Australia.

## PART VI—STAFF

36. (1) The Corporation may appoint such officers and engage such employees as are necessary for the purposes of the performance of its functions. Staff of Corporation.

(2) The terms and conditions of employment (other than in respect of matters provided for by this Act) of persons appointed or engaged under sub-section (1) shall be as determined by the Corporation with the approval of the Public Service Board.

37. (1) Arrangements may be made between the Corporation and the Permanent Head of any Department of the Australian Public Service, or with a body established by an Act or by an Ordinance of a Territory, for the services of officers or employees of the Department or of the body to be made available to the Corporation. Public servants to assist Corporation.

(2) Without limiting sub-section (1), the Secretary to the Department of Housing and Construction may direct an officer or employee of that Department to perform duties on behalf of, and in accordance with the instructions of, the Corporation.

(3) The Governor-General may enter into an arrangement with the Governor of a State for the services of officers or employees of the Public Service of the State or of a body established by an Act of the State to be made available to the Corporation.

## PART VII—FINANCE

38. The capital of the Corporation at any time is the sum of—

- (a) the amount equal to the value, as determined by the Treasurer on such basis as he thinks fit, of the rights, property and assets that become vested in the Corporation by virtue of section 7 of the *Defence Service Homes Act* 1918–1975, less such amounts, if any, as the Treasurer determines in respect of debts, liabilities and obligations transferred to the Corporation by virtue of that section; and
- (b) amounts paid to the Corporation by the Treasurer out of moneys appropriated by the Parliament for the purposes of providing capital for the Corporation,

less the sum of any amounts of capital repaid to Australia by the Corporation. Capital of Corporation.

39. (1) Subject to this section, the moneys of the Corporation shall be applied only— Application of moneys.

- (a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Corporation in accordance with this Act;

- (b) in payment of any remuneration and allowance payable under this Act; and
- (c) in making payments to Australia under a determination under section 40.

(2) Moneys of the Corporation not immediately required for the purposes of the Corporation may be invested—

- (a) on fixed deposit with an approved bank;
- (b) in securities of Australia; or
- (c) in any other manner approved by the Treasurer.

Payments to  
Australia.

**40.** (1) Interest is payable to Australia on the capital of the Corporation at such rate of interest and at such times as the Treasurer determines.

(2) Capital of the Corporation is repayable, and other moneys of the Corporation are payable, to Australia at such times and in such amounts (if any) as the Minister determines.

(3) In the making of a determination under sub-section (2), the Minister shall have regard to any advice that the Corporation has furnished to him in relation to its financial affairs.

Estimates.

**41.** The Corporation shall prepare estimates, in such form as the Minister directs, of its receipts and expenditure for each financial year and, if the Minister so directs, for any period specified by the Minister, and the Corporation shall submit estimates so prepared to the Minister not later than such date as the Minister directs.

Borrowing  
by  
Corporation.

**42.** (1) The Treasurer may, on behalf of Australia, out of moneys appropriated by the Parliament for the purpose, lend moneys to the Corporation at such rate of interest and on such terms and conditions as he determines.

(2) The Corporation shall not borrow moneys except in accordance with sub-section (1).

Bank  
accounts.

**43.** (1) The Corporation may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.

(2) The Corporation shall pay all moneys received by it into an account referred to in this section.

Power to  
purchase  
and dispose  
of assets.

**44.** (1) The Corporation shall not, without the approval of the Minister, enter into a contract involving the payment or receipt of an amount exceeding \$250,000 or, if a higher amount is prescribed, that higher amount.

(2) Sub-section (1) does not apply to contracts relating to the construction of dwellings.

**45.** The Corporation shall cause to be kept proper accounts and records of the transactions and affairs of the Corporation (in accordance with the accounting principles generally applied in commercial practice) and shall do all things necessary to ensure that all payments out of the moneys of the Corporation are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Corporation and over the incurring of liabilities by the Corporation.

Proper  
accounts to  
be kept.

**46. (1)** The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Corporation and the records relating to assets of, or in the custody of, the Corporation, and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

Audit.

(2) The Auditor-General may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (1).

(3) The Auditor-General shall, at least once in each financial year, report to the Minister the results of the inspection and audit carried out under sub-section (1).

(4) The Auditor-General or a person authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Corporation relating directly or indirectly to the receipt or payment of moneys by the Corporation, or to the acquisition, receipt, custody or disposal of assets, by the Corporation.

(5) The Auditor-General or a person authorized by him may make copies of, or take extracts from, any such accounts, records, documents or papers.

(6) The Auditor-General or a person authorized by him may require a person to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorized person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirements.

(7) A person who contravenes sub-section (6) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.

**47. (1)** The Corporation is subject to taxation, other than income tax, under the laws of Australia, not including a law that relates only to a Territory.

Taxation.

(2) Subject to sub-section (3), the Corporation is not subject to taxation under a law of a State or of a Territory.

(3) The regulations may provide that the Corporation is subject to taxation under a specified law of a State or Territory.

## PART VIII—MISCELLANEOUS

Annual  
reports.

**48.** (1) The Corporation shall, as soon as practicable after the end of each financial year, prepare and furnish to the Minister a report of the operations of the Corporation during that year, together with financial statements in respect of that year in such form as the Treasurer approves.

(2) The report shall set out all directions in respect of the performance of the functions or the exercise of the powers of the Corporation given by the Minister to the Corporation during the year to which the report relates.

(3) Before furnishing financial statements to the Minister, the Corporation shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial transactions and the state of affairs of the Corporation;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Corporation during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(4) The Minister shall cause the report and financial statements of the Corporation, together with the report of the Auditor-General, to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.

Acquisition.

**49.** (1) Subject to this Act, the Corporation may acquire by agreement or by compulsory process any land for the purposes of the Corporation but may not acquire by compulsory process any land that is Crown land of a State. This section shall not affect the power of the Corporation to acquire land for the purposes of the *Defence Service Homes Act 1918-1975*.

(2) The provisions of the *Lands Acquisition Act 1955-1973* apply, with such modifications and adaptations as are prescribed, in relation to the acquisition of land under sub-section (1).

(3) Where there is established under the law of a State a Land Commission or similar body having functions that include the acquisition and making available of land for housing purposes, land required by the

Corporation for the performance of its functions in that State shall, as far as practicable, be acquired from that Land Commission or similar body.

**50.** (1) The Corporation is an approved authority for the purposes of the *Superannuation Act* 1922-1974. Super-annuation.

(2) For the purposes of sub-sections 4 (3A) and (4) of that Act, the General Manager shall be deemed to be required, by the terms of his appointment, to give the whole of his time to the duties of his office.

(3) For the purposes of sections 145 and 146 of that Act, the General Manager shall be deemed to be employed by the Corporation.

(4) For the purposes of that Act, the termination under this Act of the appointment of the General Manager by reason of physical or mental incapacity shall be deemed to be retirement on the ground of invalidity.

(5) Nothing in this Act authorizes the provision of superannuation benefits otherwise than under the *Superannuation Act* 1922-1974 for a person appointed or employed under this Act.

**51.** Where the General Manager or an officer or employee of the Corporation was, immediately before his appointment or engagement, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act* 1928-1973 applied— Rights of public servants.

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service under this Act shall be taken into account as if it were service in the Australian Public Service; and
- (c) that Act applies as if this Act and this section had been specified in the Schedule to that Act.

**52.** (1) The Corporation may, either generally or otherwise as provided by the instrument of delegation, by writing under its common seal, delegate to a person any of the powers of the Corporation, except this power of delegation. Delegation.

(2) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation and, when so exercised, shall, for the purposes of this Act, be deemed to have been exercised by the Corporation.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Corporation.

**53.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed Regulations.

for carrying out or giving effect to this Act, and, in particular, without limiting the generality of the foregoing—

- (a) prescribing the obligations of purchasers and borrowers from, and tenants of, the Corporation, including obligations to keep dwellings in repair;
- (b) prescribing the rights and remedies of the Corporation in the event of a default in the performance of the obligations, the death, the bankruptcy, or the levying of distress on the property, of persons referred to in paragraph (a);
- (c) providing, in the event of the death of persons referred to in paragraph (a), for relief for their widows, widowers and dependants in respect of obligations arising under this Act;
- (d) providing for the conversion into purchase money of rent paid to the Corporation;
- (e) providing for the service of notices and other documents by, or on, the Corporation;
- (f) providing for the inspection of property in which the Corporation has an interest; and
- (g) providing for penalties not exceeding a fine of \$200 for offences against the regulations.

## PART IX—AMENDMENTS OF THE DEFENCE SERVICE HOMES ACT

**Citation.**       **54.** (1) In this Part and in the Schedule, “Defence Service Homes Act” means the *Defence Service Homes Act* 1918-1974.<sup>2</sup>

(2) The Defence Service Homes Act, as amended by this Part, may be cited as the *Defence Service Homes Act* 1918-1975.

**Amendment of section 4 of the Defence Service Homes Act.**       **55.** Section 4 of the Defence Service Homes Act is amended by omitting from sub-section (1), the definition of “Director” and substituting the following definition:—

“ ‘Corporation’ means the Australian Housing Corporation; ”.

**56.** Section 5 of the Defence Service Homes Act is repealed and the following section substituted:—

**Corporation to administer Act.**       “5. (1) The Corporation is, subject to the directions of the Minister, responsible for the administration of this Act.

“(2) A reference in a law in force at the commencement of this sub-section, including regulations made under the *War Service Homes Act* 1918 or that Act as amended and in force from time to time, to the Director of War Service Homes or to the Director of Defence Service Homes shall be read as including a reference to the Corporation.”.

**57.** Section 14 of the Defence Service Homes Act is repealed and the following sections substituted:—

“7. (1) All the rights, property and assets that immediately before the commencement of this section were vested in the Director of Defence Service Homes are, by force of this section, vested in the Corporation. Transfer of assets and liabilities of Director, &c.

“(2) Upon the date of commencement of this section the Corporation becomes, by force of this section, liable to pay and discharge all the debts, liabilities and obligations of the Director of Defence Service Homes that existed immediately before that date.

“(3) Any agreement or instrument subsisting immediately before the date of commencement of this section to which the Director of Defence Service Homes was a party has effect on and after that date as if—

- (a) the Corporation were substituted for the Director as a party to the agreement or instrument; and
- (b) any reference in the agreement or instrument to the Director were (except in relation to matters that occurred before that date) a reference to the Corporation.

“(4) Where, immediately before the commencement of this section, proceedings to which the Director of Defence Service Homes was a party were pending in any court, the Corporation is, by force of this section, substituted for the Director as a party to the proceedings.

“8. The staff necessary for the administration of this Act shall be Staff members of the staff of the Corporation.”.

**58.** Section 16 of the Defence Service Homes Act is repealed.

Repeal of section 16 of Defence Service Homes Act.

**59.** (1) Section 39 of the Defence Service Homes Act is repealed.

Financial provisions of Defence Service Homes Act.

(2) Section 39A of the Defence Service Homes Act is amended by omitting sub-section (1).

(3) Sections 39B, 39C, 42 and 42A of the Defence Service Homes Act are repealed.

(4) Notwithstanding the repeal of section 39 of the Defence Service Homes Act by sub-section (1), that section shall, until a date fixed for the purpose by Proclamation, continue to apply to moneys received by the Corporation under the *Defence Service Homes Act* 1918-1975 as if a reference in that section to the Director of Defence Service Homes were a reference to the Corporation.

(5) Notwithstanding the amendment of section 39A of the Defence Service Homes Act by sub-section (2), sub-section (1) of that section shall continue to apply until the date fixed under sub-section (4) of this section.

Further  
amendments  
of Defence  
Service  
Homes Act.

**60.** The Defence Service Homes Act is amended as set out in the Schedule to this Act.

## SCHEDULE

Section 60

### AMENDMENTS OF THE DEFENCE SERVICE HOMES ACT

1. The following provisions of the Defence Service Homes Act are amended by omitting the word "Director" (wherever occurring) and substituting the word "Corporation":—

Sections 4 (1) (Definitions of "Borrower" and "Contract of Sale"), (4) and (5), 4AA (2), 4A (1), (3) and (5), 4B, 16A, 16B (1), (3), (4) and (5), 17, 17A, 17B (1) and (3), 18A (1), (3) and (4), 19, 19A, 19B, 20, 20A, 23, 24, 25, 26, 27, 28, 29 (1A), (2), (3), (3A), (3B), (3C) and (4), 29AA (4), (5), (6) and (8), 29A, 30 (2), (4), (5) and (6), 30A, 30B, 31, 32, 32A, 33, 35, 36, 36A, 37, 38 (1), 38A, 38B, 39A, 39AB, 40 (2) and (3), 41, 43, 44, 45 (1), 46, 47, 48, 48A, 48AA, 48AB (1) and (2), 48B (1), 48C, 48D, 49, 50, 50A (1) and 50B (1) and (2).

2. The following provisions of the Defence Service Homes Act are amended by omitting the word "he" (wherever occurring) and substituting the word "it":—

Sections 17A (2), 17B (3), 26 (2), 28, 30B (2), 31 (2) (b), 35 (2), (3) and (4), 36 (1c), 45 (1), 48, 48B (1) and 48C.

3. The following provisions of the Defence Service Homes Act are amended by omitting the word "him" (wherever occurring) and substituting the word "it":—

Sections 17A (2), 29A, 30 (2), 31 (2) (b), 38A, 38B (2), 40 (2) and (3) and 48A.

4. The following provisions of the Defence Service Homes Act are amended by omitting the word "his" (wherever occurring) and substituting the word "its":—

Sections 4A (1), 14A, 17B (3), 28, 29 (3c), 32 (2) (a), 33 (a), 35 (2), 38A, 40 (2) and (3), 42 and 48B (1).

5. Sub-section 29AA (8) of the Defence Service Homes Act is amended by omitting the word "himself" and substituting the word "itself".

6. Section 48B is amended by omitting from sub-section (1) the words "by himself or".

## NOTES

1. Act No. 25, 1975; assented to 18 April 1975.
2. Act No. 43, 1918, as amended by No. 28, 1919; No. 35, 1920; No. 18, 1923; No. 26, 1925; No. 47, 1926; No. 17, 1927; No. 13, 1929; Nos. 6 and 68, 1932; No. 63, 1934; No. 54, 1935; No. 25, 1937; No. 1, 1941; No. 8, 1946; Nos. 1, 38 and 71, 1947; No. 67, 1948; No. 24, 1949; No. 74, 1951; No. 69, 1954; No. 69, 1955; No. 100, 1956; No. 73, 1961; Nos. 2 and 93, 1962; No. 65, 1966; No. 93, 1966 (as amended by No. 3, 1967); No. 99, 1968; No. 120, 1971; No. 31, 1973; No. 216, 1973 (as amended by No. 20, 1974); and 1974, No. 125.