



# Defence Housing Authority Act 1987

**No. 101 of 1987**

## **TABLE OF PROVISIONS**

### **PART I—PRELIMINARY**

#### **Section**

1. Short title
2. Commencement
3. Interpretation

### **PART II—ESTABLISHMENT, FUNCTION AND POWERS OF AUTHORITY**

4. Establishment
5. Function
6. Manner of performing function
7. Powers
8. Limitations on formation of companies etc.
9. Limitations on formation of partnerships
10. Limitations on participation in joint ventures

### **PART III—CONSTITUTION AND MEETINGS OF AUTHORITY**

11. Authority is body corporate etc.
12. Constitution
13. Chairperson may be referred to as Chairman or Chairwoman
14. Appointment of members
15. Term of office of appointed members
16. Appointed members hold office on part time basis
17. Remuneration and allowances of appointed members
18. Leave of absence
19. Resignation of appointed members
20. Disclosure of interests
21. Termination of appointment
22. Terms and conditions of appointment not provided for by Act
23. Acting appointments
24. Meetings
25. Resolutions without meetings
26. Committees

TABLE OF PROVISIONS—*continued*

Section

PART IV—OPERATION OF AUTHORITY

- 27. Corporate plan
- 28. Financial plans
- 29. Copies of corporate and financial plans to be given to Minister
- 30. Minister may vary corporate and financial plans
- 31. Directions to Authority
- 32. Reimbursement of cost of complying with directions

PART V—FINANCE

- 33. Capital structure of Authority
- 34. Capital of Authority
- 35. Payment of dividends to Commonwealth
- 36. Borrowings from Commonwealth
- 37. Borrowings otherwise than from Commonwealth
- 38. Guarantee of borrowings by Authority
- 39. Authority may give security
- 40. Borrowings not otherwise permitted
- 41. Guarantee of borrowings and raisings by wholly owned subsidiaries
- 42. Delegation by Treasurer
- 43. Application of Division 2 of Part XI of Audit Act
- 44. Audit of subsidiaries

PART VI—MANAGING DIRECTOR, STAFF AND CONSULTANTS

*Division 1—Managing Director*

- 45. Managing Director
- 46. Duties
- 47. Appointment
- 48. Term of office etc.
- 49. Managing Director not to engage in other paid employment
- 50. Remuneration and allowances
- 51. Leave of absence
- 52. Resignation
- 53. Disclosure of interests
- 54. Acting Managing Director
- 55. Exclusion of Managing Director etc. from certain deliberations
- 56. Terms and conditions of appointment not provided for by Act

*Division 2—Staff and consultants*

- 57. Staff
- 58. Consultants

PART VII—MISCELLANEOUS

- 59. Rents
- 60. Transfer of assets to Authority
- 61. Application of Lands Acquisition Act
- 62. Duties of Authority
- 63. Exemption from taxation
- 64. Delegation by Authority
- 65. Delegation by Managing Director
- 66. Delegation by chiefs of staff
- 67. Regulations



# Defence Housing Authority Act 1987

No. 101 of 1987

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## An Act to establish a Defence Housing Authority

[Assented to 6 November 1987]

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

### PART I—PRELIMINARY

#### Short title

1. This Act may be cited as the *Defence Housing Authority Act 1987*.

#### Commencement

2. This Act shall come into operation on a day to be fixed by Proclamation.

#### Interpretation

3. (1) In this Act, unless the contrary intention appears:  
“appoint” includes re-appoint;  
“appointed member” means the Chairperson or a member referred to in paragraph 12 (1) (e);

**“authorised auditor” means:**

- (a) the Auditor-General; or
- (b) a person authorised, in writing, by the Auditor-General for the purposes of section 44;

**“Authority” means the Defence Housing Authority;**

**“Chairperson” means the Chairperson of the Authority;**

**“chief of staff” means the Chief of Naval Staff, the Chief of the General Staff or the Chief of the Air Staff;**

**“designated office in the Department” means a Senior Executive Service office in the Department, being an office designated, in writing, by the Minister for the purpose of section 60;**

**“financial statements”, in relation to a company, means profit and loss accounts and balance sheets of the company, and includes statements, reports and notes (other than auditors’ reports or directors’ reports) attached to, or intended to be read with, any of those profit and loss accounts or balance sheets;**

**“house” includes:**

- (a) any building or part of a building that is used or intended to be used, in whole or in substantial part, for residential accommodation, whether consisting of:
  - (i) a single unit of accommodation;
  - (ii) 2 or more attached units of accommodation; or
  - (iii) multi-storey units of accommodation; and
- (b) outbuildings, fences, walls, permanent provision for lighting, for heating, for water supply, for drainage and for sewerage, and other appurtenances of a house (including a building or part of a building referred to in paragraph (a));

**“joint venture” means an undertaking carried on by 2 or more persons in common otherwise than as partners;**

**“Managing Director” means the Managing Director of the Authority;**

**“member” means a member of the Authority, and includes the Chairperson and Managing Director;**

**“securities” includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments or documents;**

**“share” means a share in the share capital of a corporation, and includes stock.**

**(2) The question whether a company is a subsidiary of the Authority shall be determined in the same manner as the question whether a corporation is a subsidiary of another corporation is determined for the purposes of the *Companies Act 1981*.**

**(3) A reference in this Act to dealing with securities includes a reference to:**

- (a) creating, executing, entering into, drawing, making, accepting, indorsing, issuing, discounting, selling, purchasing and reselling securities;
- (b) creating, selling, purchasing and reselling rights and options in relation to securities; and
- (c) entering into agreements and other arrangements in relation to securities.

## **PART II—ESTABLISHMENT, FUNCTION AND POWERS OF AUTHORITY**

### **Establishment**

**4.** An authority by the name of the Defence Housing Authority is established by this section.

### **Function**

**5. (1)** The function of the Authority is to provide adequate and suitable housing for:

- (a) members of the Defence Force and their families;
- (b) officers and employees of the Department and their families; and
- (c) other persons;

in order to meet the operational needs of the Defence Force and the requirements of the Department.

**(2)** The Authority shall provide such housing as the Minister, by notice in writing given to the Authority, directs is necessary for the Authority to provide in order to meet the operational needs of the Defence Force and the requirements of the Department.

### **Manner of performing function**

**6.** The Authority shall endeavour to perform its function in a manner that:

- (a) is in accordance with the policies of the Commonwealth; and
- (b) is in accordance with sound commercial practice.

### **Powers**

**7. (1)** The Authority has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions and, in particular, may:

- (a) purchase and otherwise acquire, and sell and otherwise dispose of:
  - (i) land and any interest in land; and
  - (ii) houses;
- (b) develop land;
- (c) build, demolish, alter, renovate, maintain, repair and improve houses;
- (d) convert buildings and other structures that are not houses into houses;

- (e) rent out, and generally manage and control:
  - (i) land and houses acquired by it; and
  - (ii) land and houses that are:
    - (A) owned or held under lease by the Commonwealth or a State or Territory; and
    - (B) made available to it;
- (f) determine and collect rents, fees and charges in relation to land and houses rented out by it;
- (g) evict tenants and otherwise recover possession of land and houses referred to in paragraph (e);
- (h) provide and improve amenities, facilities and services for persons living in houses rented out by it;
- (j) purchase and take on hire, and dispose of, plant, machinery, equipment and other goods;
- (k) hire out plant, machinery, equipment and other goods not immediately required by it;
- (m) make charges for work done, and services rendered, by it;
- (n) provide transport, accommodation, amenities, facilities and services for members of the staff of the Authority and their families;
- (p) enter into contracts;
- (q) appoint agents and attorneys and act as an agent for other persons;
- (r) engage consultants;
- (s) form, and participate in the formation of, companies;
- (t) enter into partnerships;
- (u) participate in joint ventures;
- (w) accept gifts, grants, bequests and devises made to it and act as trustee of money and other property vested in it on trust; and
- (x) do anything incidental to any of its powers.

(2) The Authority shall not, except with the written approval of the Minister, enter into a contract involving the payment by it of an amount exceeding \$6,000,000.

**Limitations on formation of companies etc.**

**8. (1)** The Authority shall not, without the written approval of the Minister:

- (a) subscribe for or purchase shares in, or debentures or other securities of, a company; or
- (b) form, or participate in the formation of, a company that would, upon its formation, be a subsidiary of the Authority.

**(2)** An approval under subsection (1):

- (a) may be of general application or may relate to a particular company or proposed company; and
- (b) may be given subject to specified conditions and restrictions.

(3) Subject to subsection (4), where the Authority subscribes for or purchases shares in, or debentures or other securities of, a company, the Minister shall:

- (a) cause to be prepared a statement setting out particulars of, and the reasons for, the subscription or purchase; and
- (b) cause a copy of the statement to be laid before each House of Parliament within 15 sitting days of that House after:
  - (i) subject to subparagraph (ii), the subscription or purchase takes place; or
  - (ii) if the Minister is of the opinion that the disclosure of the subscription or purchase would adversely affect the commercial interests of the Authority, the Minister ceases to be of that opinion.

(4) Where the Authority holds a controlling interest in a company, the Authority shall endeavour to ensure that the company does not do anything that the Authority itself is not empowered to do.

(5) Without limiting the generality of subsection (4), the Authority shall endeavour to ensure that a company in which it holds a controlling interest does not:

- (a) borrow money otherwise than from the Commonwealth; or
- (b) raise money otherwise than by borrowing;

except:

- (c) with the written approval of the Treasurer; and
- (d) on terms and conditions that are specified in, or consistent with, the approval.

(6) Subsection (5) applies to a borrowing or raising of money whether the money is borrowed or raised by dealing in securities or otherwise, and whether or not the money is borrowed or raised, in whole or in part, in a currency other than Australian currency.

(7) An approval may be given under subsection (5) in relation to a particular transaction or transactions in a class of transactions.

(8) For the purposes of subsection (5):

- (a) the issue by a company of an instrument acknowledging a debt in consideration of the payment or deposit of money or of the provision of credit; or
- (b) the obtaining of credit by a company;

shall, to the extent of the amount of that money or of that credit, as the case may be, be deemed to be a borrowing by the company.

#### **Limitations on formation of partnerships**

9. (1) The Authority shall not, without the written approval of the Minister, enter into partnership with another person.

(2) An approval under subsection (1):

- (a) may be of general application or may relate to a particular person or proposed partnership; and
  - (b) may be given subject to specified conditions and restrictions.
- (3) Subject to subsection (4), where the Authority enters into partnership with another person, the Minister shall:
- (a) cause to be prepared a statement setting out particulars of, and the reasons for, the partnership; and
  - (b) cause a copy of the statement to be laid before each House of the Parliament within 15 sitting days of that House after:
    - (i) subject to subparagraph (ii), the partnership is entered into; or
    - (ii) if the Minister is of the opinion that the disclosure of the partnership would adversely affect the commercial interests of the Authority, the Minister ceases to be of that opinion.
- (4) Where the Authority is able to control the things done by a partnership of which it is a member, the Authority shall endeavour to ensure that the partnership does not do anything that the Authority itself is not empowered to do.

**Limitations on participation in joint ventures**

**10. (1)** The Authority shall not, without the written approval of the Minister, participate in a joint venture.

- (2) An approval under subsection (1):
- (a) may be of general application or may relate to a particular proposed joint venture; and
  - (b) may be given subject to specified conditions and restrictions.
- (3) Subject to subsection (4), where the Authority enters into an agreement for a joint venture, the Minister shall:
- (a) cause to be prepared a statement setting out particulars of, and the reasons for, the joint venture; and
  - (b) cause a copy of the statement to be laid before each House of the Parliament within 15 sittings days of that House after:
    - (i) subject to subparagraph (ii), the agreement is entered into; or
    - (ii) if the Minister is of the opinion that the disclosure of the joint venture would adversely affect the commercial interests of the Authority, the Minister ceases to be of that opinion.
- (4) Where the Authority is able to control the things done by a joint venture in which it is a participant, the Authority shall endeavour to ensure that the joint venture does not do anything that the Authority itself is not empowered to do.



### **PART III—CONSTITUTION AND MEETINGS OF AUTHORITY**

#### **Authority is body corporate etc.**

**11. (1) The Authority:**

- (a) is a body corporate with perpetual succession;
- (b) shall have a common seal;
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

(2) The common seal of the Authority shall be kept in such custody as the Authority directs and shall not be used except as authorised by the Authority.

(3) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the common seal of the Authority appearing on a document and shall presume that it was duly affixed.

#### **Constitution**

**12. (1) The Authority consists of the following members:**

- (a) the Chairperson;
- (b) 3 members of the Defence Force, being the members for the time being holding the 3 appointments in the Defence Force designated, in writing, by the Governor-General for the purposes of this section;
- (c) an officer within the meaning of the *Public Service Act 1922*, being the occupant for the time being of such office in the Department as is designated, in writing, by the Governor-General for the purposes of this section;
- (d) the Managing Director; and
- (e) 3 other members.

(2) The performance of the function, and the exercise of the powers, of the Authority are not affected by reason only of vacancies in the membership of the Authority.

#### **Chairperson may be referred to as Chairman or Chairwoman**

**13.** The Chairperson may be referred to as the Chairman or Chairwoman, as the case requires.

#### **Appointment of members**

**14. (1)** The appointed members shall be appointed by the Governor-General.

(2) A person is not eligible for appointment as a member referred to in paragraph 12 (1) (e) unless the person appears to the Governor-General to be suitably qualified for appointment by virtue of expertise in one or more of the following fields:

- (a) housing operations;
- (b) property development or management;

- (c) business management;
- (d) real estate management;
- (e) finance;
- (f) building or construction management;
- (g) social planning.

(3) A person who has attained 65 years of age shall not be appointed as an appointed member.

(4) The appointment of a person as an appointed member is not invalid because of a defect or irregularity in connection with the person's appointment.

#### **Term of office of appointed members**

**15. (1)** An appointed member:

- (a) shall be appointed with effect from the day specified in the instrument of appointment; and
- (b) holds office, subject to this Act, for such term (not exceeding 3 years) as is specified in the instrument of appointment, but is eligible for re-appointment.

(2) If the member ceases to hold office before the end of the term of appointment, another person may, in accordance with this Act, be appointed in the member's place until the end of the term.

(3) An appointed member ceases to hold office on attaining 65 years of age.

#### **Appointed members hold office on part time basis**

**16.** Appointed members hold office on a part time basis.

#### **Remuneration and allowances of appointed members**

**17. (1)** An appointed member shall be paid such remuneration as is determined by the Remuneration Tribunal.

(2) An appointed member shall be paid such allowances as are prescribed.

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

#### **Leave of absence**

**18. (1)** The Minister may grant leave of absence to the Chairperson on such terms and conditions as the Minister considers appropriate.

(2) The Chairperson may grant leave of absence to another member on such terms and conditions as the Chairperson considers appropriate.

#### **Resignation of appointed members**

**19.** An appointed member may resign his or her office by writing signed by the member and delivered to the Governor-General.

**Disclosure of interests**

**20. (1)** A member who has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Authority (whether at a meeting or otherwise) shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Authority.

**(2)** A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Authority and the member shall not, unless the Minister or the Authority otherwise determines:

- (a)** be present during any deliberation of the Authority with respect to the matter; or
- (b)** take part in any decision of the Authority with respect to the matter.

**(3)** For the purpose of the making of a determination by the Authority under subsection (2) in relation to a member who has made a disclosure under subsection (1), any member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not:

- (a)** be present during any deliberation of the Authority for the purpose of making the determination; or
- (b)** take part in the making of the determination by the Authority.

**(4)** A member shall not be taken to have a pecuniary interest in a matter only because the member is the tenant of a house rented from the Authority.

**Termination of appointment**

**21. (1)** The Governor-General may terminate the appointment of an appointed member for misbehaviour or physical or mental incapacity.

**(2) If:**

- (a)** an appointed member becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b)** an appointed member, without reasonable excuse, contravenes section 20;
- (c)** the Chairperson is absent, except with the leave of the Minister, from 3 consecutive meetings of the Authority; or
- (d)** an appointed member (other than the Chairperson) is absent, except with the leave of the Chairperson, from 3 consecutive meetings of the Authority;

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

**Terms and conditions of appointment not provided for by Act**

**22.** An appointed member holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, in writing, by the Minister.

**Acting appointments**

**23. (1)** The Minister may appoint an appointed member referred to in paragraph 12 (1) (e) to act as Chairperson:

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

**(2)** The Minister may appoint a person to act as an appointed member referred to in paragraph 12 (1) (e):

- (a) during a vacancy in the office of such a member (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when such a member is acting as Chairperson, is absent from Australia or is, for any reason, unable to attend meetings of the Authority.

**(3)** An appointment of a person under subsection (1) or (2) may be expressed to have effect only in specified circumstances.

**(4)** A person appointed under subsection (1) or (2) to act during a vacancy in the office of Chairperson or another appointed member shall not continue to act for more than 6 months.

**(5) Where:**

- (a) a person is acting as Chairperson under paragraph (1) (b) or is acting as another appointed member under paragraph (2) (b); and
- (b) the office of Chairperson or other appointed member, as the case may be, becomes vacant;

then, subject to subsection (3) and paragraph (7) (b), the person may continue to act until:

- (c) the vacancy is filled; or
- (d) a period of 6 months from the day on which the vacancy occurs expires;

whichever happens first.

**(6)** A person acting as Chairperson or another appointed member has all the powers and duties of the Chairperson or other member, as the case may be.

**(7)** The Minister may:

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed to act as Chairperson or another appointed member; and

(b) terminate the appointment at any time.

(8) A person appointed to act as Chairperson or another appointed member may resign the appointment by writing signed by the person and delivered to the Minister.

(9) Anything done by or in relation to a person purporting to act as Chairperson or another appointed member is not invalid because:

- (a) the occasion for the appointment had not arisen;
- (b) there was a defect or irregularity in connection with the appointment;
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

### **Meetings**

**24. (1)** The Authority shall hold such meetings as are necessary for the efficient performance of its function.

(2) Subject to subsections (3) and (4), meetings of the Authority shall be held at such times and places as the Authority from time to time determines.

(3) The Chairperson:

- (a) may, at any time, convene a meeting of the Authority; and
- (b) shall, on receipt of a written request signed by not less than 3 other members, convene a meeting of the Authority.

(4) The Minister may, at any time, convene a meeting of the Authority.

(5) The Chairperson shall preside at all meetings of the Authority at which the Chairperson is present.

(6) If the Chairperson is not present at a meeting of the Authority, the members present shall appoint one of their number to preside at the meeting.

(7) At a meeting of the Authority:

- (a) 6 members constitute a quorum;
- (b) a question shall be decided by a majority of the votes of the members present and voting; and
- (c) the member presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(8) The Authority shall keep minutes of its proceedings.

(9) The Authority may invite a person to attend a meeting for the purpose of advising or informing it on any matter.

### **Resolutions without meetings**

**25. (1)** Where all of the members of the Authority sign a document containing a statement that they are in favour of a resolution in the terms set out in the document, a resolution in those terms shall be deemed to have been passed at a duly convened meeting of the Authority on the day on

which the document is signed, or, if the members do not sign it on the same day, on the day on which the last member signs the document.

(2) Two or more separate but identical documents, each of which is signed by one or more members, shall be deemed, for the purposes of subsection (1), to constitute the one document.

#### **Committees**

26. (1) The Authority may establish committees to assist it in the performance of its function and the exercise of its powers.

(2) A committee may be constituted wholly by members of the Authority or partly by members of the Authority and partly by other persons.

(3) The Authority may fix the number of members of a committee required to constitute a quorum at a meeting of the committee.

(4) A member of a committee who is not also a member of the Authority shall be paid such remuneration and allowances (if any) as the Minister determines, in writing.

(5) The office of member of a committee is not a public office within the meaning of the *Remuneration Tribunals Act 1973*.

(6) Section 20 applies to a member of a committee as if:

- (a) a reference in that section to the Authority were a reference to the committee; and
- (b) a reference in that section to a member were a reference to the member of the committee (whether or not the member of the committee is also a member of the Authority).

### **PART IV—OPERATION OF AUTHORITY**

#### **Corporate plan**

27. (1) The Authority:

- (a) shall, as soon as practicable after the commencement of this Act, prepare a corporate plan;
- (b) shall, as early as practicable before the commencement of each financial year (other than the financial year that is the earliest financial year to which the corporate plan relates), review and revise the corporate plan; and
- (c) may, at any other time, revise the corporate plan.

(2) The corporate plan as prepared under paragraph (1) (a) shall include a statement of the objectives of the Authority for:

- (a) if the plan is prepared in the first 9 months of a financial year, the financial year in which the plan is prepared and the 2 subsequent financial years; or
- (b) if the plan is prepared in the last 3 months of a financial year, the next financial year and the 2 subsequent financial years.

(3) The corporate plan as revised under paragraph (1) (b) shall include a statement of the objectives of the Authority for the earliest financial year to which the corporate plan as revised will relate and the 2 subsequent financial years.

(4) The corporate plan shall also outline the strategies and policies that the Authority intends to adopt in order to achieve its objectives.

**Financial plans**

**28. (1)** When the Authority is preparing the corporate plan under paragraph 27 (1) (a) or revising the corporate plan under paragraph 27 (1) (b), it shall prepare a financial plan that includes:

- (a) a forecast of its receipts and expenditures;
- (b) its financial targets for profits, rate of return and dividends; and
- (c) the performance indicators it has adopted;

for the earliest financial year to which the corporate plan or the corporate plan as so revised, as the case may be, will relate.

(2) In setting the financial targets, the Authority shall have regard to:

- (a) objectives and policies of the Commonwealth Government known to it, and any directions given to it by the Minister;
- (b) the need to earn a reasonable rate of return on assets used by it;
- (c) the need to maintain the extent of the Commonwealth's equity in it;
- (d) the need to establish and maintain a reasonable level of reserves having regard to:
  - (i) the estimated future demand for housing provided by it; and
  - (ii) the necessity of ensuring that housing provided by it is of an appropriate standard;
- (e) the expectation of the Commonwealth that it will pay a reasonable dividend on its capital; and
- (f) such other commercial considerations as it considers appropriate.

(3) For the purposes of paragraph (1) (c), a performance indicator may be in such terms as the Authority considers appropriate.

**Copies of corporate and financial plans to be given to Minister**

**29. (1)** The Authority shall, as soon as practicable after preparing the corporate plan, give the Minister a copy of the corporate plan, together with a copy of the financial plan that it prepared in preparing the corporate plan.

(2) The Authority shall, as soon as practicable after revising the corporate plan, give the Minister a copy of the corporate plan as revised, together with a copy of the financial plan (if any) that it prepared in revising the corporate plan.

**Minister may vary corporate and financial plans**

**30. (1)** Without limiting the generality of the Minister's powers under subsection 31 (2), the Minister may, by notice in writing given to the Authority, direct the Authority to:

- (a) vary the corporate plan; or
- (b) vary any financial targets of, or performance indicators adopted by, the Authority in the financial plan.

**(2)** In exercising his or her powers under paragraph (1) (b), the Minister shall have regard to:

- (a) the matters specified in paragraphs 28 (2) (a), (b), (c), (d) and (e); and
- (b) such other commercial considerations as the Minister considers appropriate.

**(3)** Where the Minister gives the Authority:

- (a) a direction under subsection (1); and
- (b) the reasons for the direction;

the Authority shall comply with the direction.

**Directions to Authority**

**31. (1)** Except as provided in this section or as otherwise expressly provided by this Act, the Authority is not subject to direction by or on behalf of the Commonwealth Government.

**(2)** Where the Minister is satisfied that it is desirable in the public interest to do so, the Minister may, by notice in writing to the Authority, give directions to the Authority with respect to the performance of its function and the exercise of its powers.

**(3)** The Authority shall comply with any direction under subsection (2).

**(4)** Where the Minister gives a direction to the Authority under subsection (2), the Authority shall include particulars of the direction in its annual report.

**Reimbursement of cost of complying with directions**

**32. (1)** Where the Authority satisfies the Minister that it has, during any period, suffered financial detriment as a result of complying with a direction under subsection 31 (2) (other than a direction the notice of which stated that the direction was in accordance with the general policy of the Commonwealth Government), the Authority is entitled to be reimbursed by the Commonwealth the amount that the Minister determines, in writing, to be the amount of the financial detriment suffered by the Authority during the period.

**(2)** The reference in subsection (1) to the Authority suffering financial detriment as a result of complying with a direction includes a reference to the Authority:



- (a) suffering a loss in complying with the direction;
- (b) incurring costs, in complying with the direction, greater than the costs that the Authority would otherwise have incurred; or
- (c) foregoing revenue, in complying with the direction, that the Authority would otherwise have received.

## **PART V—FINANCE**

### **Capital structure of Authority**

**33. (1)** Where, at any time:

- (a) land that is owned by the Commonwealth is transferred to the Authority under section 60;
- (b) land or houses that are owned or held under lease by the Commonwealth or a State or Territory are made available to the Authority under section 60; or
- (c) plant, machinery, equipment or other goods that are owned by the Commonwealth are transferred to the Authority under section 60;

the Minister shall, as soon as practicable after that time, determine, in writing:

- (d) the value of the land, houses, plant, machinery, equipment or goods, as the case may be, at that time; and
- (e) the amount that shall, in respect of the transfer or making available of the land, houses, plant, machinery, equipment or goods, as the case may be, be taken to be the amount of a loan (if any) made by the Commonwealth to the Authority.

**(2)** The Minister for Finance shall determine, in writing, the terms and conditions as to interest or otherwise of any such loan.

### **Capital of Authority**

**34. (1)** The capital of the Authority at any time is the sum of:

- (a) the values that have been determined under paragraph 33 (1) (d);
- (b) any amounts that have been paid to the Authority out of money appropriated by the Parliament for the purpose of providing capital for the Authority; and
- (c) any reserves resulting from the operations of the Authority (whether because of the retention of profits or otherwise) or from the revaluation of assets of the Authority;

less the sum of:

- (d) the amounts that have been determined under paragraph 33 (1) (e); and
- (e) any amounts of capital that have been repaid to the Commonwealth by the Authority.

(2) Interest is not payable to the Commonwealth on the capital of the Authority, but the capital of the Authority is repayable to the Commonwealth at such times, and in such amounts, as the Minister determines, in writing.

(3) In making a determination under subsection (2), the Minister shall have regard to any advice that the Authority has given in relation to its financial affairs.

**Payment of dividends to Commonwealth**

**35. (1)** The Authority shall, within 4 months after the end of each financial year, by notice in writing given to the Minister, recommend:

- (a) that it pay a specified dividend to the Commonwealth for that financial year; or
- (b) that it not pay a dividend to the Commonwealth for that financial year.

(2) In making the recommendation, the Authority shall have regard to:

- (a) the matters specified in paragraphs 28 (2) (a), (c), (d) and (e);
- (b) the extent of the Commonwealth's equity in the Authority; and
- (c) such other commercial considerations as the Authority considers appropriate.

(3) The Minister shall, within 30 days after receipt of the recommendation, by notice in writing given to the Authority:

- (a) if the recommendation is that the Authority pay a dividend to the Commonwealth for that financial year:
  - (i) approve the recommendation; or
  - (ii) direct the payment of a different specified dividend; or
- (b) if the recommendation is that the Authority not pay a dividend to the Commonwealth for that financial year:
  - (i) approve the recommendation; or
  - (ii) direct the payment of a specified dividend.

(4) In performing his or her functions under subsection (3), the Minister shall have regard to:

- (a) the matters specified in paragraphs 28 (2) (a), (c), (d) and (e);
- (b) the extent of the Commonwealth's equity in the Authority; and
- (c) such other commercial considerations as the Minister considers appropriate.

(5) The Authority shall, within 8 months after the end of each financial year (other than a year in relation to which the Minister has given a notice under subparagraph (3) (b) (i)) or within such further time as the Minister allows in writing, pay to the Commonwealth:

- (a) except in a case to which paragraph (b) applies—the dividend specified in the notice given by the Authority under paragraph (1) (a) in relation to the financial year; or

- (b) if the Minister has given notice to the Authority under subparagraph (3) (a) (ii) or (b) (ii) in relation to the financial year—the dividend specified in that notice.
- (6) A dividend for a financial year may be paid:
  - (a) out of the profits of the Authority for the financial year;
  - (b) out of the profits of the Authority for any earlier financial year; or
  - (c) partly out of profits of the Authority for the financial year and partly out of profits of the Authority for any earlier financial year.

**Borrowings from Commonwealth**

36. The Minister for Finance may, on behalf of the Commonwealth and out of money appropriated by the Parliament for the purpose, lend money to the Authority on such terms and conditions as the Minister for Finance, in writing, determines.

**Borrowings otherwise than from Commonwealth**

37. (1) The Authority may, with the written approval of the Treasurer:

- (a) borrow money otherwise than from the Commonwealth; or
- (b) raise money otherwise than by borrowing;

on terms and conditions that are specified in, or consistent with, the approval.

(2) Without limiting the generality of subsection (1), the Authority may, under that subsection, borrow money, or raise money otherwise than by borrowing, by dealing with securities.

(3) A borrowing of money, or a raising of money otherwise than by borrowing, under subsection (1) may be made, in whole or in part, in a currency other than Australian currency.

(4) An approval may be given under subsection (1) in relation to a particular transaction or transactions in a class of transactions.

(5) For the purposes of this section:

- (a) the issue by the Authority of an instrument acknowledging a debt in consideration of:
  - (i) the payment or deposit of money; or
  - (ii) the provision of credit;

otherwise than in relation to a transaction that is in the ordinary course of the day to day operations of the Authority, shall be deemed to be raising by the Authority, otherwise than by borrowing, of an amount of money equal to the amount of the money paid or deposited or the value of the credit provided, as the case may be; and

- (b) the obtaining of credit by the Authority otherwise than in relation to a transaction that is in the ordinary course of the day to day operations of the Authority shall be deemed to be a raising by the

Authority, otherwise than by borrowing, of an amount of money equal to the value of the credit so obtained.

**Guarantee of borrowings by Authority**

**38. (1)** The Treasurer may, on behalf of the Commonwealth, enter into a contract:

- (a) guaranteeing the repayment by the Authority of money borrowed under paragraph 37 (1) (a) and the payment by the Authority of interest (including any interest on that interest) on money so borrowed; or
- (b) guaranteeing the payment by the Authority of such amounts (which may be interest) that the Authority is liable to pay with respect to money raised under paragraph 37 (1) (b) as are specified in the contract.

**(2)** The Treasurer may, in writing, determine:

- (a) that the repayment by the Authority of money borrowed under paragraph 37 (1) (a), and the payment by the Authority of interest (including any interest on that interest) on money so borrowed, are guaranteed by the Commonwealth; or
- (b) that the payment by the Authority of such money (which may be interest) that the Authority is liable to pay with respect to money raised under paragraph 37 (1) (b) as is specified in the determination is guaranteed by the Commonwealth;

and, where the Treasurer makes such a determination, the repayment of that money and the payment of that interest are, or the payment of that money is, by force of this subsection, guaranteed by the Commonwealth.

**(3)** A contract may be entered into under subsection (1), and a determination may be made under subsection (2), in relation to a particular transaction or a class of transactions.

**(4)** A contract entered into under subsection (1) may include either or both of the following provisions:

- (a) a provision agreeing that proceedings under the contract may be taken in the courts, or a specified court, of a country other than Australia;
- (b) a provision waiving the immunity of the Commonwealth from suit in the courts, or a specified court, of a country other than Australia in relation to any proceedings that may be taken under the contract.

**Authority may give security**

**39.** The Authority may give security over the whole or any part of its land or other assets for:

- (a) the repayment of money borrowed under section 36 or paragraph 37 (1) (a) and the payment of interest (including any interest on that interest) on money so borrowed;

- (b) the payment of amounts (which may be interest) that it is liable to pay with respect to money raised under paragraph 37 (1) (b); or
- (c) the payment to the Commonwealth of amounts equal to any amounts that the Commonwealth may become liable to pay under a contract entered into under subsection 38 (1) or as a result of a determination made under subsection 38 (2).

**Borrowings not otherwise permitted**

**40.** The Authority shall not borrow money, or raise money otherwise than by borrowing, except in accordance with sections 36 and 37.

**Guarantee of borrowings and raisings by wholly owned subsidiaries**

**41. (1)** Where:

- (a) a body corporate that is a wholly owned subsidiary of the Authority:
  - (i) borrows money otherwise than from the Commonwealth; or
  - (ii) raises money otherwise than by borrowing; and
- (b) the money has been, or is to be, expended in connection with the objects of the body corporate;

then, whether the money is borrowed or raised by dealing in securities or otherwise, and whether or not the money is borrowed or raised, in whole or in part, in a currency other than Australian currency, this section applies to the borrowing or raising.

(2) Subject to subsection (4), the Treasurer may, on behalf of the Commonwealth, enter into a contract in relation to a borrowing or raising by a body corporate, being a borrowing or raising to which this section applies:

- (a) guaranteeing the repayment by the body corporate of the money borrowed and the payment by the body corporate of interest (including any interest on that interest) on the money borrowed; or
- (b) guaranteeing the payment by the body corporate of such amounts (which may be interest) that the body corporate is liable to pay with respect to the money raised as are specified in the contract.

(3) Subject to subsection (4) the Treasurer may, in writing, determine in relation to a borrowing or raising by a body corporate, being a borrowing or raising to which this section applies:

- (a) that the repayment by the body corporate of the money borrowed, and the payment by the body corporate of interest (including any interest on that interest) on the money so borrowed, are guaranteed by the Commonwealth; or
- (b) that the payment by the body corporate of such money (which may be interest) that the body corporate is liable to pay with respect to the money raised as is specified in the determination is guaranteed by the Commonwealth;

and, where the Treasurer makes such a determination, the repayment of that money and the payment of that interest are, or the payment of that money is, by force of this subsection, guaranteed by the Commonwealth.

(4) The Treasurer shall not enter into a contract under subsection (2), or make a determination under subsection (3), in relation to a borrowing or raising by a body corporate unless:

- (a) the Treasurer is satisfied that the terms and conditions of the borrowing or raising are reasonable;
- (b) if the borrowing or raising consists of, or includes, the issue of instruments—the issue of those instruments, and the form of those instruments, have been approved, in writing, by the Treasurer;
- (c) the Treasurer is satisfied that appropriate security has been, or is to be, given to the Commonwealth;
- (d) the Treasurer is satisfied that appropriate undertakings have been given by the body corporate that the property over which security has been, or is to be, given in accordance with paragraph (c):
  - (i) will be insured and kept insured to its full insurable value against all risks against which it is customary to insure;
  - (ii) will not be sold or made the subject of a mortgage or charge having priority over the security; and
  - (iii) will not be taken out of Australia for a destination outside Australia except after the giving of such security as the Treasurer approves in writing;
- (e) the Treasurer is satisfied that appropriate undertakings have been given by the body corporate that, while the contract or determination remains in force:
  - (i) officers of the Australian Public Service authorised in writing by the Minister will, at all reasonable times, have full and free access to the financial accounts of the body corporate; and
  - (ii) the body corporate will do everything in its power to ensure that officers of the Australian Public Service so authorised will, at all reasonable times, have full and free access to the financial accounts of any body, whether corporate or unincorporate, in which the body corporate has, whether directly or indirectly, a controlling interest;
- (f) the Treasurer is satisfied that appropriate undertakings have been given by the body corporate that any legal costs incurred by the Commonwealth in connection with the contract or determination will be met by the body corporate; and
- (g) such other conditions as the Treasurer considers necessary are fulfilled.

(5) A contract may be entered into under subsection (2), and a determination may be made under subsection (3), in relation to a particular transaction or a class of transactions.

(6) A contract entered into under subsection (2) may include either or both of the following provisions:

- (a) a provision agreeing that proceedings under the contract may be taken in the courts, or a specified court, of a country other than Australia;
- (b) a provision waiving the immunity of the Commonwealth from suit in the courts, or a specified court, of a country other than Australia in relation to any proceedings that may be taken under the contract.

(7) Where the Treasurer enters into a contract under subsection (2), or makes a determination under subsection (3), in relation to a borrowing or raising, the Treasurer shall cause to be laid before each House of the Parliament, within 15 sitting days of that House after the contract is entered into or the determination made, a notice specifying the amount and term of the borrowing or raising and such other information relating to the borrowing or raising, and the contract or determination, as the Treasurer considers appropriate.

(8) For the purposes of this section:

- (a) the issue by a body corporate of an instrument acknowledging a debt in consideration of the payment or deposit of money or of the provision of credit; or
- (b) the obtaining of credit by a body corporate;

shall, to the extent of the amount of that money or of that credit, as the case may be, be deemed to be a borrowing by the body corporate.

(9) For the purposes of subsection (1), a body corporate is a wholly owned subsidiary of the Authority if the body corporate is a subsidiary of the Authority and none of the members of the body corporate is a person other than:

- (a) the Authority;
- (b) a nominee of the Authority;
- (c) a subsidiary of the Authority, being a subsidiary none of the members of which is a person other than the Authority or a nominee of the Authority; or
- (d) a nominee of a subsidiary referred to in paragraph (c).

### **Delegation by Treasurer**

**42. (1)** The Treasurer may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Treasurer, delegate to a person holding or performing the duties of an office in the Department of the Treasury all or any of the powers of the Treasurer under subsection 8 (5) or this Part.

(2) A power so delegated, when exercised by the delegate, shall be deemed to have been exercised by the Treasurer.

(3) A delegate is, in the exercise of a power so delegated, subject to the written directions of the Treasurer.

(4) The delegation of a power under subsection (1) does not prevent the exercise of the power by the Treasurer.

**Application of Division 2 of Part XI of Audit Act**

43. (1) It is hereby declared that the Authority is a public authority to which Division 2 of Part XI of the *Audit Act 1901* applies.

(2) The Authority shall, in each annual report, include an evaluation of its overall performance compared to the financial targets of, and the performance indicators adopted by, the Authority for the year.

**Audit of subsidiaries**

44. (1) The Auditor-General shall audit the financial statements of each company that is a subsidiary of the Authority, and shall prepare and submit to the Minister a report of the result of the audit.

(2) The Auditor-General shall:

(a) inspect and audit:

(i) the accounts and records of financial transactions of each company that is a subsidiary of the Authority; and

(ii) the records relating to assets of, or in the custody of, each such company; and

(b) forthwith draw the Minister's attention to any irregularity disclosed by the inspection and audit that, in the opinion of the Auditor-General, is of sufficient importance to justify doing so.

(3) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in paragraph (2) (a).

(4) 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 paragraph (2) (a).

(5) An authorised auditor is entitled, at all reasonable times, to full and free access to all accounts and records of a company that is a subsidiary of the Authority, being accounts and records relating directly or indirectly to:

(a) the receipt or payment of money by the company; or

(b) the acquisition, receipt, custody or disposal of assets by the company.

(6) An authorised auditor may make copies of, or take extracts from, any accounts and records referred to in subsection (5).

(7) An authorised auditor may require any person to furnish such information in the possession of the person, or to which the person has access, as the authorised auditor considers necessary for the purposes of the functions of the Auditor-General under this section.

(8) A person who contravenes a requirement made under subsection (7) is guilty of an offence punishable, on conviction, by a fine not exceeding:

(a) if the person is a natural person—\$1,000; or



- (b) if the person is a body corporate—\$5,000.
- (9) Nothing in this section:
  - (a) affects the application to a company that is a subsidiary of the Authority of any law in force in a State or Territory relating to:
    - (i) the appointment of auditors; or
    - (ii) the powers and duties of auditors; or
  - (b) prevents:
    - (i) the appointment, under section 63P of the *Audit Act 1901*, of the Auditor-General as auditor of a company that is a subsidiary of the Authority; or
    - (ii) the inclusion in an arrangement under subparagraph 63P (1) (a) (i) or subsection 63P (2) of that Act relating to such an appointment of a provision for the payment of a fee by the company to the Commonwealth for the carrying out of an audit to which the arrangement relates.

## **PART VI—MANAGING DIRECTOR, STAFF AND CONSULTANTS**

### ***Division 1—Managing Director***

#### **Managing Director**

- 45.** There shall be a Managing Director of the Authority.

#### **Duties**

- 46.** (1) The Managing Director shall conduct the affairs of the Authority.
- (2) The Managing Director shall act in accordance with any policies determined by, and any directions given by, the Authority.
- (3) All acts and things done in the name of, or on behalf of, the Authority by the Managing Director shall be deemed to have been done by the Authority.

#### **Appointment**

- 47.** (1) The Managing Director shall be appointed by the Authority.
- (2) A person who has attained 65 years of age shall not be appointed as Managing Director.
- (3) The appointment of a person as Managing Director is not invalid because of a defect or irregularity in connection with the person's appointment.

#### **Term of office etc.**

- 48.** (1) The Managing Director:
- (a) shall be appointed with effect from the day specified in the instrument of appointment; and
  - (b) holds office during the Authority's pleasure.

(2) The Managing Director ceases to hold office on attaining 65 years of age.

**Managing Director not to engage in other paid employment**

49. The Managing Director shall not engage in paid employment outside the duties of the office except with the approval of the Authority.

**Remuneration and allowances**

50. (1) The Managing Director shall be paid such remuneration as is determined by the Remuneration Tribunal.

(2) The Managing Director shall be paid such allowances as are prescribed.

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

**Leave of absence**

51. The Chairperson may grant leave of absence to the Managing Director on such terms and conditions, whether as to remuneration or otherwise, as are determined by the Authority.

**Resignation**

52. The Managing Director may resign his or her office by writing signed by the Managing Director and delivered to the Chairperson.

**Disclosure of interests**

53. The Managing Director shall give written notice to the Chairperson of all direct or indirect pecuniary interests that the Managing Director has or acquires in any business or in any body corporate carrying on any business.

**Acting Managing Director**

54. (1) The Authority may appoint a person (other than a member) to act as Managing Director:

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

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

(2) The appointment may be expressed to have effect only in specified circumstances.

(3) Where:

- (a) a person is acting under paragraph (1) (b); and
- (b) the office of Managing Director becomes vacant;

then, subject to subsection (2) and paragraph (5) (b), the person may continue to act until:

- (c) the vacancy is filled; or
- (d) a period of 12 months from the day on which the vacancy occurred expires;

whichever happens first.

(4) A person acting as Managing Director has all the powers and duties of the Managing Director.

(5) The Authority may:

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed to act as Managing Director; and
- (b) terminate the appointment at any time.

(6) A person appointed to act as Managing Director may resign the appointment by writing signed by the person and delivered to the Chairperson.

(7) Anything done by or in relation to a person purporting to act as Managing Director is not invalid because:

- (a) the occasion for the appointment had not arisen;
- (b) there was a defect or irregularity in connection with the appointment;
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act as Managing Director had not arisen or had ceased.

#### **Exclusion of Managing Director etc. from certain deliberations**

55. (1) The Managing Director shall not be present during any deliberation of the Authority or a committee of the Authority, or take part in any decision of the Authority or a committee of the Authority, with respect to:

- (a) the appointment of a person as Managing Director;
- (b) the determination or application of any terms and conditions on which a person appointed as Managing Director holds office or may be granted leave;
- (c) the termination of the appointment of the Managing Director; or
- (d) the giving or refusing of approval for the Managing Director to engage in paid employment outside the duties of the office.

(2) A person appointed to act as Managing Director shall not be present during any deliberation of the Authority or a committee of the Authority, or take part in any decision of the Authority or a committee of the Authority, with respect to:

- (a) the appointment of a person as Managing Director or to act as Managing Director;

- (b) the determination or application of any terms and conditions on which the Managing Director, or a person appointed to act as Managing Director, holds office or may be granted leave;
- (c) the termination of the appointment of the person or the Managing Director; or
- (d) the giving or refusing of approval for the Managing Director, or a person acting as Managing Director, to engage in paid employment outside the duties of the office.

**Terms and conditions of appointment not provided for by Act**

**56.** The Managing Director holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined by the Authority.

***Division 2—Staff and consultants***

**Staff**

**57. (1)** The staff of the Authority shall be:

- (a) persons appointed or employed under the *Public Service Act 1922*; and
- (b) members of the Defence Force whose services are made available to the Authority under an arrangement between a chief of staff and the Authority.

(2) The Managing Director has all the powers of, or exercisable by, a Secretary under the *Public Service Act 1922*, in so far as those powers relate to the branch of the Australian Public Service comprising the staff referred to in paragraph (1) (a), as if that branch were a separate Department of the Australian Public Service.

(3) For the purposes of section 26 of the *Public Service Act 1922*, the Managing Director shall be deemed to be a Secretary.

**Consultants**

**58. (1)** The Authority may engage persons having suitable qualifications and experience as consultants to the Authority.

(2) The terms and conditions of engagement shall be determined by the Authority.

**PART VII—MISCELLANEOUS**

**Rents**

**59. (1)** The rent payable for any house let or leased by the Authority shall be such as the Authority, subject to this section and to section 6 and subsection 31 (3), determines from time to time, having regard to the prevailing market rents for houses.

(2) The Authority shall, as soon as practicable after the commencement of this Act:

- (a) determine, in writing, the principles in accordance with which it proposes to determine rents; and
- (b) inform the Minister, by notice in writing, of the principles that it has determined.

(3) Where the Authority varies the principles in accordance with which it determines rents, the Authority shall inform the Minister, by notice in writing, of the variation.

#### **Transfer of assets to Authority**

**60.** (1) The Minister, or the occupant of a designated office in the Department, may:

- (a) direct, in writing, that land that is owned by the Commonwealth is to be transferred to the Authority;
- (b) make available to the Authority land and houses that are owned or held under lease by the Commonwealth or a State or Territory; and
- (c) may cause any plant, machinery, equipment or other goods that are owned by the Commonwealth to be transferred to the Authority.

(2) Where the Minister, or the occupant of a designated office in the Department, directs under subsection (1) that land owned by the Commonwealth is to be transferred to the Authority, the land (including all rights, title and interests in the land), together with any buildings or structures on the land, is vested in the Authority without any conveyance, transfer or assignment.

(3) Where:

- (a) land vests in the Authority under this section; and
- (b) a certificate that:

- (i) is signed by an officer of the Attorney-General's Department authorised in writing by the Secretary to that Department to give such certificates;
- (ii) identifies the land, whether by reference to a map or otherwise; and
- (iii) states that the land is vested in the Authority under this section;

is lodged with the Registrar-General, Registrar of Titles or other proper officer of the State or Territory in which the land is situated; the officer with whom the certificate is lodged may:

- (c) register the vesting in like manner to the manner in which dealings in land are registered; and
- (d) may deal with, and give effect to, the certificate;

as if it were a grant, conveyance, memorandum or instrument of transfer of the land (including all rights, title and interest in the land) to the Authority

that had been duly executed under the laws in force in the State or Territory.

(4) Where, under subsection (1), the Minister, or the occupant of a designated office in the Department, makes land or houses available to the Authority, the Minister, or the occupant of a designated office in the Department, may:

- (a) give directions, in writing, to the Authority with respect to its management and control of the land or houses; and
- (b) determine, in writing, the period for which the land is, or the houses are, made available to the Authority.

#### **Application of Lands Acquisition Act**

61. The *Lands Acquisition Act 1955* does not apply in relation to the Authority.

#### **Duties of Authority**

62. Nothing in this Act shall be taken to impose on the Authority a duty that is enforceable by proceedings in a court.

#### **Exemption from taxation**

63. (1) Subject to subsection (4), the Authority is not subject to taxation under the laws of the Commonwealth or of a State or Territory.

(2) The Minister may, by notice in writing published in the *Gazette*, declare that stamp duty, or a similar tax specified in the notice, is not payable by the Authority or any other person under a law of the Commonwealth or of a State or Territory in respect of:

- (a) a security dealt with by the Authority;
- (b) the issue, redemption, transfer, sale, purchase, resale, acquisition or discounting of a security by the Authority or any other person (other than a transaction done without consideration or for an inadequate consideration);
- (c) any other transaction done for the purposes of a borrowing, or a raising of money otherwise than by borrowing, by the Authority; or
- (d) any other document executed by or on behalf of the Authority for the purposes of a borrowing, or a raising of money otherwise than by borrowing, by the Authority.

(3) A declaration may be made under subsection (2) in relation to:

- (a) a particular security, transaction or document; or
- (b) securities, transactions or documents in a class of securities, transactions or documents, as the case may be.

(4) Subject to subsection (2), the regulations may provide that subsection (1) does not apply in relation to:

- (a) a specified law of the Commonwealth or of a State or Territory; or

- (b) laws in a specified class of laws of the Commonwealth or of a State or Territory.

(5) Nothing in subsections (1), (3) or (4) shall be read as implying that a company in which the Authority has an interest, or that is a partner of the Authority or a participant in a joint venture agreement with the Authority, is not liable to pay taxes under any law of the Commonwealth or of a State or Territory.

#### **Delegation by Authority**

64. (1) The Authority may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate all or any of its powers under this Act (other than this power of delegation) to:

- (a) a committee of the Authority;
- (b) a member of the Authority; or
- (c) a member of the staff of the Authority.

(2) A power delegated under subsection (1) shall, when exercised by the delegate, be deemed to have been exercised by the Authority.

(3) The delegate is, in the exercise of a power delegated under subsection (1), subject to the directions of the Authority.

(4) The delegation of a power under subsection (1) does not prevent the exercise of the power by the Authority.

#### **Delegation by Managing Director**

65. (1) The Managing Director may, either generally or as otherwise provided by the instrument of delegation, by writing, delegate to a member of the staff of the Authority all or any of his or her powers under this Act, other than this power of delegation.

(2) A power delegated under subsection (1) shall, when exercised by the delegate, be deemed to have been exercised by the Managing Director.

(3) The delegate is, in the exercise of a power delegated under subsection (1), subject to the directions of the Managing Director.

(4) The delegation of a power under subsection (1) does not prevent the exercise of the power by the Managing Director.

#### **Delegation by chiefs of staff**

66. (1) The Chief of Naval Staff may, by writing, delegate to an officer of the Navy all or any of his or her powers under this Act, other than this power of delegation.

(2) The Chief of the General Staff may, by writing, delegate to an officer of the Army all or any of his or her powers under this Act, other than this power of delegation.

(3) The Chief of the Air Staff may, by writing, delegate to an officer of the Air Force all or any of his or her powers under this Act, other than this power of delegation.

(4) A delegation under this section may be made either generally or as otherwise provided in the instrument of delegation.

(5) A power delegated under this section shall, when exercised by the delegate, be deemed to have been exercised by the person who made the delegation.

(6) The delegate is, in the exercise of a power delegated under this section, subject to the directions of the person who made the delegation.

(7) The delegation of a power under this section does not prevent the exercise of the power by the person who made the delegation.

### **Regulations**

67. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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*[Minister's second reading speech made in—  
Senate on 15 September 1987  
House of Representatives on 27 October 1987]*