Housing Australia Future Fund Act 2023

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About this compilation

This compilation

This is a compilation of the *Housing Australia Future Fund Act 2023* that shows the text of the law as amended and in force on 1 July 2026 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au).

Application, saving and transitional provisions

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. Any modifications affecting the law are accessible on the Register.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to establish the Housing Australia Future Fund, and for other purposes

Part 1—Preliminary

1 Short title

This Act is the *Housing Australia Future Fund Act 2023*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

Column 1	Column 2	Column 3
Provisions	**Commencement**	**Date/Details**
1. The whole of this Act	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 November 2023 (F2023N00456)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

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2A Object

The object of this Act is to provide a funding mechanism:

(a) to address acute housing needs, including the acute housing needs of:
  (i) Indigenous persons; and
  (ii) women; and
  (iii) children; and
  (iv) veterans; and

(b) to enable support to be provided to increase the availability of social housing and affordable housing.

3 Simplified outline of this Act

- This Act establishes the Housing Australia Future Fund, which will enhance the Commonwealth's ability to:
  (a) make grants in relation to acute housing needs, social housing or affordable housing; and
  (b) make payments to Housing Australia for the purposes of enabling Housing Australia to make grants and loans in relation to acute housing needs, social housing or affordable housing.

- The Housing Australia Future Fund consists of:
  (a) the Housing Australia Future Fund Special Account; and
  (b) the investments of the Housing Australia Future Fund.

- The Future Fund Board is responsible for deciding how to invest the Housing Australia Future Fund. In doing so, the Future Fund Board is bound by the Housing Australia Future Fund Investment Mandate given to it by the responsible Ministers.

- A grant may be made in relation to acute housing needs, social housing or affordable housing.

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- This Act establishes the Housing Australia Future Fund Payments Special Account.
- Amounts will be transferred from the Housing Australia Future Fund Special Account to the Housing Australia Future Fund Payments Special Account.
- The purpose of the Housing Australia Future Fund Payments Special Account is to make grants in relation to acute housing needs.
- Amounts will be transferred from the Housing Australia Future Fund Special Account to the Federation Reform Fund for the purposes of making grants to the States and Territories in relation to acute housing needs, social housing or affordable housing.
- Amounts will be transferred from the Housing Australia Future Fund Special Account to the Housing Australia Special Account for the purposes of enabling Housing Australia to make grants and loans in relation to acute housing needs, social housing or affordable housing.

4 Definitions

In this Act:

Aboriginal person has the same meaning as in the *Aboriginal and Torres Strait Islander Act 2005*.

acquire includes acquire by way of issue.

Agency means the Future Fund Management Agency.

Appropriation Act means an Act appropriating money for expenditure out of the Consolidated Revenue Fund.

asset has the same meaning as in the *Future Fund Act 2006*.

balance of the Housing Australia Future Fund means the sum of:

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(a) amounts standing to the credit of the Housing Australia Future Fund Special Account; and
(b) the value of investments of the Housing Australia Future Fund.

bank has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

business entity means:
(a) a company; or
(b) a partnership; or
(c) a trust; or
(d) a body politic.

child: without limiting who is a child of another person for the purposes of this Act, a person is the ***child*** of another person if the person is a child of the other person within the meaning of the *Family Law Act 1975*.

Commonwealth employee means:
(a) a person who is employed by the Commonwealth or an authority of the Commonwealth; or
(b) a person who holds, or is acting in, an office under:
(i) a law of the Commonwealth; or
(ii) the Constitution.

Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

constitutional corporation means a corporation to which paragraph 51(xx) of the Constitution applies.

de facto partner of a person has the meaning given by the *Acts Interpretation Act 1901*.

derivative means a derivative (within the meaning of Chapter 7 of the *Corporations Act 2001*) that is a financial asset.

designated annual amount has the meaning given by section 33B.

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designated Minister means:

(a) the Housing Minister; or

(b) the Indigenous Australians Minister; or

(c) the Social Services Minister; or

(d) the Veterans' Affairs Minister.

Executive Agency has the same meaning as in the *Public Service Act 1999*.

family member of a person means:

(a) the person's spouse; or

(b) the person's de facto partner; or

(c) a child or step-child of the person.

Federation Reform Fund means the Federation Reform Fund established by section 5 of the *Federation Reform Fund Act 2008*.

Finance Department means the Department administered by the Finance Minister.

Finance Minister has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

financial asset has the same meaning as in the *Future Fund Act 2006*.

Future Fund Board means the Future Fund Board of Guardians established by section 34 of the *Future Fund Act 2006*.

Future Fund Special Account means the Future Fund Special Account established by section 12 of the *Future Fund Act 2006*.

Housing Australia Future Fund means the Housing Australia Future Fund established by section 9.

Housing Australia Future Fund investment function of the Future Fund Board means:

(a) a function or power conferred on the Future Fund Board by section 39, 40, 47, 49, 51 or 52; or

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(b) a right or power conferred on the Future Fund Board in its capacity as the holder of an investment of the Housing Australia Future Fund.

Housing Australia Future Fund Investment Mandate has the meaning given by subsection 41(3).

Housing Australia Future Fund Payments Special Account means the Housing Australia Future Fund Payments Special Account established by section 25.

Housing Australia Future Fund Special Account means the Housing Australia Future Fund Special Account established by section 10.

Housing Australia Special Account means the Housing Australia Special Account established by section 47A of the *Housing Australia Act 2018*.

Housing Minister means:

(a) the Minister declared by the Prime Minister, by notifiable instrument, to be the Housing Minister for the purposes of this Act; or

(b) if no declaration is in force under paragraph (a)—the Minister who administers the *Housing Australia Act 2018*.

Indigenous Australians Minister means the Minister who administers the *Aboriginal and Torres Strait Islander Act 2005*.

Indigenous person means:

(a) an Aboriginal person; or

(b) a Torres Strait Islander.

investment means any mode of application of money or financial assets for the purpose of gaining a return (whether by way of income, capital gain or any other form of return).

investment manager means a person or body (other than the Agency) who undertakes to do any or all of the following:

(a) invest amounts on behalf of the Future Fund Board;

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(b) manage the investment of funds on behalf of the Future Fund Board;
(c) acquire derivatives on behalf of the Future Fund Board;
(d) manage derivatives on behalf of the Future Fund Board;
(e) enter into securities lending arrangements on behalf of the Future Fund Board;
(f) realise financial assets on behalf of the Future Fund Board;
(g) perform custodial functions in relation to the financial assets of the Future Fund Board.

investment of the Housing Australia Future Fund means a financial asset that, under a provision of this Act, is taken to be an investment of the Housing Australia Future Fund.

official of a Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

person includes a partnership.

Note: See also subsection 2C(1) of the *Acts Interpretation Act 1901*.

realise includes redeem or dispose of.

responsible Ministers means:
(a) the Treasurer; and
(b) the Finance Minister.

rules means rules made under section 66.

Social Services Minister means the Minister who administers section 1 of the *Social Security Act 1991*.

stepchild: without limiting who is a stepchild of another person for the purposes of this Act, a child of a de facto partner of the other person is the ***stepchild*** of the other person if the child would be the other person's stepchild except that the other person is not legally married to the partner.

Torres Strait Islander has the same meaning as in the *Aboriginal and Torres Strait Islander Act 2005*.

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Treasury Department means the Department administered by the Treasurer.

value of an investment of the Housing Australia Future Fund means the market value of the investment. For this purpose, disregard anything that would prevent or restrict conversion of a financial asset to money.

veteran has the same meaning as in the *Australian Veterans' Recognition (Putting Veterans and Their Families First) Act 2019*.

Veterans' Affairs Minister means the Minister who administers section 1 of the *Military Rehabilitation and Compensation Act 2004*.

5 Crown to be bound

(1) This Act binds the Crown in each of its capacities.

(2) This Act does not make the Crown liable to be prosecuted for an offence.

6 Extension to external Territories

This Act extends to every external Territory.

7 Extra-territorial application

This Act extends to acts, omissions, matters and things outside Australia.

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Part 2—Housing Australia Future Fund

Division 1—Introduction

8 Simplified outline of this Part

- The Housing Australia Future Fund consists of:
  - (a) the Housing Australia Future Fund Special Account; and
  - (b) the investments of the Housing Australia Future Fund.
- $10 billion is to be credited to the Housing Australia Future Fund Special Account.
- The responsible Ministers may determine that additional amounts be credited to the Housing Australia Future Fund Special Account.
- Each of the following is a purpose of the Housing Australia Future Fund Special Account:
  - (a) to transfer amounts to the Housing Australia Future Fund Payments Special Account for the purposes of making grants in relation to acute housing needs;
  - (b) to transfer amounts to the Federation Reform Fund for the purposes of making grants to the States and Territories in relation to acute housing needs, social housing or affordable housing;
  - (c) to transfer amounts to the Housing Australia Special Account for the purposes of enabling Housing Australia to make grants and loans in relation to acute housing needs, social housing or affordable housing.
- The Housing Australia Future Fund Special Account can be debited in relation to costs and other obligations incurred by the Future Fund Board in managing the Housing Australia Future Fund.

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Division 2—Establishment of the Housing Australia Future Fund and the Housing Australia Future Fund Special Account

9 Establishment of the Housing Australia Future Fund

(1) The Housing Australia Future Fund is established by this section.

(2) The Housing Australia Future Fund consists of:
  (a) the Housing Australia Future Fund Special Account; and
  (b) the investments of the Housing Australia Future Fund.

10 Establishment of the Housing Australia Future Fund Special Account

(1) The Housing Australia Future Fund Special Account is established by this section.

(2) The Housing Australia Future Fund Special Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

Note: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a special account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the special account), then amounts may be debited against the appropriation for that item and credited to that special account.

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Division 3—Credits of amounts to the Housing Australia Future Fund Special Account

11 Credits of amounts

(1) $10 billion is to be credited to the Housing Australia Future Fund Special Account as soon as practicable after the commencement of this section.

(2) The responsible Ministers may, by writing, determine that:

(a) a specified amount is to be credited to the Housing Australia Future Fund Special Account on a specified day; or

(b) a specified amount is to be credited to the Housing Australia Future Fund Special Account in specified instalments on specified days.

Note 1: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Note 2: Amounts must also be credited to the Housing Australia Future Fund Special Account under sections 26, 30, 31, 33, 40, 51 and 53.

(3) A determination under subsection (2) is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination.

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Division 4—Debits of amounts from the Housing Australia Future Fund

12 Main purposes of the Housing Australia Future Fund Special Account

Each of the following is a purpose of the Housing Australia Future Fund Special Account:

(a) to transfer amounts to the Housing Australia Future Fund Payments Special Account in accordance with section 26 for the purposes of making grants under subsection 18(1);

(b) to transfer amounts to the Federation Reform Fund in accordance with section 29 for the purposes of making grants to the States and Territories under subsection 18(3);

(c) to transfer amounts to the Housing Australia Special Account in accordance with sections 33 and 33A.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

13 Purposes of the Housing Australia Future Fund Special Account—purposes related exclusively to the investments etc. of the Housing Australia Future Fund

Each of the following is a purpose of the Housing Australia Future Fund Special Account:

(a) paying the costs of, or incidental to, the acquisition of financial assets under section 39;

(b) paying expenses of an investment of the Housing Australia Future Fund;

(c) paying the costs of, or incidental to, the acquisition of derivatives under section 49;

(d) paying or discharging the costs, expenses and other obligations incurred by the Future Fund Board under a contract between the Board and an investment manager engaged under subsection 52(1);

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(e) paying or discharging the costs, expenses and other obligations incurred in connection with the establishment, maintenance or operation of a bank account of the Future Fund Board, if the bank account relates exclusively to the Housing Australia Future Fund;

(f) paying a premium in respect of a contract of insurance entered into by the Future Fund Board exclusively in connection with the Housing Australia Future Fund;

(g) paying or discharging any other costs, expenses, obligations or liabilities incurred by the Future Fund Board exclusively in connection with the Housing Australia Future Fund.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

14 Purposes of the Housing Australia Future Fund Special Account—purposes not related exclusively to the Housing Australia Future Fund

Each of the following is a purpose of the Housing Australia Future Fund Special Account:

(a) paying or discharging the costs, expenses and other obligations incurred in connection with the establishment, maintenance or operation of a bank account of the Future Fund Board, if those costs, expenses or obligations are not covered by:

(i) paragraph 13(e); or

(ii) paragraph 2(1)(g) of Schedule 2 to the *Future Fund Act 2006*; or

(iii) paragraph 15(e) of the *Disaster Ready Fund Act 2019*; or

(iv) paragraph 16(e) of the *Future Drought Fund Act 2019*; or

(v) paragraph 18(e) of the *Medical Research Future Fund Act 2015*; or

(vi) paragraph 15(e) of the *DisabilityCare Australia Fund Act 2013*; or

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(vii) paragraph 15(e) of the *Aboriginal and Torres Strait Islander Land and Sea Future Fund Act 2018*;

(b) paying a premium in respect of a contract of insurance entered into by the Future Fund Board, if the premium is not covered by:

(i) paragraph 13(f); or

(ii) paragraph 2(1)(h) of Schedule 2 to the *Future Fund Act 2006*; or

(iii) paragraph 15(f) of the *Disaster Ready Fund Act 2019*; or

(iv) paragraph 16(f) of the *Future Drought Fund Act 2019*; or

(v) paragraph 18(f) of the *Medical Research Future Fund Act 2015*; or

(vi) paragraph 15(f) of the *DisabilityCare Australia Fund Act 2013*; or

(vii) paragraph 15(f) of the *Aboriginal and Torres Strait Islander Land and Sea Future Fund Act 2018*;

(c) paying or discharging any other costs, expenses, obligations or liabilities incurred by the Future Fund Board, if the costs, expenses, obligations or liabilities are not covered by:

(i) a paragraph of section 13; or

(ii) a paragraph of subclause 2(1) of Schedule 2 to the *Future Fund Act 2006*; or

(iii) a paragraph of section 15 of the *Disaster Ready Fund Act 2019*; or

(iv) a paragraph of section 16 of the *Future Drought Fund Act 2019*; or

(v) a paragraph of section 18 of the *Medical Research Future Fund Act 2015*; or

(vi) a paragraph of section 15 of the *DisabilityCare Australia Fund Act 2013*; or

(vii) a paragraph of section 15 of the *Aboriginal and Torres Strait Islander Land and Sea Future Fund Act 2018*;

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(d) paying remuneration and allowances of Future Fund Board members;

(e) paying remuneration, and other employment-related costs and expenses, in respect of members of the staff of the Agency;

(f) paying or discharging the costs, expenses and other obligations incurred by the Commonwealth or the Future Fund Board:

(i) under a contract entered into under section 78 or 82 of the *Future Fund Act 2006*; or

(ii) in connection with the operation of the Agency.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

15 Future Fund Board must ensure that the balance of the Housing Australia Future Fund Special Account is sufficient to cover authorised debits etc.

The Future Fund Board must take all reasonable steps to ensure that the balance of the Housing Australia Future Fund Special Account is sufficient to cover the debits of amounts for the purposes specified in sections 12, 13 and 14.

Note: This may require the Future Fund Board to realise an investment of the Housing Australia Future Fund in accordance with section 40.

16 Transfers from the Housing Australia Future Fund to the Future Fund

(1) If an amount is debited from the Future Fund Special Account for a purpose mentioned in subclause 2(2) of Schedule 2 to the *Future Fund Act 2006*, the Finance Minister may, by writing, direct that, on a specified day, a specified amount is to be:

(a) debited from the Housing Australia Future Fund Special Account; and

(b) credited to the Future Fund Special Account.

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(2) The specified amount must not exceed the amount debited from the Future Fund Special Account as mentioned in subsection (1).

(3) A direction under subsection (1) is not a legislative instrument.

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Part 3—Grants

Division 1—Introduction

17 Simplified outline of this Part

- A grant may be made in relation to acute housing needs, social housing or affordable housing.
- This Part establishes the Housing Australia Future Fund Payments Special Account.
- Amounts will be transferred from the Housing Australia Future Fund Special Account to the Housing Australia Future Fund Payments Special Account.
- The purpose of the Housing Australia Future Fund Payments Special Account is to make grants in relation to acute housing needs.
- Amounts will be transferred from the Housing Australia Future Fund Special Account to the Federation Reform Fund for the purposes of making grants to the States and Territories in relation to acute housing needs, social housing or affordable housing.

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Division 2—Grants

18 Grants

Grants to persons or bodies other than a State or Territory

(1) A designated Minister may, on behalf of the Commonwealth, make a grant of financial assistance to a person or body in relation to acute housing needs.

Note: See also section 22 (constitutional limits).

(2) Subsection (1) does not authorise the making of a grant of financial assistance to a State or Territory.

Grants to a State or Territory

(3) A designated Minister may, on behalf of the Commonwealth, make a grant of financial assistance to a State or Territory in relation to any of the following:
  (a) acute housing needs;
  (b) social housing;
  (c) affordable housing.

Other matters

(4) A grant under subsection (1) or (3) may be made by way of the reimbursement, or partial reimbursement, of costs or expenses.

(5) Subsection (4) does not limit subsection (1) or (3).

(6) Subsections (1) and (3) do not authorise the making of a loan.

(7) A grant under subsection (1) must not be made to a person or body unless the person or body has applied for the grant.

(8) A grant under subsection (1) or (3) must not be made before 1 July 2023.

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19 Terms and conditions of grants

Scope

(1) This section applies to a grant of financial assistance made under section 18.

Terms and conditions

(2) The terms and conditions on which that financial assistance is granted must be set out in a written agreement between the Commonwealth and the grant recipient.

Note: See also section 22 (constitutional limits).

(3) The grant recipient must comply with the terms and conditions.

(4) Without limiting subsection (2), the terms and conditions must provide for the circumstances in which the grant recipient must repay amounts to the Commonwealth.

Note: An amount repayable to the Commonwealth would be a debt due to the Commonwealth.

(5) An agreement under subsection (2) is to be entered into by a designated Minister on behalf of the Commonwealth.

20 Designated Minister has powers etc. of the Commonwealth

Scope

(1) This section applies to a section 18 grant made by a designated Minister on behalf of the Commonwealth.

Powers etc.

(2) The designated Minister, on behalf of the Commonwealth, has all the rights, responsibilities, duties and powers of the Commonwealth in relation to the Commonwealth's capacity as the grantor of the grant.

(3) Without limiting subsection (2):

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(a) the grant is to be paid by the designated Minister on behalf of the Commonwealth; and
(b) an amount payable to the Commonwealth by way of the repayment of the whole or a part of the grant is to be paid to the designated Minister on behalf of the Commonwealth; and
(c) the designated Minister may institute an action or proceeding on behalf of the Commonwealth in relation to a matter that concerns the grant.

21 Conferral of powers on a designated Minister

A designated Minister may exercise a power conferred on the designated Minister by an agreement under section 19.

22 Constitutional limits—grants to persons or bodies other than a State or Territory

A designated Minister may exercise a power conferred on the designated Minister by subsection 18(1) or section 19 (so far as that section relates to a subsection 18(1) grant) only:

(a) with respect to a Territory; or
(b) with respect to implementing any of Australia's international obligations under:
  (i) the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006; or
  (ii) the Convention on the Elimination of All Forms of Discrimination against Women done at New York on 18 December 1979; or
  (iii) the Convention on the Rights of the Child done at New York on 20 November 1989; or
(c) with respect to the granting of financial assistance to a constitutional corporation for the purposes of carrying out the corporation's activities; or
(d) with respect to housing for Indigenous persons; or
(e) with respect to housing for:
  (i) veterans; or

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(ii) veterans and their family members; or

(f) with respect to housing for aliens (within the meaning of paragraph 51(xix) of the Constitution); or

(g) with respect to housing provided by way of:

(i) an unemployment benefit; or

(ii) a sickness benefit; or

(iii) a benefit to students; or

(h) with respect to housing for:

(i) Commonwealth employees; or

(ii) Commonwealth employees and their family members.

Note 1: The Convention on the Rights of Persons with Disabilities is in Australian Treaty Series 2008 No. 12 ([2008] ATS 12) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

Note 2: The Convention on the Elimination of All Forms of Discrimination against Women is in Australian Treaty Series 1983 No. 9 ([1983] ATS 9) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

Note 3: The Convention on the Rights of the Child is in Australian Treaty Series 1991 No. 4 ([1991] ATS 4) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

23 Executive power of the Commonwealth

This Division does not, by implication, limit the executive power of the Commonwealth.

24 Publication of information relating to grants

(1) A designated Minister must cause the following information to be published on the website of the Department, or an Executive Agency, administered by the designated Minister:

(a) each amount paid by the Commonwealth as a section 18 grant made by the designated Minister on behalf of the Commonwealth;

(b) the total of the amounts referred to in paragraph (a);

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(c) the total of the amounts payable, but not yet paid, by the Commonwealth as a section 18 grant made by the designated Minister on behalf of the Commonwealth;

(d) for each section 18 grant made by the designated Minister on behalf of the Commonwealth to a person (other than an individual) or body—the following information:

(i) the name of the person or body;

(ii) the purpose of the grant;

(e) the date of the most recent amount paid by the Commonwealth as a section 18 grant made by the designated Minister on behalf of the Commonwealth.

(2) The information published under subsection (1) must be kept up-to-date.

(3) For the purposes of subsection (2), information is up-to-date if it is published as soon as practicable.

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Division 3—Housing Australia Future Fund Payments Special Account

25 Housing Australia Future Fund Payments Special Account

(1) The Housing Australia Future Fund Payments Special Account is established by this section.

(2) The Housing Australia Future Fund Payments Special Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

Note: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a special account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the special account), then amounts may be debited against the appropriation for that item and credited to that special account.

(3) The Secretary of the Treasury Department is responsible for the Housing Australia Future Fund Payments Special Account.

26 Transfers from the Housing Australia Future Fund Special Account to the Housing Australia Future Fund Payments Special Account

(1) If a designated Minister decides that one or more grants should be made under subsection 18(1) during a financial year beginning on or after 1 July 2023, the designated Minister may, during the financial year, request the Finance Minister to transfer a specified amount (which must equal the total amount of the grants) from the Housing Australia Future Fund Special Account to the Housing Australia Future Fund Payments Special Account.

Note: For a grant to a State or Territory, see section 29 (channelling State/Territory grants through the Federation Reform Fund).

(2) A designated Minister must not make more than one request under subsection (1) in relation to a particular subsection 18(1) grant.

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(3) To avoid doubt, a designated Minister may make 2 or more requests under subsection (1) during a financial year.

Transfer

(4) If:

(a) during a financial year, a designated Minister requests the Finance Minister under subsection (1) to transfer an amount from the Housing Australia Future Fund Special Account to the Housing Australia Future Fund Payments Special Account; and

(b) the Finance Minister is satisfied that the transfer will not:

(i) if the financial year is the financial year beginning on 1 July 2023—contravene section 36 (annual limit); or

(ii) if the financial year is a financial year beginning on or after 1 July 2024—cause the total amount debited from the Housing Australia Future Fund Special Account under this section and sections 29 and 33 during the financial year to exceed the designated annual amount for the financial year;

the Finance Minister must, in writing, direct that a specified amount (which must equal the requested amount) is to be:

(c) debited from the Housing Australia Future Fund Special Account; and

(d) credited to the Housing Australia Future Fund Payments Special Account;

on a specified day during the financial year.

(5) A direction under subsection (4) is not a legislative instrument.

(6) If the Finance Minister personally gives a direction under subsection (4) in response to a request made by a designated Minister, the Finance Minister must give a copy of the direction to:

(a) the Treasurer; and

(b) the Housing Minister; and

(c) if the designated Minister is not the Housing Minister—the designated Minister.

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(7) If a delegate of the Finance Minister gives a direction under subsection (4) in response to a request made by a designated Minister, the delegate must give a copy of the direction to:

(a) the Treasury Department; and

(b) the Department, or an Executive Agency, administered by the designated Minister.

Credits to the Housing Australia Future Fund Special Account where grants cannot be made

(8) If:

(a) a designated Minister requests the Finance Minister under subsection (1) to transfer an amount from the Housing Australia Future Fund Special Account to the Housing Australia Future Fund Payments Special Account; and

(b) as a result of the request, an amount has been credited to the Housing Australia Future Fund Payments Special Account under paragraph (4)(d); and

(c) one or more of the grants to which the request relates cannot be made;

an amount equal to the total amount of the grants that cannot be made is to be:

(d) debited from the Housing Australia Future Fund Payments Special Account; and

(e) credited to the Housing Australia Future Fund Special Account.

27 Other credits to the Housing Australia Future Fund Payments Special Account

There must be credited to the Housing Australia Future Fund Payments Special Account an amount equal to an amount paid to the Commonwealth by way of the repayment of the whole or a part of a subsection 18(1) grant.

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28 Purpose of the Housing Australia Future Fund Payments Special Account

The purpose of the Housing Australia Future Fund Payments Special Account is to make grants under subsection 18(1).

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

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Division 4—Channelling State/Territory grants through the Federation Reform Fund

29 Channelling State/Territory grants through the Federation Reform Fund

(1) If a designated Minister decides that a grant of financial assistance should be made to a State or Territory under subsection 18(3) during a financial year beginning on or after 1 July 2023, the designated Minister may request the Finance Minister to transfer a specified amount (which must equal the amount of the grant) from the Housing Australia Future Fund Special Account to the Federation Reform Fund.

(2) If a designated Minister requests the Finance Minister under subsection (1) to transfer an amount from the Housing Australia Future Fund Special Account to the Federation Reform Fund, the Finance Minister must, by writing, direct that, on a specified day, a specified amount (which must equal the requested amount) is to be:

(a) debited from the Housing Australia Future Fund Special Account; and

(b) credited to the Federation Reform Fund.

(3) The direction must be expressed to be given in order to enable the amount to be debited from the Federation Reform Fund for the purpose of making the grant.

(4) If the financial year is the financial year beginning on 1 July 2023, the Finance Minister must not give a direction under subsection (2) if doing so would contravene section 36 (annual limit).

(4A) If the financial year is a financial year beginning on or after 1 July 2024, the Finance Minister must not give a direction under subsection (2) if doing so would cause the total amount debited from the Housing Australia Future Fund Special Account under this section and sections 26 and 33 during the financial year to exceed the designated annual amount for the financial year.

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(5) Two or more directions under subsection (2) may be set out in the same document.

(6) A direction under subsection (2) is not a legislative instrument.

(7) If the Finance Minister personally gives a direction under subsection (2) in response to a request made by a designated Minister, the Finance Minister must give a copy of the direction to:
  (a) the Treasurer; and
  (b) the Housing Minister; and
  (c) if the designated Minister is not the Housing Minister—the designated Minister.

(8) If a delegate of the Finance Minister gives a direction under subsection (2) in response to a request made by a designated Minister, the delegate must give a copy of the direction to:
  (a) the Treasury Department; and
  (b) the Department, or an Executive Agency, administered by the designated Minister.

30 Debits from the Federation Reform Fund

(1) If an amount has been credited under paragraph 29(2)(b) to the Federation Reform Fund for a purpose in relation to a grant of financial assistance to a State or Territory, the Treasurer must:
  (a) ensure that the Federation Reform Fund is debited for the purposes of making the grant; and
  (b) do so as soon as practicable after the amount has been credited.

(2) However, if the grant cannot be made, an amount equal to the credited amount is to be:
  (a) debited from the Federation Reform Fund; and
  (b) credited to the Housing Australia Future Fund Special Account.

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31 Other credits to the Housing Australia Future Fund Special Account

There must be credited to the Housing Australia Future Fund Special Account an amount equal to an amount paid to the Commonwealth by way of the repayment of the whole or a part of a subsection 18(3) grant.

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Part 4—Transfers from the Housing Australia Future Fund Special Account to the Housing Australia Special Account

32 Simplified outline of this Part

- Amounts will be transferred from the Housing Australia Future Fund Special Account to the Housing Australia Special Account for the purposes of enabling Housing Australia to make grants and loans in relation to acute housing needs, social housing or affordable housing.
- In a financial year beginning after 30 June 2024, the total amount transferred from the Housing Australia Future Fund Special Account under sections 26, 29, 33 and 33A must equal the designated annual amount for the financial year.

33 Requested transfers from the Housing Australia Future Fund Special Account to the Housing Australia Special Account

(1) If the Housing Minister decides that one or more payments should be made to Housing Australia:

(a) during a financial year beginning on or after 1 July 2023; and

(b) under paragraph 47C(1)(b) of the *Housing Australia Act 2018*;

the Housing Minister may, during the financial year, request the Finance Minister to transfer a specified amount (which must equal the total amount of the payments) from the Housing Australia Future Fund Special Account to the Housing Australia Special Account.

Note: Under subsection 47C(2A) of the *Housing Australia Act 2018*, such a payment enables Housing Australia to make grants and loans in relation to acute housing needs, social housing or affordable housing.

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(2) The Housing Minister must not make more than one request under subsection (1) in relation to a particular payment.

(3) To avoid doubt, the Housing Minister may make 2 or more requests under subsection (1) during a financial year.

Transfer

(4) If:

(a) during a financial year, the Housing Minister requests the Finance Minister under subsection (1) to transfer an amount from the Housing Australia Future Fund Special Account to the Housing Australia Special Account; and

(b) the Finance Minister is satisfied that the transfer will not:

(i) if the financial year is the financial year beginning on 1 July 2023—contravene section 36 (annual limit); or

(ii) if the financial year is a financial year beginning on or after 1 July 2024—cause the total amount debited from the Housing Australia Future Fund Special Account under this section and sections 26 and 29 during the financial year to exceed the designated annual amount for the financial year;

the Finance Minister must, in writing, direct that a specified amount (which must equal the requested amount) is to be:

(c) debited from the Housing Australia Future Fund Special Account; and

(d) credited to the Housing Australia Special Account;

on a specified day during the financial year.

(5) A direction under subsection (4) is not a legislative instrument.

(6) If the Finance Minister personally gives a direction under subsection (4), the Finance Minister must give a copy of the direction to the Housing Minister and the Treasurer.

(7) If a delegate of the Finance Minister gives a direction under subsection (4), the delegate must give a copy of the direction to the Treasury Department.

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Credits to the Housing Australia Future Fund Special Account where grants or loans cannot be made

(8) If:

(a) the Housing Minister requests the Finance Minister under subsection (1) to transfer an amount from the Housing Australia Future Fund Special Account to the Housing Australia Special Account; and

(b) as a result of the request, an amount has been credited to the Housing Australia Special Account under paragraph (4)(d); and

(c) the payment or payments to which the request relates were to be applied by Housing Australia in making one or more grants or loans; and

(d) one or more of those grants or loans cannot be made;

an amount equal to the total amount of the grants or loans that cannot be made is to be:

(e) debited from the Housing Australia Special Account; and

(f) credited to the Housing Australia Future Fund Special Account.

33A Guaranteed transfers from the Housing Australia Future Fund Special Account to the Housing Australia Special Account

(1) This section applies if, at the start of 1 June in a financial year beginning after 30 June 2024, the total amount (the ***total debited amount***) that has been, or will be, debited from the Housing Australia Future Fund Special Account under sections 26, 29 and 33 during the financial year is less than the designated annual amount for the financial year.

(2) The Finance Minister must, in writing, direct that a specified amount (which must equal the designated annual amount for the financial year minus the total debited amount) is to be:

(a) debited from the Housing Australia Future Fund Special Account; and

(b) credited to the Housing Australia Special Account;

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on a specified day before the end of the financial year.

(3) A direction under subsection (2) is not a legislative instrument.

(4) If the Finance Minister personally gives a direction under subsection (2), the Finance Minister must give a copy of the direction to the Housing Minister and the Treasurer.

(5) If a delegate of the Finance Minister gives a direction under subsection (2), the delegate must give a copy of the direction to the Treasury Department.

33B Meaning of *designated annual amount*

The ***designated annual amount*** for a financial year is:

(a) if a determination in force under section 33C specifies the amount applicable to the financial year—that amount; or

(b) otherwise—$500 million.

Note: If no determination has been made under section 33C, the designated annual amount is indexed in accordance with section 33E. If a determination has been made under section 33C, the determination may provide for the designated annual amount to be indexed in accordance with the determination.

33C Determination of designated annual amount

(1) The responsible Ministers may, by legislative instrument, determine that, for the purposes of paragraph 33B(a), a specified amount is the designated annual amount for:

(a) a specified financial year; or

(b) a specified financial year and each subsequent financial year.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

(2) A determination under subsection (1) must not have the effect of reducing the designated annual amount for a financial year.

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(3) A determination under subsection (1) may make provision for and in relation to the indexation of the designated annual amount for a financial year.

(4) A determination under subsection (1) must be made before the start of the first financial year to which the amount specified in the determination is applicable.

(5) In making a determination under subsection (1), the responsible Ministers must have regard to:

(a) the advice given by the Future Fund Board under section 33D in relation to the impact of the making of the determination on the ability of the Future Fund Board to comply with this Act and the Housing Australia Future Fund Investment Mandate; and

(b) such other matters (if any) as the responsible Ministers consider relevant.

(6) If the responsible Ministers make a determination under subsection (1) (the ***initial determination***), the responsible Ministers must ensure that a determination under subsection (1) is in force at all times after the initial determination is made.

(7) If the responsible Ministers vary a determination under subsection (1) to specify a different amount, the variation must be made before the start of the first financial year to which the varied amount is applicable.

33D Determination of designated annual amount—advice given by the Future Fund Board

(1) Before making a determination under subsection 33C(1), the responsible Ministers must give the Future Fund Board a written notice that:

(a) sets out a draft of the determination; and

(b) requires the Future Fund Board to:

(i) give advice to those Ministers about the impact of the making of the determination on the ability of the Future

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Fund Board to comply with this Act and the Housing Australia Future Fund Investment Mandate; and

(ii) do so within the period specified in the notice; and

(c) requires the Future Fund Board, in giving that advice, to have regard to:

(i) the Housing Australia Future Fund Investment Mandate; and

(ii) such other matters (if any) as are specified in the notice.

(2) The Future Fund Board must comply with a requirement in a notice under subsection (1).

(3) A period specified under subparagraph (1)(b)(ii) must not be shorter than 60 days after the notice is given.

(4) A matter specified under subparagraph (1)(c)(ii) must not be inconsistent with:

(a) this Act; or

(b) the Housing Australia Future Fund Investment Mandate.

(5) Paragraph (1)(c) does not, by implication, limit the matters to which the Future Fund Board may have regard.

(6) The advice given by the Future Fund Board in accordance with subparagraph (1)(b)(i) must be tabled in each House of the Parliament with the relevant determination.

Note: As the determination is a legislative instrument, it is also tabled in each House of the Parliament under section 38 of the *Legislation Act 2003*.

33E Indexation of designated annual amount

(1) At the start of each financial year (an ***indexation year***) after the financial year ending on 30 June 2029, the designated annual amount is replaced by the amount worked out using the following formula:

$$\text{Indexation factor for the indexation year} \times \text{Dollar amount for the previous financial year}$$

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(2) However, subsection (1) does not apply in relation to a financial year if a determination under subsection 33C(1) has been made in relation to that financial year or a previous financial year.

(3) The ***indexation factor*** for an indexation year is the number worked out using the following formula:

$$\frac{\text{Index number for the reference quarter}}{\text{Index number for the base quarter}}$$

where:

base quarter means the last March quarter before the reference quarter.

index number, for a quarter, means the All Groups Consumer Price Index number (being the weighted average of the 8 capital cities) published by the Australian Statistician for that quarter.

reference quarter means the March quarter in the last year before the indexation year.

(4) An indexation factor is to be calculated to 3 decimal places (rounding up if the 4th decimal place is 5 or more).

(5) Amounts worked out under subsection (1) are to be rounded to the nearest whole dollar (rounding 50 cents upwards).

(6) An indexation factor that is less than 1 is to be increased to 1.

(7) Calculations under subsection (3):

(a) are to be made using only the index numbers published in terms of the most recently published index reference period; and

(b) are to be made disregarding index numbers that are published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the index reference period).

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34 Debits from the Housing Australia Special Account

Requested transfers

(1) If an amount has been credited under paragraph 33(4)(d) to the Housing Australia Special Account for a purpose in relation to a payment to Housing Australia, the Housing Minister must:

(a) ensure that the Housing Australia Special Account is debited for the purposes of making the payment; and

(b) do so as soon as practicable after the amount has been credited.

Guaranteed transfers

(2) If an amount (the ***credited amount***) has been credited under paragraph 33A(2)(b) to the Housing Australia Special Account, the Housing Minister must:

(a) ensure that the Housing Australia Special Account is debited for the purposes of making a payment of an amount equal to the credited amount to Housing Australia for the purpose specified in paragraph 47C(1)(b) of the *Housing Australia Act 2018*; and

(b) do so as soon as practicable after the credited amount has been credited.

Note: Under subsection 47C(2A) of the *Housing Australia Act 2018*, such a payment enables Housing Australia to make grants and loans in relation to acute housing needs, social housing or affordable housing.

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Part 5—Limit on amounts debited from the Housing Australia Future Fund Special Account

35 Simplified outline of this Part

- There is a limit on amounts debited from the Housing Australia Future Fund Special Account in the financial year beginning on 1 July 2023.

36 Limit on amounts debited from the Housing Australia Future Fund Special Account

The total amount debited from the Housing Australia Future Fund Special Account under sections 26, 29 and 33 during the financial year beginning on 1 July 2023 must not exceed $500 million.

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Part 6—Investment of the Housing Australia Future Fund

37 Simplified outline of this Part

- The Future Fund Board is responsible for deciding how to invest the Housing Australia Future Fund.
- Investments of the Housing Australia Future Fund consist of financial assets, and are held in the name of the Future Fund Board.
- The Future Fund Board is bound by the Housing Australia Future Fund Investment Mandate given to it by the responsible Ministers.

38 Objects of investment of the Housing Australia Future Fund

(1) The main objects of the acquisition by the Future Fund Board of a financial asset as an investment of the Housing Australia Future Fund are to enhance the Commonwealth's ability to transfer amounts in accordance with sections 26, 29, 33 and 33A.

(2) The ancillary objects of the acquisition by the Future Fund Board of a financial asset as an investment of the Housing Australia Future Fund are to enhance the ability of the Commonwealth and the Future Fund Board to discharge the costs, expenses, obligations and liabilities mentioned in sections 13 and 14.

39 Investment of the Housing Australia Future Fund

(1) The Future Fund Board may invest amounts standing to the credit of the Housing Australia Future Fund Special Account in any financial assets.

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(2) Investments under subsection (1) are to be made in the name of the Future Fund Board.

(3) Investments under subsection (1) are taken to be investments of the Housing Australia Future Fund.

(4) This section does not authorise the acquisition of a derivative.

Note: For acquisition of derivatives, see section 49.

40 Management of investments of the Housing Australia Future Fund

(1) Income derived from an investment of the Housing Australia Future Fund is to be credited to the Housing Australia Future Fund Special Account.

(2) A return of capital, or any other financial distribution, relating to an investment of the Housing Australia Future Fund is to be credited to the Housing Australia Future Fund Special Account.

(3) The Future Fund Board may realise an investment of the Housing Australia Future Fund.

(4) Upon realisation of an investment of the Housing Australia Future Fund, the proceeds of the investment are to be credited to the Housing Australia Future Fund Special Account.

(5) At any time before an investment of the Housing Australia Future Fund matures, the Future Fund Board may authorise the re-investment of the proceeds upon maturity in a financial asset investment with the same entity. The new investment is taken to be an investment of the Housing Australia Future Fund.

(6) Section 58 of the *Public Governance, Performance and Accountability Act 2013* (which deals with investment by the Commonwealth) does not apply to an investment of the Housing Australia Future Fund.

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41 Housing Australia Future Fund Investment Mandate

(1) The responsible Ministers may (subject to section 43) give the Future Fund Board written directions about the performance of its Housing Australia Future Fund investment functions, and must give at least one such direction.

Note 1: ***Housing Australia Future Fund investment function*** is defined in section 4.

Note 2: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

(2) In giving a direction under subsection (1), the responsible Ministers must have regard to:

(a) the need to maximise the return earned on the Housing Australia Future Fund over the long term, consistent with international best practice for institutional investment; and

(b) the need to enhance the Commonwealth's ability to make grants under section 18 and transfers under sections 33 and 33A; and

(c) such other matters as the responsible Ministers consider relevant.

(3) Directions under subsection (1) are to be known collectively as the ***Housing Australia Future Fund Investment Mandate***.

(4) Without limiting subsection (1), a direction under that subsection may set out the policies to be pursued by the Future Fund Board in relation to:

(a) matters of risk and return; and

(b) the allocation of financial assets.

A policy relating to the allocation of financial assets must not be inconsistent with a policy relating to matters of risk and return.

Relationship between directions and other provisions of this Act

(5) A direction under subsection (1):

(a) prevails over section 42 to the extent of any inconsistency; and

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(b) must not otherwise be inconsistent with this Act.

When direction takes effect

(6) A direction under subsection (1) must not take effect before the 15th day after the day on which it is given.

Direction is a legislative instrument

(7) A direction under subsection (1) is a legislative instrument.

Note 1: Section 42 (disallowance) of the *Legislation Act 2003* does not apply to the direction—see regulations made for the purposes of paragraph 44(2)(b) of that Act.

Note 2: Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* does not apply to the direction—see regulations made for the purposes of paragraph 54(2)(b) of that Act.

42 Obligation on Future Fund Board in performing investment functions

In performing its Housing Australia Future Fund investment function, the Future Fund Board must (subject to this Act and a direction under subsection 41(1)) seek to maximise the return earned on the Housing Australia Future Fund over the long term, consistent with international best practice for institutional investment.

43 Limitation on Housing Australia Future Fund Investment Mandate

(1) The responsible Ministers must not give a direction under subsection 41(1) that has the purpose, or has or is likely to have the effect, of directly or indirectly requiring the Future Fund Board to:

(a) invest an amount standing to the credit of the Housing Australia Future Fund Special Account in a particular financial asset; or

(b) acquire a particular derivative; or

(c) allocate financial assets to:

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(i) a particular business entity; or
(ii) a particular activity; or
(iii) a particular business.

(2) Paragraphs (1)(a) and (b) do not limit paragraph (1)(c).

44 Future Fund Board to be consulted on Housing Australia Future Fund Investment Mandate

(1) Before giving the Future Fund Board a direction under subsection 41(1), the responsible Ministers must:
(a) send a draft of the direction to the Future Fund Board; and
(b) invite the Future Fund Board to make a submission to the responsible Ministers on the draft direction within a reasonable time limit specified by the responsible Ministers; and
(c) consider any submission that is received from the Future Fund Board within that time limit.

(2) Any submission made by the Future Fund Board on a draft direction in accordance with paragraph (1)(b) must be tabled in each House of the Parliament with the direction.

Note: As the direction is a legislative instrument, it is also tabled in each House of the Parliament under section 38 of the *Legislation Act 2003*.

45 Compliance with Housing Australia Future Fund Investment Mandate

(1) The Future Fund Board must take all reasonable steps to comply with the Housing Australia Future Fund Investment Mandate.

(2) If the Future Fund Board becomes aware that it has failed to comply with the Housing Australia Future Fund Investment Mandate, the Board must give the responsible Ministers a written statement, as soon as practicable after becoming so aware:
(a) informing the responsible Ministers of the failure to comply with the Investment Mandate; and

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(b) setting out the action that the Board proposes to take in order to comply with the Investment Mandate.

(3) If the responsible Ministers are satisfied that the Future Fund Board has failed to comply with the Housing Australia Future Fund Investment Mandate, the responsible Ministers may, by written notice given to the Board, direct the Board:

(a) to give the responsible Ministers, within a period specified in the notice, a written explanation for the failure to comply with the Investment Mandate; and

(b) to take action specified in the notice, within a period specified in the notice, in order to comply with the Investment Mandate.

(4) The Future Fund Board must comply with a direction under subsection (3).

(5) A failure to comply with:

(a) the Housing Australia Future Fund Investment Mandate; or

(b) a direction under subsection (3);

does not affect the validity of any transaction.

(6) A direction under subsection (3) is not a legislative instrument.

46 Future Fund Board must not trigger the takeover provisions of the *Corporations Act 2001*

(1) Subsections 606(1A) and (2A) and section 611 of the *Corporations Act 2001* do not apply to an acquisition by the Future Fund Board if the acquisition is the result of the performance by the Future Fund Board of its Housing Australia Future Fund investment functions.

(2) A failure by the Future Fund Board to comply with section 606 of the *Corporations Act 2001* (as modified by this section) does not affect the validity of any transaction.

Note: See also section 39 of the *Future Fund Act 2006* (application of the *Corporations Act 2001*).

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47 Borrowing

(1) The Future Fund Board must not borrow money for a purpose in connection with the Housing Australia Future Fund unless the borrowing is authorised by subsection (2) or (3).

(2) The Future Fund Board is authorised to borrow money for a purpose in connection with the Housing Australia Future Fund if:

(a) the purpose of the borrowing is to enable the Board to cover settlement of a transaction for the acquisition of one or more financial assets; and

(b) at the time the relevant acquisition decision was made, it was likely that the borrowing would not be needed; and

(c) the period of the borrowing does not exceed 7 days; and

(d) if the borrowing were to take place, the total amount borrowed by the Board would not exceed 10% of the balance of the Fund.

(3) The Future Fund Board is authorised to borrow money for a purpose in connection with the Housing Australia Future Fund if the borrowing takes place in such circumstances (if any) as are specified in the rules.

48 Housing Australia Future Fund investment policies

(1) The Future Fund Board must formulate written policies to be complied with by it in relation to the following matters in connection with the Housing Australia Future Fund:

(a) the investment strategy for the Fund;

(b) benchmarks and standards for assessing the performance of the Fund;

(c) risk management for the Fund;

(d) a matter relating to international best practice for institutional investment;

(e) a matter specified in the rules.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

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(2) The Future Fund Board must ensure that policies formulated under subsection (1) are consistent with the Housing Australia Future Fund Investment Mandate.

Publication of policies

(3) The Future Fund Board must cause copies of policies formulated under subsection (1) to be published on the internet.

(4) The Future Fund Board must ensure that a copy of the first set of policies formulated under subsection (1) is published on the internet as soon as practicable after the commencement of this section.

Review of policies

(5) The Future Fund Board must conduct periodic reviews of policies formulated under subsection (1).

(6) If there is a change in the Housing Australia Future Fund Investment Mandate, the Future Fund Board must review any relevant policies formulated under subsection (1).

Compliance with policies

(7) The Future Fund Board must take all reasonable steps to comply with policies formulated under subsection (1).

(8) A failure to comply with a policy formulated under subsection (1) does not affect the validity of any transaction.

Policies

(9) A policy formulated under subsection (1) is not a legislative instrument.

49 Derivatives

(1) The Future Fund Board may acquire a derivative for the purpose of:

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(a) protecting the value of an investment of the Housing Australia Future Fund (other than a derivative); or

(b) protecting the return on an investment of the Housing Australia Future Fund (other than a derivative); or

(c) achieving indirect exposure to financial assets (other than derivatives) for a purpose in connection with the Housing Australia Future Fund; or

(d) achieving transactional efficiency for a purpose in connection with the Housing Australia Future Fund;

but must not acquire a derivative for the purpose of speculation or leverage.

(2) The acquisition of a derivative under subsection (1) of this section must be consistent with the investment strategy embodied in a policy formulated by the Future Fund Board under subsection 48(1).

(3) A derivative acquired under subsection (1) of this section is to be held in the name of the Future Fund Board.

(4) A derivative acquired under subsection (1) is taken to be an investment of the Housing Australia Future Fund.

50 Additional financial assets

An asset is taken to be an investment of the Housing Australia Future Fund if the Future Fund Board becomes the holder of the financial asset as a result of:

(a) the Board's holding of an investment of the Fund; or

(b) the exercise of any rights or powers conferred on the Board in its capacity as the holder of an investment of the Fund.

51 Securities lending arrangements

(1) The Future Fund Board may enter into securities lending arrangements for a purpose in connection with the Housing Australia Future Fund.

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(2) Any money received by the Future Fund Board under a securities lending arrangement entered into under subsection (1) is to be credited to the Housing Australia Future Fund Special Account.

(3) To avoid doubt, a securities lending arrangement entered into under subsection (1) may provide for the Future Fund Board to realise an investment of the Housing Australia Future Fund.

(4) A financial asset is taken to be an investment of the Housing Australia Future Fund if, as the result of the operation of a securities lending arrangement entered into under subsection (1), the Future Fund Board becomes the holder of the financial asset.

52 Investment managers

(1) The Future Fund Board may engage one or more investment managers for purposes in connection with the Housing Australia Future Fund.

(2) The Future Fund Board must not:

(a) invest amounts under subsection 39(1); or

(b) acquire derivatives under subsection 49(1); or

(c) enter into a securities lending arrangement under subsection 51(1); or

(d) realise financial assets that are investments of the Housing Australia Future Fund;

unless the Board does so:

(e) through an investment manager engaged by the Board under subsection (1) of this section; or

(f) in a manner approved, in writing, by the responsible Ministers.

(3) The Future Fund Board must ensure that any investment manager engaged by the Board under subsection (1) operates within this Act.

(4) The Future Fund Board must ensure that any investment manager engaged by the Board under subsection (1) reports to the Board

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and the Agency on the state of the investments of the Housing Australia Future Fund at such times and in such manner as the Board determines.

53 Refund of franking credits

A refund of a tax offset under the *Income Tax Assessment Act 1997* is to be credited to the Housing Australia Future Fund Special Account if:

(a) the Future Fund Board receives the refund; and

(b) the tax offset is attributable to an investment of the Housing Australia Future Fund.

Note 1: See also section 84B of the *Future Fund Act 2006*.

Note 2: For refunds of tax offsets, see Division 63 of the *Income Tax Assessment Act 1997*.

54 Realisation of non-financial assets

(1) This section applies if the Future Fund Board becomes aware of the fact that:

(a) an asset held by the Board as an investment of the Housing Australia Future Fund has ceased to be a financial asset; or

(b) an asset acquired by the Board, purportedly as an investment of the Housing Australia Future Fund, is not a financial asset.

(2) The Future Fund Board must realise the asset as soon as practicable after the Board becomes aware of the fact.

(3) This Act (other than this section) applies in relation to the asset (including in relation to the realisation of the asset) as if the asset had been a financial asset, and an investment of the Housing Australia Future Fund, from the time of its acquisition by the Future Fund Board until the realisation.

55 Additional function of the Future Fund Board

The functions of the Future Fund Board include the function of investing amounts in accordance with this Act.

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Part 7—Reporting obligations etc.

56 Simplified outline of this Part

- The Future Fund Board must keep the responsible Ministers informed of its operations under this Act. It may also be required by the Finance Minister to provide reports and information.
- The Finance Minister may give reports, documents and other information to other Ministers.

57 Finance Minister may require Future Fund Board to prepare reports or give information

Reports and information

(1) The Finance Minister may, by written notice given to the Future Fund Board, require the Board to:

(a) prepare a report or document about one or more specified matters relating to the performance of the Board's functions under this Act; and

(b) give copies of the report or document to the Finance Minister within the period specified in the notice.

Compliance

(2) The Future Fund Board must comply with a requirement under subsection (1).

Publication of reports and documents

(3) The Finance Minister may cause a report or document under subsection (1) to be published (whether on the internet or otherwise).

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Reports and documents

(4) A report or document under subsection (1) is not a legislative instrument.

58 Keeping the responsible Ministers informed etc.

(1) The Future Fund Board must keep the responsible Ministers informed of the operations of the Board under this Act.

(2) The Future Fund Board must give the Finance Minister such reports, documents and information in relation to those operations as are appropriate.

59 Finance Minister may give reports, documents and other information to other Ministers

The Finance Minister may give another Minister any of the following:

(a) a report or document under subsection 57(1) or 58(2);

(b) any other information or document obtained by the Finance Minister under this Act.

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Part 8—Miscellaneous

60 Simplified outline of this Part

- This Part deals with miscellaneous matters, such as delegations and rules.

61 Delegation by the Finance Minister

(1) The Finance Minister may, by writing, delegate any or all of the Finance Minister's functions or powers under section 26, 29, 33 or 33A to:

(a) the Secretary of the Finance Department; or

(b) an SES employee, or acting SES employee, in the Finance Department.

Note: The expressions ***SES employee*** and ***acting SES employee*** are defined in section 2B of the *Acts Interpretation Act 1901*.

(2) The Finance Minister may, by writing, delegate any or all of the Finance Minister's powers under section 16 to:

(a) the Secretary of the Finance Department; or

(b) an SES employee, or acting SES employee, in the Finance Department; or

(c) the Chair (within the meaning of section 5 of the *Future Fund Act 2006*); or

(d) an SES employee, or acting SES employee, in the Agency.

Note: The expressions ***SES employee*** and ***acting SES employee*** are defined in section 2B of the *Acts Interpretation Act 1901*.

(3) In performing functions, or exercising powers, under a delegation under subsection (1) or (2), the delegate must comply with any directions of the Finance Minister.

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62 Delegation by the Treasurer

(1) The Treasurer may, by writing, delegate any or all of the Treasurer's functions or powers under section 30 to:

(a) the Secretary of the Treasury Department; or

(b) an SES employee, or acting SES employee, in the Treasury Department.

Note: The expressions ***SES employee*** and ***acting SES employee*** are defined in section 2B of the *Acts Interpretation Act 1901*.

(2) In performing functions, or exercising powers, under a delegation under subsection (1), the delegate must comply with any directions of the Treasurer.

63 Delegation by a designated Minister

(1) A designated Minister may, by writing, delegate any or all of the designated Minister's functions or powers under Division 2 of Part 3 or section 29 to:

(a) the Secretary of the Department administered by the designated Minister; or

(b) a person who:

(i) is an SES employee, or acting SES employee, in the Department administered by the designated Minister; and

(ii) has the expertise appropriate to the function or power; or

(c) the Head of an Executive Agency administered by the designated Minister; or

(d) a person who:

(i) is an SES employee, or acting SES employee, in an Executive Agency administered by the designated Minister; and

(ii) has the expertise appropriate to the function or power; or

(e) a person who:

(i) is an official of a Commonwealth entity; and

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(ii) is not covered by paragraph (a), (b), (c) or (d); and

(iii) has the expertise appropriate to the function or power.

Note: The expressions ***SES employee*** and ***acting SES employee*** are defined in section 2B of the *Acts Interpretation Act 1901*.

(2) In performing functions, or exercising powers, under a delegation under subsection (1), the delegate must comply with any directions of the designated Minister concerned.

64 Delegation by the Housing Minister

(1) The Housing Minister may, by writing, delegate any or all of the Housing Minister's functions or powers under section 33 or 34 to:

(a) the Secretary of the Treasury Department; or

(b) a person who:

(i) is an SES employee, or acting SES employee, in the Treasury Department; and

(ii) has the expertise appropriate to the function or power.

Note: The expressions ***SES employee*** and ***acting SES employee*** are defined in section 2B of the *Acts Interpretation Act 1901*.

(2) In performing functions, or exercising powers, under a delegation under subsection (1), the delegate must comply with any directions of the Housing Minister.

65 Reviews of operation of Act

(1) The Housing Minister must cause reviews of the operation of this Act to be conducted.

(2) A review must consider:

(a) the extent to which grants under section 18, and transfers under sections 33 and 33A, have improved housing outcomes for Australians; and

(b) the extent to which the operation of this Act is meeting the needs of Australians in relation to:

(i) acute housing needs; and

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(ii) social housing; and

(iii) affordable housing;

as the housing market evolves and economic parameters shift.

(3) Subsection (2) does not limit subsection (1).

(4) Before causing a review to be conducted, the Housing Minister must consult the responsible Ministers.

Report of review etc.

(5) The person or persons who conduct a review must give the Housing Minister a written report of the review.

(6) The Housing Minister must cause a copy of:

(a) the terms of reference for the review; and

(b) the report of the review;

to be tabled in each House of the Parliament within 15 sitting days of that House after the report of the review is given to the Housing Minister.

(7) The Housing Minister must cause a copy of:

(a) the terms of reference for the review; and

(b) the report of the review;

to be published on the internet as soon as practicable after the earliest day on which a copy of the report of the review is tabled in a House of the Parliament.

(8) The Housing Minister must give a copy of the report of the review to each of the responsible Ministers.

Timing of reviews

(9) The first review must be completed by 31 December 2026.

(10) Each subsequent review must be completed within 5 years after the completion of the previous review.

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(11) For the purposes of this section, a review is completed when the report of the review is given to the Housing Minister under subsection (5).

66 Rules

(1) The Finance Minister may, by legislative instrument, make rules prescribing matters:

(a) required or permitted by this Act to be prescribed by the rules; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) To avoid doubt, the rules may not do the following:

(a) create an offence or civil penalty;

(b) provide powers of:

(i) arrest or detention; or

(ii) entry, search or seizure;

(c) impose a tax;

(d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;

(e) directly amend the text of this Act.

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

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Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and "(md not incorp)" is added to the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

C[x] = Compilation No. x

ch = Chapter(s)

cl = clause(s)

cont. = continued

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

Ord = Ordinance

orig = original

p = page(s)

para = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

pt = Part(s)

r = regulation(s)/Court rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s) /rule(s)/subrule(s)/order(s)/suborder(s)

sch = Schedule(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

sub ch = Sub-Chapter(s)

sub div = Subdivision(s)

sub pt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Act (Register ID)	Number and year	Assent	Commencement	Application, saving and transitional provisions
Housing Australia Future Fund Act 2023 (C2023A00079)	79, 2023	28 Sept 2023	1 Nov 2023 (s 2(1) item 1)	
COAG Legislation Amendment Act 2024 (C2024A00054)	54, 2024	5 July 2024	sch 1 (items 20, 21, 29, 73-82): 6 July 2024 (s 2(1) item 2)	—
Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025 (C2025A00017)	17, 2025	20 Feb 2025	sch 8 (item 32): 1 July 2026 (s 2(1) item 6)	—

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Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 3	am No 54, 2024
s 4	am No 54, 2024; No 17, 2025
Part 2	
Division 1	
s 8	am No 54, 2024
Division 4	
s 12	am No 54, 2024
Part 3	
Division 1	
s 17	am No 54, 2024
Division 3	
s 26	am No 54, 2024
Division 4	
Division 4 heading	am No 54, 2024
s 29	am No 54, 2024
s 30	am No 54, 2024

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