

HOUSING BILL 2003

EXPLANATORY NOTES

SHORT TITLE

Housing Bill 2003

GENERAL OUTLINE

Objective of the Legislation

The main objects of the legislation are:

- to improve the access of Queenslanders to safe, secure, appropriate and affordable housing; and
- to help build sustainable communities.

The legislation will also:

- establish a more flexible basis for the Department to provide housing services to those in need throughout the State;
- modernise the legislative framework under which the Department will conduct its current and future business;
- create a regulatory scheme for funded organisations to ensure a high standard of service delivery and the proper protection of tenants; and
- give the Department the capacity to monitor and enforce specific obligations owed by direct clients and funded organisations.

ACHIEVEMENT OF POLICY OBJECTIVES

The *State Housing Act 1945* (the Act) reflects the policy and administrative environment of 1945. Although it has been amended on numerous occasions to allow the introduction of specific products and services, the general purpose and structure of the Act remains essentially unchanged since 1945. It is also very restrictive in regards to approval structures for the administration of current Departmental programs.

There is a lack of clarity about the extent of the Department's powers to fund and monitor the activities of community housing organisations. This is of serious concern as this sector houses vulnerable people and holds significant assets.

These factors combine to render the Act an ineffective legislative mechanism for the administration of housing and one of little relevance to many of the current activities of the Department of Housing.

The Housing Bill 2003 provides a contemporary basis for the Department of Housing's current activities and a framework for its future role. The Housing Bill 2003 repeals the *State Housing Act 1945* and abolishes the Queensland Housing Commission, vesting the Commission's assets and liabilities in the State of Queensland

The Bill establishes powers for the chief executive to provide public housing, grants, loans, land or other assistance. In order to ensure that resources are utilised effectively, the Bill also establishes obligations for departmental clients and registered providers, and statutory powers for information gathering and enforcement of these obligations.

A regulatory system under which the chief executive may register organisations, give them assistance, and regulate some aspects of their operations has been developed to address service delivery standards of funded organisations and to provide overall protection for tenants.

The Bill creates statutory rights for clients and registered providers of housing and housing-related services, to seek review of certain departmental decisions. This is to ensure that there are checks and balances in place when the department makes significant decisions affecting clients or registered providers.

ASSESSMENT OF ADMINISTRATIVE COST TO GOVERNMENT

It is anticipated that the Bill will not impose a significant administrative cost to Government. Implementation of the new legislation will be supported by the resources of the Department of Housing.

CONSISTENCY WITH FUNDAMENTAL LEGISLATIVE PRINCIPLES

While the provisions of the Bill are generally consistent with the standards required to be met under the *Legislative Standards Act 1992*,

issues concerning conformity with fundamental legislative principles may be raised in relation to the following provisions in the Bill.

No external review of decisions relating to registration

It could be argued that the Bill does not have sufficient regard to the rights and liberties of individuals as there is no provision for external review of decisions relating to registration and cancellation of registration of registered providers.

Registration enables an entity potentially to receive financial and other assistance from the Department under Part 4 of the Bill. Since the benefit of registration is to enable access to State money to provide housing services it is considered that there is insufficient justification to impose a requirement for external review of the allocation of State funds.

Part 4 of the Bill specifies that registration may only be cancelled where there is no assistance agreement in force with the registered provider and the chief executive is satisfied that it is unlikely that action will be taken to enforce compliance by the provider with the Act or grant further assistance to the provider. The effect of these provisions ensures that there can be no funding relationship and no outstanding business between the Department and a registered provider when a decision to cancel registration is made. The power to cancel registration is considered therefore, to be appropriately limited. A decision to cancel registration is specified to be a “reviewable” decision under Part 6 of the Bill and accordingly, upon application by a registered provider, will be subject to review by the Department of Housing.

The department will continue to consider the issue of external review throughout the implementation of the new legislation and when the legislation is reviewed.

Registration of funded entities with a continuing agreement

Transitional arrangements for the registration of entities that are party to a continuing agreement with the Department of Housing, may give rise to concerns that the legislation imposes obligations retrospectively and therefore has insufficient regard to the rights and liberties of individuals.

These provisions are aimed at ensuring that the majority of organisations that have current funding agreements with the Department of Housing for financial or capital assistance, will be subject to the proposed regulatory framework. This approach will also enable the Department to utilise its powers under the legislation to monitor and enforce compliance where organisations fail to meet those requirements. The overarching objective of

this approach is to protect clients and tenants and ensure the use of assets and funds is consistent with funding purposes.

Organisations that are a party to a continuing agreement are already required to comply with a range of requirements consistent with the draft requirements to be prescribed by regulation. It is intended that the prescribed requirements will closely mirror existing requirements for accountability, service delivery and standards that are presently contained in funding agreements and program guidelines. As such the proposed regulatory requirements are not expected to impose a significant additional financial or administrative burden on organisations or otherwise negatively affect them. In essence, the effect of registration on these organisations will be to maintain the status quo.

Power to appoint an interim manager

Part 5 of the Bill provides for the appointment of an interim manager of a funded service conducted by a registered provider in certain limited circumstances. The interim manager's functions are to ensure the registered provider's compliance with prescribed requirements for registered providers, the proper and efficient use of funded property and compliance with certain of the registered provider's obligations under tenancy agreements. It could be argued that the exercise of these powers affects the rights and liberties of employees and officers of the registered provider as well as third parties such as creditors.

The overriding objective of the registration scheme established in the Bill is to protect clients, tenants, funds and assets acquired through the granting of public funds. The chief executive may only appoint an interim manager after considering a range of matters set out in section 41(2) of the Bill and must, under section 41(3), before making an appointment consider whether it would be more appropriate to take steps other than the appointment or not to take any steps. These powers will enable the Department to intervene where ongoing breaches by registered organisations threaten the safety of tenants living in premises or give rise to serious concerns about the proper use of assistance provided by the Department. These provisions will enable the Department to act where significant risks have been identified.

Appropriate limitations on the exercise of the discretion to appoint an interim manager are outlined in Part 5. The Bill also limits the period for which an interim manager may be appointed. It should be noted that an interim manager does not take over all management functions and responsibilities of a registered organisation. The functions of an interim

manager are limited to ensuring the matters specified in Part 5 and may be further limited by the instrument of appointment.

It is considered that these provisions are necessary to protect the public interest and that they strike a reasonable balance between the rights and interests of clients who may be protected by the appointment of an interim manager and other individuals who may be adversely affected by the appointment.

Power to require information or documents

The Bill establishes a power for authorised officers to require information or documents from a person for information gathering and enforcement purposes and creates an offence for failure to comply with such a request without a reasonable excuse. The Bill also allows a court to order a person to give the chief executive information or documents within a stated time and in a stated manner if the court convicts a person for an offence against this provision. These powers are exercisable in relation to third parties, and for this reason, may be considered to have insufficient regard to the rights and liberties of individuals.

This power will enable the Department to obtain information in order to ascertain whether a breach of the Act has occurred. The power is only exercisable for monitoring or enforcing compliance with a limited number of requirements under the legislation. They are:

- The obligations established under Part 3 for departmental clients;
- Compliance by a registered provider with a prescribed requirement, or a compliance notice;
- Compliance by a registered provider with its obligation to give notice of changes;
- Compliance in relation to a relevant agreement by a registered provider with section 103(2)(b) to (d) or section 103(3)(a) to (c) of the *Residential Tenancies Act 1994*;
- Compliance by a registered provider with its obligation not to obstruct an interim manager in the exercise of powers under the Act;
- The general requirements for both Departmental clients and registered providers under Part 8 not to give false or misleading statements or documents.

The Bill also provides that a person who has a reasonable excuse for not complying with a requirement to provide information or documents does

not commit an offence against the Act. Under section 82(2) of the Bill an individual has a reasonable excuse for failing to comply with a requirement to provide information or documents if complying with the requirement might tend to incriminate them.

The ability to undertake investigations with the support of corroborating evidence from third parties will assist the Department to make informed decisions about whether sufficient grounds exist to justify taking compliance action. This in turn, is considered critical to ensuring that Government can maintain the integrity of the programs and services that it provides. Without a power to obtain corroborating evidence from third parties, the Department's capacity to monitor and enforce compliance with the legislation would be severely impeded.

No duty of confidentiality provisions

The Bill does not include a general duty of confidentiality preventing the chief executive and public service employees of the Department who gain information in the course of administering the Act from recording, using or disclosing the information to anyone without consent. The absence of such a provision may be considered to have insufficient regard to the rights and liberties of individuals.

The Department of Housing is already required to adhere to strict protocols regarding the use of confidential information via a code of conduct under the *Public Sector Ethics Act 1994* and in regard to use of personal information under the Queensland Government's privacy regime. The Department conducts extensive internal training and has adopted stringent procedures regarding how personal and confidential client information are to be used, in accordance with the Queensland privacy regime. Departmental employees who breach privacy and confidentiality requirements are subject to disciplinary action within the parameters of the *Public Service Act 1996*. Having regard to the nature of the matters provided for in the Bill, an offence provision for breach of confidentiality is not considered to be warranted.

The Housing Bill 2003 protects clients and registered providers in cases where the Department is exercising powers pursuant to Parts 5 and 7 of the Bill. A duty of confidentiality applies to an interim manager or authorised officer appointed under sections 57 and 86 respectively. A breach of this duty could result in significant penalties (up to 20 penalty units which currently equates to \$1,500) being imposed on offenders.

EXTENT OF CONSULTATION

Community

During March, April and May 2002 the Department of Housing sought feedback from a broad cross section of the Queensland community on the proposed key features of new housing legislation. From 20 March to 14 May 2002, 16 regional workshops and several focus groups were held involving over 650 people throughout Queensland. The consultations were designed to provide participants with information on the proposed key features of new housing legislation and to obtain feedback that would be used to inform the development of the Housing Bill 2003.

Consultation was conducted with the collaboration of key housing stakeholder groups and included representatives from housing peak and state-wide organisations, public and community housing tenants, providers of housing and housing related services likely to be affected by the proposed regulation, local governments, Indigenous peak organisations, groups and communities, housing industry representatives and interested community organisations. Peak community housing organisations were actively involved in all consultation meetings, presenting information on key issues and features of new housing legislation.

The Department of Housing also worked in conjunction with the Office of Youth Affairs within the Department of Employment and Training and the Queensland Youth Housing Coalition to initiate separate consultations with young people. These consultations aimed to provide young people with an opportunity, outside of the formal consultation process, to comment on new housing legislation. Five consultations were conducted with young people and youth service providers during April and May 2002 in Brisbane (twice), Gold Coast, Caboolture and Gladstone. A total of ninety-two people attended. Fifty-six of these participants were young people and thirty-six were youth service providers.

In addition to the consultation meetings held throughout the State in 2002, people were invited to provide written submissions on the legislation. Twenty-five written submissions were received on the new legislation.

In February 2003, the Department publicly released a Consultation Draft Housing Bill 2003 to seek stakeholder views on proposed new housing legislation. From 24 February to 23 April 2003, 12 regional meetings were convened involving over 600 people throughout Queensland. In addition to the regional consultations, 11 meetings with peak bodies and representative

groups were conducted to provide information on the contents of the draft Bill and to seek feedback on any areas of concern from these groups.

Participants in this round of consultation have represented a broad cross section of stakeholders including tenants and tenant groups, peak and state-wide housing organisations, housing and housing-related service providers likely to be affected by the proposed regulation, local governments and Aboriginal and Torres Strait Islander Councils and community members.

In addition to the consultation meetings held throughout the State, people were invited to provide written submissions on the draft Bill. Eighteen written submissions were received.

To support both consultation programs, a communication strategy was developed and included:

- An explanatory information kit containing information sheets on key provisions of the Housing Bill 2003;
- An internet site linked to the Department of Housing's home page; and
- A new housing legislation hotline.

Government

The consultation draft Bill and explanatory information package was forwarded to 16 State Government agencies in February 2003.

A cross-agency forum was convened by the Department of Housing on 3 March 2003 to provide a briefing to representatives of State Government agencies with an interest in new housing legislation. Thirteen Departments were represented at this meeting.

A discussion paper on the Housing Bill 2003 was forwarded to all State Government agencies prior to consideration by Government.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Division 1—Introduction

Clause 1 sets out the short title of the Act.

Clause 2 provides that the Act commences on a day to be fixed by proclamation.

Division 2—Application, objects and guiding principles

Clause 3 (1) provides that the Act binds all persons including the State and the Commonwealth as far as possible.

Subclause (2) provides that the State and Commonwealth are not made liable for an offence under the Act.

Clause 4 provides for the main objects of the Act.

Clause 5 provides for the way in which the objects are to be primarily achieved.

Clause 6 provides that the Act is to be administered in a way that has sufficient regard to the guiding principles.

Division 3—Interpretation

Clause 7 specifies that the dictionary which defines words used in the Act is in schedule 3.

Clause 8 specifies the meaning of “housing service”. A “housing service” can be provided by the chief executive or a registered provider. It includes the provision of housing to an individual. It can also include the giving of financial or other assistance to enable an individual to buy or lease a residence or obtain housing in another way; or modify or maintain a residence. The following types of services also fall within the scope of “housing service”: tenant advisory services, tenant advocacy services,

home maintenance services, home modification, housing-related referral and information services, and a service that may be prescribed in a regulation.

Clause 9 provides that a note in the text of the Act forms part of the Act.

Division 4—Queensland Housing Fund

Clause 10 (1) provides that the Queensland Housing Commission Fund under the repealed Act is continued in existence as the Queensland Housing Fund.

Subclause (2) specifies that the *Financial Administration and Audit Act 1977* applies to the fund.

Subclause (3) provides that accounts for the fund must be kept as part of the departmental accounts.

Subclause (4) specifies that amounts received for the fund must be deposited in a departmental financial-institution account of the department, but that this can be an account which includes deposits for other amounts of the department.

Subclause (5) lists the type of amounts that can be received for the fund pursuant to this Act. These include: amounts paid to the department as part of its vote under the *Financial Administration and Audit Act 1977* and made available by the department for use under this Act; amounts received from the Commonwealth for the purposes of providing housing services; repayments for loans; rent payments for public housing; the proceeds of the sale of portfolio property; and other amounts received by the department.

Subclause (6) provides that an amount is payable from the fund for a purpose under this Act.

Subclause (7) allows for other amounts to be paid into or out of the fund for a non-housing purpose, provided the amount paid out of the fund is no greater than the amount paid into the fund for the non-housing purpose.

Subclause (8) specifies that an amount can be paid into this fund only if the amount is not required to be paid into another fund or non departmental account as may be required by the *Financial Administration and Audit Act 1977*.

Subclause (9) establishes definitions for terms used in this section. “Departmental accounts” means the accounts of the Department under the *Financial Administration and Audit Act 1977*, section 12.

“Non housing purpose” means a purpose other than a purpose of this Act.

“Other amounts of the department” means amounts received by the department other than amounts received for the fund.

PART 2—CHIEF EXECUTIVE’S FUNCTIONS AND POWERS

Division 1—Functions

Clause 11 (1) provides that the chief executive is responsible for using the Queensland Housing Fund and portfolio property in ways that best achieve the objects of this Act.

Subclause (2) specifies the ways the chief executive can use the fund or property, including to provide public housing; provide grants, loans, land or other assistance to individuals that need housing services; to entities that provide housing services; and to entities that provide housing for their employees or contractors. The fund or property can also be used to conduct housing-related research and to develop, undertake or support other housing programs and initiatives for a number of purposes. These purposes are: to promote the development and sustainability of the housing sector; to improve the responsiveness of the housing sector to housing need, housing design issues and planning issues, and to help the housing sector meet the demand for safe, secure, appropriate and affordable housing. The chief executive may also provide housing-related infrastructure.

Subclause (3) provides that subclauses (1) and (2) do not limit the chief executive’s other functions under this or another Act or law.

Clause 12 (1) provides for the general powers of the chief executive under the Minister and as an agent of the State, as those which are necessary or desirable for performing the chief executive’s functions under the Act.

Subclause (2) provides some examples of the powers of the chief executive including to: enter contracts; acquire, lease, sell or deal with land; carry out building works and improvements to land; appoint agents and attorneys; and charge for goods and services supplied. These examples do not limit the general application of subclause (1).

Clause 13 (1) gives the chief executive the power to make loans and investments to achieve the objects of the Act.

Subclause (2) provides the chief executive with this power despite the application of section 40C of the *Financial Administration and Audit Act 1977*. This means that the chief executive can exercise this power without requiring prior approval of the Treasurer.

Subclause (3) gives the chief executive the power to set interest rates for loans in ways the chief executive considers appropriate, subject to other laws.

Clause 14 (1) applies to a person who was provided a housing service by the chief executive and who owes an amount to the chief executive as a result.

Subclause (2) allows the chief executive to waive payment of the amount, either entirely or partly, if the chief executive is satisfied the waiver is appropriate in all the circumstances.

Subclause (3) allows the chief executive to waive payment unconditionally or on conditions the chief executive considers appropriate.

Subclause (4) requires the chief executive to have regard to all the relevant circumstances of which the chief executive is aware, in making a decision about waiving an amount. Some examples of relevant circumstances for consideration by the chief executive include: the size of the amount owed; the reason for owing the amount; whether paying the amount would cause the person financial hardship, the person's ability to repay the amount in the future, any special circumstances relevant to the fairness of enforcing payment and anything else the chief executive considers appropriate.

Clause 15 states that the chief executive's powers under another Act or law are not limited by this Act.

PART 3—OBLIGATIONS RELATING TO PUBLIC HOUSING AND OTHER GOVERNMENT HOUSING SERVICES

Division 1—Giving information to the chief executive

Clause 16 (1) provides that this division applies to information, referred to as “housing service information” that a person gives to the chief executive for the purpose of the chief executive making certain decisions. The decisions to which housing service information applies are: whether to provide a housing service to the person; the type of housing service to provide to the person; or the terms on which a housing service is provided to a person.

Subclause (2) specifies the type of information given by a person that will be considered “housing service information”. This includes, but is not limited to information given by a person: in compliance with a lease agreement, loan agreement or other agreement with the chief executive about providing a housing service to a person; in an application for a housing service; or in response to a query from the chief executive while the housing service is being provided.

Clause 17 (1) specifies that a person must not knowingly give information that is false or misleading in a material particular, to the chief executive. The deliberate provision of false or misleading information to the chief executive constitutes an offence to which a maximum of 10 penalty units (\$750) applies.

Subclause (2) provides that subsection (1) does not apply to a person who, when giving the chief executive a document containing housing service information, tells the chief executive to the best of the person’s ability how the document is false or misleading, and if the person has, or can reasonably obtain the correct information, gives the correct information.

Clause 18 (1) provides that clause 18 applies to housing service information prescribed under a regulation.

Subclause (2) places an onus on the person who has given housing service information to the chief executive to advise the chief executive of a change in housing service information, within 28 days of a change occurring, unless the person has a reasonable excuse. Breach of this

provision constitutes an offence to which a maximum of 10 penalty units (currently \$750) applies.

Division 2—Other matters

Clause 19 (1) applies to a residential tenancy agreement between the chief executive and a person, that stipulates requirements that the person: must use the premises as their place of residence, must not sublease the premises; must not use the premises or allow the premises to be used for a purpose other than a residential one, or must not allow the premises to be used as the place of residence for anyone other than themselves, family members or other stated persons (as stated in the residential tenancy agreement) or for more than a stated number of persons (as stated in the residential tenancy agreement).

Subclause (2) provides that a person contravening this provision commits an offence to which a maximum of 10 penalty units (currently \$750) applies.

Subclause (3) provides that a person will not contravene this provision if they have written approval from the chief executive to sublease the premises, use the premises for a purpose other than their place of residence, use the premises other than for residential purposes, or use the premises as a residence for anyone other than themselves, family members or other stated persons, or for more than a stated number of persons.

Subclause (4) clarifies that subclause (2) is not the only consequence that could flow from a contravention of this provision.

PART 4—REGISTERED PROVIDERS

Division 1—Preliminary

Clause 20 establishes the purpose of this part as creating a system for the registration of entities by the chief executive. The chief executive can also give entities assistance with which to provide housing services and may regulate some aspects of their operations.

Clause 21 provides a list of entities that may be registered under this part of the Act. This list includes entities of a type that may be prescribed in a regulation.

Clause 22 (1) establishes the meaning of a “funded service” as a housing service provided by a registered provider using assistance given by the chief executive under this part.

Subclause (2) clarifies that it is irrelevant if other resources - such as non-government resources - are also used to provide the service; or if the assistance agreement under which the housing service was provided, has ended, such as by lapsing or being terminated by a party to the agreement.

Division 2—Assistance

Clause 23 specifies that the chief executive may give assistance to a registered provider in a way that the chief executive considers appropriate. Some examples of assistance include: making a monetary grant or grants on appropriate conditions; making a secured loan; transferring land subject to appropriate security or covenant; or leasing land to the provider.

Clause 24 establishes the purpose of giving assistance to a registered provider as enabling it to provide housing services in ways that best achieves the objects of the Act.

Clause 25 (1) allows the chief executive to enter into an agreement with a registered provider, for providing assistance to the provider under this part. Such an agreement is referred to as an “assistance agreement”.

Subclause (2) allows the inclusion of terms in the agreement that the chief executive considers appropriate.

Clause 26 (1) applies to circumstances where an assistance agreement with a registered provider ends and an amount paid to the registered provider by the chief executive remains unexpended.

Subclause (2) provides that the chief executive may give a registered provider a show cause notice. This notice is to state that the chief executive proposes to demand repayment of the unexpended amount and give the registered provider at least 7 days in which to provide the chief executive with a written response about the proposed demand.

Subclause (3) requires the chief executive to consider the written response from the registered provider, if one is provided within the stated

time, and gives the chief executive the ability to demand repayment of either all, or some of the amount stated in the show cause notice.

Subclause (4) requires the chief executive to give a registered provider notice of a decision not to demand repayment of any amount.

Subclause (5) gives the chief executive the ability to recover the demanded amount as a debt owed to the State.

Subclause (6) provides that this section does not limit the ways in which the chief executive may demand payment or recover an amount owed to the chief executive.

Clause 27 provides that becoming a registered provider does not guarantee that the provider will be given assistance or an assistance agreement by the chief executive under this part.

Division 3—Registration

Clause 28 (1) allows an entity listed at clause 21, to apply to the chief executive for registration.

Subclause (2) provides that the application must be in the approved form.

Subclause (3) provides that the chief executive must decide the application within 28 days and must give the entity notice of the decision. The decision to refuse an application to register an entity is a reviewable decision contained in clause 63 of the Act.

Subclause (4) lists the factors which the chief executive must take into consideration in deciding an application for registration. These factors are: the types of housing services that are being provided or proposed to be provided by the entity; the need for the services; the entity's record of financial management; how the entity conducts or proposes to conduct its operations and any other matter that may be prescribed under a regulation.

Clause 29 establishes that once an entity is registered, registration remains in force until it is cancelled under this division.

Clause 30 (1) allows a registered provider to apply to the chief executive for the cancellation of registration.

Subclause (2) provides that the application must be in the approved form.

Subclause (3) establishes that the chief executive must decide the application within 28 days and must give the entity notice of the decision. This is a reviewable decision.

Subclause (4) provides that the chief executive can only grant the application if there is no assistance agreement in force and if it is unlikely that the chief executive will need to take action to enforce compliance by the provider with this Act.

Subclause (5) gives the chief executive the ability to require the provider to take a certain action before granting the application to cancel registration. The decision to require the provider to take certain action is a reviewable decision.

Clause 31 (1) gives the chief executive the ability to cancel a registered provider's registration without an application under clause 30. The chief executive may only cancel registration without application if: there is no assistance agreement in force with the provider and it is unlikely that the chief executive will want to take action to enforce compliance by the provider with this Act; or if it is unlikely that the chief executive would want to give assistance or further assistance to the provider under this part.

Subclause (2) provides that cancellation cannot occur unless the chief executive gives the provider a notice which states: that the chief executive proposes to cancel the provider's registration, the reasons for the proposed cancellation and that the registered provider may give a written response within a stated time of a least 30 days.

Subclause (3) stipulates that the chief executive must take the registered provider's written response into account, if it is received within the stated time, before deciding whether to cancel registration.

Subclause (4) provides that immediately after deciding whether or not to cancel registration, the chief executive must give the registered provider notice of the decision. This is a reviewable decision.

Subclause (5) gives the chief executive the ability to cancel the registration of a registered provider without complying with subclauses (2) to (4) if the registered provider agrees.

Clause 32 provides that the chief executive must cancel the registration of a registered provider if it no longer exists as a legal entity.

Division 4—Compliance with prescribed requirements

Clause 33 (1) provides that a regulation may prescribe requirements that relate to the provision of funded services by registered providers.

Subclause (2) provides that, without limiting subclause (1), a regulation may prescribe a requirement about how a registered provider conducts its operations while providing a funded service, including financial management and accountability; and corporate governance. A regulation may also prescribe a requirement about how a registered provider delivers services to clients. This may include requirements about deciding eligibility and priority for services, giving information and resolving disputes. A regulation may prescribe a requirement relating to other matters about providing a funded service which may include tenancy management, rent assessment and collection, and property management.

Subclause (3) provides that a requirement of a regulation may also include provision about preparing, maintaining, publishing or implementing a policy; reporting to the chief executive or maintaining accreditation on the basis of meeting national community housing standards or other relevant standards. All of these requirements relate to the provision of funded services by a registered provider.

Clause 34 stipulates that a registered provider must not contravene a prescribed requirement relating to the provision of a funded service. Under *clause 35*, a compliance notice may be given to a registered provider for the contravention of a prescribed requirement.

Clause 35 (1) applies in circumstances where the chief executive reasonably believes a registered provider is contravening a prescribed requirement or has contravened a prescribed requirement in a situation that makes it likely that the contravention will continue or be repeated.

Subclause (2) allows the chief executive to give the provider a notice, referred to in this part as a “compliance notice”, which requires the provider to remedy the contravention.

Subclause (3) provides that the compliance notice must state that the chief executive reasonably believes that the provider is contravening a prescribed requirement or has contravened a prescribed requirement in a situation that makes it likely that the contravention will continue or be repeated. The compliance notice must also state: the particular prescribed requirement that the chief executive believes is being or has been contravened in circumstances where it is likely that the contravention will

continue or be repeated; briefly how the prescribed requirement is being or has been contravened; a reasonable time-frame for the provider to remedy the contravention; and that it is an offence to fail to comply with the compliance notice unless the provider has a reasonable excuse.

Subclause (4) provides that the compliance notice may also specify the steps that the chief executive reasonably believes are necessary to remedy the contravention or avoid a further contravention of the prescribed requirement.

Subclause (5) stipulates that a registered provider must comply with the compliance notice unless the provider has a reasonable excuse. Contravention constitutes an offence to which a maximum of 20 penalty units (currently \$1500) may apply.

Subclause (6) specifies that if a provider contravenes subclause (5), the chief executive is not required to give any assistance or further assistance to the provider under a current assistance agreement regardless of any provision in the agreement; and the chief executive may make a note in the register about the contravention that the chief executive considers appropriate.

Subclause (7) does not limit a remedy available to the chief executive under an assistance agreement, or the chief executive's powers apart from this section.

Division 5—Keeping a register and related matters

Clause 36 (1) provides that the chief executive must keep a register containing a list of all registered providers.

Subclause (2) allows the inclusion of information in the register that the chief executive considers appropriate.

Subclause (3) provides for the register to be kept in any way that the chief executive considers appropriate.

Subclause (4) provides that the chief executive must keep the register open for inspection, free of charge, by members of the public during ordinary office hours at an office of the department.

Clause 37 stipulates that a registered provider must give notice, in the approved form, to the chief executive within 30 days of becoming aware of any of the following matters: the provider's address changes; for a nonprofit corporation – that the corporation is under external

administration under the *Corporations Act 2001* or a similar law of a foreign jurisdiction; and any matter that may be prescribed under a regulation, unless the provider has a reasonable excuse. Contravention of this clause constitutes an offence to which a maximum penalty of 10 units (currently \$750) may be imposed.

PART 5—APPOINTMENT OF INTERIM MANAGER

Division 1—Preliminary

Clause 38 specifies that this part only applies to registered providers that are nonprofit corporations and entities of a type prescribed under a regulation.

Clause 39 establishes two definitions for terms that are used in this part.

“Funded property” in relation to a funded service means property transferred or leased to a registered provider by the chief executive for the purpose of providing the service; or means property bought or leased by a registered provider using funds entirely or partly provided by a grant, loan or other financial assistance from the chief executive for the purpose of providing the service.

“Relevant agreement” in relation to a funded service, means a residential tenancy agreement under which the registered provider is the lessor and the residential premises are funded property.

Division 2—Appointment

Clause 40 provides that the chief executive may appoint a person as interim manager of a funded service. The decision to make the appointment is a reviewable decision.

Clause 41 (1) stipulates that the chief executive may make the appointment only on the basis of two circumstances. The first circumstance is where the chief executive is satisfied that the appointment is reasonably necessary to ensure compliance with a prescribed requirement about deciding eligibility or priority for services or rent assessment or collection

and about the proper and efficient use of a funded property under an assistance agreement, in relation to the funded service. The second circumstance is where the chief executive is satisfied that the appointment is reasonably necessary to ensure compliance with the registered provider's obligation under the *Residential Tenancies Act 1994*, section 103(2) (b) to (d) or (3) (a) to (c), in relation to a relevant agreement.

Subclause (2) establishes a number of factors to which the chief executive must have regard in deciding whether the appointment is reasonably necessary. These factors are: the amount and type of property that the registered provider is managing in the course of providing the funded service; the amount and type of assistance provided by the chief executive to the registered provider to provide the funded service; the number of relevant agreements in relation to that funded service, whether it appears that the registered provider is unwilling or unable to provide the funded service or to provide it properly; the likely consequences for the tenants under the relevant agreements if the funded service is not provided properly or at all; and the likely consequences of the appointment, of which the chief executive is aware, for the registered provider and anyone else likely to be affected; and any other relevant matter of which the chief executive is aware.

Subclause (3) provides that before making the appointment, the chief executive must consider whether it would be more appropriate to take other steps other than the appointment or not take any steps.

Clause 42 (1) allows for the making of the appointment of an interim manager only if the chief executive is satisfied that the proposed appointee is suitable for the appointment under this section.

Subclause (2) establishes a number of factors that the chief executive must consider in deciding whether a person is suitable for the appointment. These factors are: the nature of the funded service; the reason for the appointment; the person's expertise or experience relevant to the appointment; any conflict of interest that may arise in the course of the person acting as interim manager; and any other relevant matter of which the chief executive is aware.

Subclause (3) provides that a person who has agreed to a proposed appointment must advise the chief executive, before the appointment is finalised, whether the person is aware of a conflict of interest that may arise in the course of acting as interim manager. Failing to advise the chief executive of a potential conflict of interest is an offence under this clause to which a maximum penalty of 20 units (currently \$1,500) may apply.

Subclause (4) stipulates that only an adult may be appointed as interim manager.

Clause 43 establishes a number of matters which must be stated in the appointment of a person as interim manager of a funded service. These matters are: the person's name; details of the funded service; details of the person's function as interim manager; any limitations on the persons' powers as interim manager; the period of appointment; any conditions of the appointment and anything else that the chief executive considers appropriate.

Clause 44 (1) provides that immediately after a person is appointed as interim manager of a funded service, the chief executive must give a copy of the appointment to the registered provider.

Subclause (2) includes an obligation on the chief executive to ensure that a tenant under a relevant agreement is notified of the appointment of an interim manager at or before the time the manager exercises a power under this part in relation to the agreement.

Clause 45 provides that an interim manager may initially be appointed for a maximum period of 3 months.

Clause 46 (1) provides that after the interim manager begins to carry out the manager's function, the chief executive may, by notice, extend the period of appointment, or vary the appointment in another way.

Subclause (2) allows the chief executive to extend the period of appointment if the chief executive is satisfied that the extension is reasonably necessary in all the circumstances.

Subclause (3) allows for the extension of the appointment more than once.

Subclause (4) stipulates that the period of extension must not be for more than 3 months and that the total period of appointment must not be for more than 6 months.

Subclause (5) provides that the chief executive may vary the appointment in a way other than by extending the period of appointment, if the chief executive is satisfied the variation is appropriate, having regard to the matters in section 41 and the operation of the funded service since the appointment started.

Subclause (6) if the appointment is varied under this section, the chief executive must ensure that a notice of the variation is given to the registered provider; and to the tenant, if the manager exercises a power under a

relevant agreement during the extension or after the appointment is otherwise varied.

Subclause (7) provides that a notice given to a tenant under subclause (6) must be given at or before the time the manager exercises the power.

Clause 47 (1) stipulates that the chief executive can terminate the interim manager's appointment at any time before the end of the period of appointment, if the chief executive is satisfied that the appointment is no longer necessary having regard to the matters in clause 41.

Subclause (2) stipulates that after ending an appointment under subclause (1), the chief executive must give a notice of the termination to the registered provider, and to each tenant who has been notified of the appointment.

Division 3—Functions and powers

Clause 48 clarifies that this division applies to a person appointed as interim manager of a funded service.

Clause 49 provides that the interim manager's function is, in so far as it is stated in the instrument of appointment, to ensure the matters stated in clause 41(1) (a) and (b).

Clause 50 (1) provides that in order to carry out the function, the interim manager can enter into a residential tenancy agreement under the *Residential Tenancies Act 1994* on behalf of the registered provider in relation to a funded property; and can do anything in relation to the relevant agreement, on behalf of the registered provider, that the registered provider is required or allowed to do.

Subclause (2) provides that in relation to the application of the *Residential Tenancies Act 1994*, the interim manager is not liable as an agent of the registered provider, for an act or omission in relation to a relevant agreement, other than for a thing done by the interim manager under subclause (1).

Clause 51 (1) allows the interim manager to give a notice to the tenant under a relevant agreement, requiring the tenant to pay the rent that is due to be paid to the registered provider, under the agreement, directly to the manager.

Subclause (2) provides that upon the interim manager making the requirement under subclause (1), a requirement of the relevant agreement

to make the rental payment to the registered provider is deemed to be a requirement to make the payment to the manager.

Subclause (3) allows the manager to require the payment of amounts under subclause (1) only to the extent that the manager reasonably requires the payments to carry out the manager's function.

Subclause (4) allows the manager to use an amount received under this clause only for the purpose of carrying out the manager's function.

Subclause (5) requires the manager to immediately pay amounts received under this clause to the registered provider, if the manager is satisfied that the amounts are no longer needed to carry out the manager's function.

Subclause (6) requires the manager to give the registered provider any remaining amounts received under this section at the end of the manager's appointment.

Subclause (7) provides that subclauses (5) and (6) apply subject to clause 59 (Registered provider liable for remuneration and other costs).

Clause 52 gives the interim manager other powers of the registered provider necessary or convenient to carry out the interim manager's function. For example, it may be necessary for the interim manager to carry out repairs to a funded property.

Clause 53 specifies that a power given to the interim manager under this division may be limited by the terms of the instrument of appointment.

Clause 54 (1) applies to circumstances where a person asks the interim manager to produce the instrument of appointment for inspection, at a time when the interim manager is exercising or proposing to exercise a power under this part in relation to that person.

Subclause (2) requires the manager to comply with the request for inspection in the circumstance specified in subsection (1).

Clause 55 (1) provides that a person must not obstruct an interim manager in the exercise of a power, unless the person has a reasonable excuse. Obstruction under this clause constitutes an offence to which a maximum penalty of 20 units (currently \$1,500) may be imposed.

Subclause (2) provides that if a person has obstructed the interim manager in the exercise of a power, and the manager is proceeding to exercise the power, the manager must warn the person that it is an offence to obstruct the manager unless the person has a reasonable excuse; and that the manager considers the person's conduct an obstruction.

Division 4—Other matters

Clause 56 (1) gives the interim manager the ability to seek information or documents reasonably necessary to carry out the manager's function, from an executive officer of a registered provider.

Subclause (2) allows the chief executive to disclose information or give access to an interim manager to documents that the chief executive considers appropriate for the purpose of the manager's appointment. For example: the chief executive can give access to a document obtained under clause 81 (Power to require information or documents).

Clause 57 (1) applies to a person appointed as interim manager of a funded service and who, due to that appointment, has acquired confidential information or gained access to a document containing confidential information about the registered provider or someone else.

Subclause (2) stipulates that the person must not make a record of the information, disclose the information to anyone else or give access to the document containing the confidential information to anyone else other than for a purpose of Part 5; or with the consent of the registered provider or other person to whom the information relates; or in compliance with lawful process that requires the production of documents or evidence before a court or tribunal; or as permitted or required in another Act. The recording or disclosure of confidential information, other than as allowed in this clause, is an offence to which a maximum penalty of 20 units (currently \$1,500) may apply.

Clause 58 stipulates that the interim manager is entitled to be paid a reasonable amount of remuneration as agreed with the chief executive.

Clause 59 (1) allows the chief executive to give the registered provider a written demand for the amount of an administration cost, if the interim manager is appointed to a funded service.

Subclause (2) allows the chief executive to recover the amount as a debt owed to the State.

Subclause (3) gives the chief executive the ability, either during or after the interim manager's appointment, to recover an administration cost from an amount held by the manager under clause 51.

Subclause (4) establishes the meaning of "administration cost" as the remuneration paid to the interim manager and any other reasonable cost incurred in carrying out the manager's function.

Clause 60 (1) places a duty on the interim manager to give to the chief executive, records of all amounts received or paid in the course of the appointment and other reports about the administration that the chief executive requires.

Subclause (2) provides that the records and reports must be given as soon as possible after the appointment ends or, at any time during the course of the appointment if required by the chief executive.

Subclause (3) requires the chief executive to give a copy of each record or report to the registered provider.

Clause 61 (1) provides that if an interim manager is appointed to a funded service, the chief executive may include on the register, a note about the appointment that the chief executive considers appropriate.

Clause 62 (1) gives a person the ability to claim compensation from the chief executive if the person suffers loss or damage as a result of the exercise or purported exercise of a power under Part 5.

Subclause (2) clarifies that compensation may be claimed and ordered to be paid, in a proceeding brought in a court that has the jurisdiction to hear the matter and order the recovery of an amount of compensation that is being claimed.

Subclause (3) stipulates that a court may order that compensation be paid only if it is satisfied that it is just to make the order based on the circumstances of the particular case.

PART 6—REVIEW OF DECISIONS

Clause 63 lists the decisions that are reviewable under Part 6. These are: a decision by the chief executive about a person's eligibility to be provided with public housing, the type of public housing to be provided to a person or the place where the public housing is to be provided to a person. This clause also makes the following decisions reviewable: a decision under clause 28 to refuse an application for registration; a decision under clause 30 relating to an application for cancellation of registration – to refuse the application or to require the applicant to take certain action before the application is granted; a decision under clause 31 to cancel registration; a decision to appoint an interim manager under part 5, division 2; and a decision to register an entity under clause 127.

Clause 64 provides that immediately after a reviewable decision is made in relation to a person, the chief executive must give the person a notice which states: the reasons for the decision; that within 28 days after receiving the notice, the person may apply to the chief executive for a review of the decision; and how the person may apply for the review.

Clause 65 (1) provides that a person entitled to be given a notice about a reviewable decision under clause 64 may apply to the chief executive to have the decision reviewed.

Subclause (2) stipulates that the application must be made within 28 days of the notice of the decision being given under clause 64, or if the notice under clause 64 has not been given, then within 28 days after the person becomes aware of the decision.

Subclause (3) gives the chief executive the ability to extend the time given to a person to make the application.

Subclause (4) provides that the application must be in an approved form and supported by enough information to enable the chief executive to decide the application.

Clause 66 (1) provides that an application under clause 65 for a decision to be reviewed, does not stay the decision. The decision remains in force regardless of whether an application for review is made or not.

Subclause (2) allows the chief executive to give the person a notice staying the operation of the decision for a stated period.

Subclause (3) provides for the chief executive to grant the stay on conditions which the chief executive considers appropriate.

Clause 67 (1) applies to an application under clause 65 for a review of a decision.

Subclause (2) stipulates that unless the chief executive made the original decision personally, the application for review must not be dealt with by the person who made the original decision or a person in a position less senior to the original decision-maker. Only the chief executive can review decisions that the chief executive made personally.

Subclause (3) provides that the chief executive must review the original decision within 28 days and make a decision, referred to as a "review decision". The review decision may: confirm the original decision; amend the original decision; or substitute another decision for the original decision.

Subclause (4) requires the chief executive to make the review decision based on the material that led to the original decision and any other material the chief executive considers relevant.

Subclause (5) requires the chief executive to give notice of the review decision and the reasons for it immediately after making the review decision.

PART 7—INFORMATION GATHERING AND ENFORCEMENT

Division 1—Matters for which powers may be exercised

Clause 68 stipulates that powers conferred under this part can only be exercised for monitoring or enforcing either compliance with Part 3; or compliance by a registered provider with clause 35(5), 37 or 55(1); a prescribed requirement; or in relation to a relevant agreement as set out in section 39 - section 103 (2) (b) to (d) or (3) (a) to (c) of the *Residential Tenancies Act 1994*; or compliance with section 88 or 89.

Division 2—Authorised officers

Clause 69 allows the chief executive to appoint an officer of the department as an authorised officer if the chief executive is satisfied that the person is qualified for the appointment because the person has the necessary expertise or experience.

Clause 70 (1) provides for an authorised officer to hold office on the basis of any conditions stated in either the officer's instrument of appointment, or a signed notice given to the officer, or a regulation.

Subclause (2) provides that the instrument of appointment, a signed notice given to the officer or a regulation may limit the officer's powers under this Act.

Subclause (3) provides the definition of a "signed notice" in this clause as meaning a notice signed by the chief executive.

Clause 71 (1) provides that an authorised officer will stop holding office if the term of the office stated in a condition ends; if under another condition of office the officer stops holding office; or if the officer's resignation under clause 72 takes effect.

Subclause (2) does not limit the other ways in which the authorised officer may stop holding office.

Subclause (3) provides a definition of "condition of office" as being a condition on which the officer holds office.

Clause 72 allows an authorised officer to resign office as an authorised officer by giving a signed notice to the chief executive.

Clause 73 (1) requires the chief executive to issue an identity card to each authorised officer.

Subclause (2) lists the type of information that the identity card must contain. These are: a recent photo of the officer, a copy of the officer's signature, identification of the person as an authorised officer under this Act, and an expiry date for the card.

Subclause (3) does not prevent the issue of a single identity card to a person for this Act and other purposes.

Clause 74 requires a person who stops being an authorised officer to return their identity card to the chief executive as soon as practicable but within 7 days, unless the person has a reasonable excuse. Failure to return the identity card within 7 days and without a reasonable excuse constitutes an offence under this Act, to which a maximum penalty of 5 units (currently \$375) may apply.

Clause 75 (1) provides that in exercising a power (1) under this Act in relation to a person, an authorised officer must produce the officer's identity card for the person's inspection before exercising the power or have the identity card displayed so it is clearly visible to the person when the officer is exercising the power.

Subclause (2) provides that if it is not practicable for the authorised officer to comply with subclause (1), the officer must produce the identity card for the person's inspection at the first reasonable opportunity.

Subclause (3) specifies that for subclause (1), an authorised officer does not exercise a power in relation to a person only because the officer has entered a place pursuant to clause 77(1)(b) or (2).

Division 3—Powers of authorised officers

Clause 76 (1) stipulates that this division does not apply to a place that a person is occupying as the person's residence under a lease, contract of sale or other agreement with the chief executive or with financial assistance given directly to the person by the chief executive to enable the person to occupy the residence.

Subclause (2) provides that subclause (1) does not prevent an authorised officer from entering a place mentioned in subclause (1) other than in the person's capacity as an authorised officer. Authorised officers may have other, non authorised officer roles that include entry into premises.

Clause 77 (1) provides that an authorised officer may enter a place in certain circumstances. These are if: its occupier consents to the entry; it is a public place and the entry is made when it is open to the public; or it is not a residence and the entry is made when the place is open for business.

Subclause (2) allows the authorised officer to do one of two things for the purpose of asking the occupier for consent to enter. Firstly, the authorised officer can enter land around the building at the place to an extent that is reasonable to contact the occupier. Secondly, the authorised officer can enter part of the place the officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

Clause 78 (1) applies if an authorised officer intends to ask an occupier of a place to consent to the officer or another authorised officer entering the place under clause 77(1)(a).

Subclause (2) specifies that before asking for consent, the officer must tell the occupier the purpose of the entry, that the occupier does not have to give consent, and briefly the powers the officer may exercise under this part.

Subclause (3) provides that if consent is given, the officer can ask the occupier to sign an acknowledgement of the consent.

Subclause (4) specifies a number of matters that must be stated within the acknowledgement. These are: that the occupier has been told the purpose of the entry, that he or she is not required to give consent and briefly, the powers the officer may exercise under this part; the purpose of the entry, that the occupier gives the officer consent to enter the place and exercise the powers under this part and the time and date the consent was given.

Subclause (5) provides that if the occupier signs the acknowledgement, the officer must immediately give a copy of the acknowledgement to the occupier.

Subclause (6) provides that if an issue arises in a proceeding about whether the occupier consented to the entry and an acknowledgement complying with subclause (4) for the entry is not produced in evidence, the onus of proof is on the person relying on the lawfulness of entry to prove the occupier consented.

Clause 79 (1) applies to an authorised officer who enters a place under this division.

Subclause (2) provides that if an authorised officer enters a place to get the occupier's consent to enter the place, this section applies to the officer only if the consent is given or the entry is otherwise authorised.

Subclause (3) gives the authorised officer the power to do certain things. These are: search any part of the place; inspect, photograph or film any part of the place or anything at the place; copy a document at the place; take into or onto the place any person, equipment and materials the officer reasonably requires for the exercise of a power under this part; and require the occupier of the place or a person at the place to give the officer reasonable help to exercise the officer's powers under this clause or to give information to help the officer find out whether a prescribed requirement or a provision mentioned in section 68 is being complied with.

Clause 80 provides that a person required to give reasonable help or information under clause 79(3)(e) must comply with the requirement, unless the person has a reasonable excuse. Failure to comply with this clause constitutes an offence to which a maximum penalty of 20 units (currently \$1,500) may apply.

Division 4—Other powers

Clause 81 (1) gives the chief executive or an authorised officer the ability to require information or documents from a person by giving a notice to that effect. The notice may require the person to give information that is within the person's knowledge about a specified matter within a stated reasonable timeframe and in a stated manner. The information may be sought either orally or in writing. A notice may also require the person to give to the chief executive or authorised officer, a document that is in the

person's possession or control within a reasonable timeframe and in a stated manner.

Subclause (2) allows the chief executive or authorised officer to keep a document provided pursuant to subclause (1) so that a copy can be made of it.

Subclause (3) gives both the chief executive and authorised officer the ability to require the person, who has possession or control of the document, to certify the copy of a document as a true copy.

Subclause (4) places an onus on the chief executive or authorised officer to return the document to the person as soon as practicable after copying it.

Subclause (5) requires a person from whom a request is made in subclause (1) to comply with the requirement unless the person has a reasonable excuse. Failing to comply with a requirement to produce information or documents is an offence to which a maximum penalty of 20 units (currently \$1,500) may apply.

Subclause (6) provides that if a court convicts a person of an offence against subclause (5), the court may also order the person to give to the chief executive or a stated authorised officer, within a stated time and in a state way, information or a document to which the requirement related.

Division 5—Miscellaneous

Clause 82 (1) applies to circumstances where the chief executive or authorised officer makes a requirement of a person and under a clause in this part, it is an offence for the person to fail to comply with the requirement unless the person has a reasonable excuse.

Subclause (2) specifies that in such circumstances, it will be a reasonable excuse for a person to fail to comply with a requirement if compliance might incriminate the person.

Clause 83 (1) gives a person the right to claim compensation from the chief executive if the person suffers loss or damage because of the powers exercised under this part.

Subclause (2) allows, without limiting subclause (1), compensation to be claimed for loss or damage suffered by a person in complying with a requirement under this part.

Subclause (3) specifies that compensation may be claimed and ordered to be paid in a proceeding either brought in a court that has the jurisdiction to hear and order the amount of compensation being claimed or for an offence against this Act against a person who is claiming compensation.

Subclause (4) allows a court to order that compensation be paid only if it is just to make the order in the circumstances of the matter.

Clause 84 (1) provides that a person must not obstruct an authorised officer while he or she is exercising a power under this Act, unless the person has a reasonable excuse. Obstruction without a reasonable excuse is an offence to which a maximum penalty of 20 units (currently \$1,500) may apply.

Subclause (2) specifies if a person has obstructed an authorised officer and the officer decides to proceed with the exercise of the power, the officer must warn the person that it is an offence to obstruct the officer without a reasonable excuse and that the authorised officer considers the person's actions as constituting obstruction.

Clause 85 provides that a person must not pretend to be an authorised officer. The impersonation of an authorised officer is an offence to which a maximum penalty of 20 units (currently \$1,500) may apply.

Clause 86 (1) applies to a person who is or has been appointed as an authorised officer and who in the course of the appointment, or because of the opportunity provided by the appointment, has gained or has access to confidential information about someone else.

Subclause (2) provides that the person must not make a record of the information, disclose the information to anyone else or give access to the information to anyone else other than in certain circumstances. These circumstances are: for a purpose of this Act; with the consent of the person to whom the information relates; in compliance with lawful process requiring the production of documents or giving of evidence before a court or tribunal; or as expressly permitted or required under an Act. A contravention of this clause constitutes an offence to which a maximum penalty of 20 units (currently \$1,500) may apply.

PART 8—MISCELLANEOUS

Division 1—Offences

Clause 87 specifies a definition for the term “official” in this division as meaning the chief executive or an authorised officer.

Clause 88 provides that a person must not state anything to an official that the person knows is false or misleading in a material particular. The provision of false or misleading information to an official is an offence to which a maximum penalty of 10 units (currently \$750) may apply.

Clause 89 (1) provides that a person must not give an official a document containing information that the person knows is false or misleading in a material particular. The provision of a document which a person knows to contain false or misleading information is an offence to which a maximum penalty of 10 units (currently \$750) may apply.

Subclause (2) provides that subclause (1) will not apply if the person, when giving the document, tells the official, as best as they can, how the information or document is false or misleading and if the person has or can reasonably obtain the correct information, gives the correct information.

Clause 90 (1) applies in a proceeding for an offence against this Act.

Subclause (2) provides that if it is relevant to prove a person’s state of mind about an act or omission, it will be enough to show that the act was committed or omitted to be done by a representative of the person within their authority, whether actual or apparent, and that the representative had that state of mind.

Subclause (3) provides that if the representative of the person committed an act or made an omission within their actual or apparent authority, the person is taken to have committed the act or omission, unless the person can show that he or she could not have prevented the act or omission through reasonable diligence.

Subclause (4) establishes two definitions for terms used in this clause. The term “representative” has two meanings. In relation to a corporation, it means an executive officer, employee or agent of the corporation. In relation to a person, it means an employee or agent of the person. The term “state of mind” as it relates to a person includes the person’s knowledge, intention, opinion, belief or purpose and the person’s reasons behind the intention, opinion, belief or purpose.

Clause 91 (1) places an onus on executive officers of a corporation to ensure that the corporation complies with the Act.

Subclause (2) specifies that if a corporation commits an offence against a provision of this Act, each of the corporation's executive officers will also be responsible for committing an offence. That offence is the offence of failing to ensure that the corporation complies with the Act. The maximum penalty for this contravention is based on the specific offence that the corporation committed in this Act and is limited to the amount that applies to an individual.

Subclause (3) provides that evidence that the corporation has been convicted of an offence under this Act, is evidence that each of the executive officers have also committed the offence of failing to ensure that the corporation complies with the provision.

Subclause (4) provides two defences to executive officers. The first defence to this clause if the executive officer was in a position to influence the actions of the corporation is if the executive officer can prove that he or she exercised reasonable diligence to ensure that the corporation complied with the clause. The second defence is for the executive officer to prove that he or she was not in a position to influence the actions of the corporation regarding the offence.

Division 2—Interest rates for owner-occupied home loans

Clause 92 (1) allows the chief executive to declare one or more standard interest rates for owner-occupied home loans, by publishing a notice in a newspaper circulating throughout the State.

Subclause (2) provides that declared interest rates can include a standard fixed interest rate and a standard variable interest rate.

Subclause (3) provides that a declared interest rate must be consistent with the interest rate policy that is prescribed under a regulation.

Subclause (4) provides that a declared interest rate applies to a loan if the rate is specifically stated to apply under this Act or under an agreement between the parties to the loan.

Clause 93 (1) applies if the chief executive has or is proposing to make an owner-occupied home loan to a person.

Subclause (2) allows the chief executive to lower the interest rate applying or that would otherwise apply to the loan if the chief executive is

satisfied that it would be appropriate to lower the interest rate because of special circumstances.

Subclause (3) enables the chief executive to agree with the person on other conditions for the loan, including, for example a condition about the period for which the lower interest rate applies.

Clause 94 provides that this division does not limit the interest rates the chief executive may agree to, or the ways the chief executive may set interest rates, for loans made by the chief executive on behalf of the State. Refer to clause 13 regarding the chief executive's power to make loans and set interest rates for the loans.

Division 3—Other matters

Clause 95 (1) provides that land that is portfolio property is not rateable land for the *Local Government Act 1993*.

Subclause (2) provides that subclause (1) does not apply to land that is the subject of a section 24 contract, or to land that a person has a share in owning under a section 24 contract.

Subclause (3) defines a “section 24 contract” as a contract of sale, entered into under section 24 of the repealed Act, where the purchase price, other than the deposit, is payable in 2 or more instalments; or where the sale is of a share in the house and land.

Clause 96 declares that a loan as referred to in clause 13 includes a loan to help meet the costs of building and related work carried out for the purpose of conducting a residential service under the *Residential Services (Accreditation) Act 2002*.

Clause 97 specifies that a public service employee does not commit an offence against section 89 of the Queensland Criminal Code, only because the employee enters into an agreement with the chief executive for the provision of a housing service to the employee.

Clause 98 provides that the purposes of this Act are purposes for which land may be taken under the *Acquisition of Land Act 1967*.

Clause 99 allows the responsible minister to establish advisory committees to obtain the views of government, individuals, community organisations and other non-government entities about housing matters.

Clause 100 enables the chief executive to approve forms for use under this Act.

Clause 101 (1) enables the Governor in Council to make regulations under this Act.

Subclause (2) stipulates that a regulation can be made about: fees, interest rates and housing service decisions made by the chief executive or a registered provider.

Subclause (3) specifies that a regulation may provide for a maximum penalty of up to 20 units for a contravention of a regulation.

PART 9—LEGAL PROCEEDINGS

Division 1—Evidence

Clause 102 specifies that this division applies to a proceeding under this Act.

Clause 103 provides that it is not necessary to prove the appointment of the chief executive or an authorised officer or their authority to do anything under this Act, unless a party, by reasonable notice, requires proof of the appointment or authority.

Clause 104 provides that a signature that purports to be the signature of the chief executive or an authorised officer is evidence of the signature it purports to be.

Clause 105 establishes that a certificate which purports to be signed by the chief executive, and which states certain matters, will be sufficient evidence of those matters. The matters include: a document under this Act about an appointment, approval or decision; a document about a notice, direction or requirement; the register or an extract from the register. The matters can also include a copy of the documents mentioned in paragraph (a); a document which indicates that a person was or was not appointed as an authorised officer for a specific period; on a stated day that a person was given a notice or direction under this Act on a particular day; or that a person was required to do something on a particular day.

Division 2—Offence proceedings

Clause 106 (1) provides that a proceeding for an offence against this Act must be dealt with in a summary way under the *Justices Act 1886*.

Subclause (2) specifies that a proceeding must start within one year after the offence was committed or 6 months after the offence comes to the complainant's knowledge, but within 2 years of the commission of the offence; whichever period is the later.

Clause 107 provides that in commencing a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a particular day, will be evidence of when the matter in fact came to the complainant's knowledge.

Clause 108 specifies that in a proceeding for the offence involving false or misleading information or a false or misleading statement, it will be enough to state that it was false or misleading without having to specify either "false" or "misleading".

PART 10—REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS***Division 1—Amendment of State Housing Act 1945***

Clause 109 provides that schedule 1 amends certain provisions of the *State Housing Act 1945* and relocates the amended provisions to division 3.

Division 2—Repeal of State Housing Act 1945

Clause 110 provides that the *State Housing Act 1945* is repealed.

Division 3—Saved provisions from repealed Act

Clause 111 provides that this division contains certain provisions relocated from the repealed Act.

Clause 112 is the location for the relocation of section 22B of the *State Housing Act 1945*. This clause provides a heading only as section 22B will be relocated to this clause after the Housing Act commences.

Clause 113 is the location for the relocation of section 24 of the *State Housing Act 1945*. This clause provides a heading only as section 24 will be relocated to this clause after the Housing Act commences.

Division 4—Other savings and transitional provisions

Clause 114 sets out definitions for terms used in this division. “Commencement day” in relation to a provision of this part, means the day the provision commences. “commission” means the Queensland Housing Commission under the repealed Act. “Loan” includes advance.

Clause 115 specifies that in an Act or document, a reference to the repealed Act may, if the context permits, be taken as a reference to this Act.

Clause 116 provides that the Queensland Housing Commission is dissolved.

Clause 117 (1) provides that the State is the commission’s successor in law.

Subclause (2) provides that subsection (1) is not limited by another clause in this division.

Clause 118 provides that in an Act or document, a reference to the commission may, if the context allows, be taken as a reference to the State.

Clause 119 (1) provides that on the commencement day, the commission’s assets and liabilities immediately before the commencement day become the assets and liabilities of the State.

Subclause (2) specifies that the registrar of titles or other person responsible for keeping a register for dealings in property must acknowledge the vesting without a requirement to record the change in owner, and any dealing in the assets and liabilities on or after the commencement day may be signed by the chief executive.

Subclause (3) provides that subclause (2) will apply even though a relevant document of title is not produced to the registrar of titles or other person.

Clause 120 provides that a reference in clause 14 to an amount owed to the chief executive arising out of, or relating to, the chief executive's provision of a housing service, includes an amount that is owed to the State and includes amounts owing immediately before the commencement day to the commission.

Clause 121 provides that a reference in clause 93 to an owner-occupied home loan made by the chief executive, includes an owner-occupied home loan owed to the State that was made by the commission before the commencement day.

Clause 122 (1) applies to a person who, immediately before the commencement day, was a public service employee employed as an officer or employee of the commission.

Subclause (2) provides that on commencement day, the person becomes a public service employee in the department.

Subclause (3) provides that otherwise, the person's employment and all rights, entitlements and obligations related to the employment are unaffected by the enactment of this Act.

Clause 123 (1) allows this section to apply to an agreement, in force immediately before the commencement day, to which the commission was a party.

Subclause (2) provides that on commencement day, the State becomes a party to the agreement in place of the commission.

Subclause (3) provides a definition for the term "agreement" as including a contract of sale, lease, tenancy agreement, loan agreement and mortgage agreement.

Clause 124 (1) applies to a proceeding that, immediately before the commencement day, had not ended and to which the commission was a party.

Subclause (2) provides that on the commencement day, the State becomes a party to the proceeding in place of the commission.

Clause 125 (1) applies if, immediately before the commencement day, a proceeding could have been started by or against the commission.

Subclause (2) provides that the proceeding may be started by or against the State.

Clause 126 (1) applies to applications made to the commission under the *State Housing Act 1945* that had not been finally dealt with immediately before the commencement day.

Subclause (2) provides that to the extent that the application related to a matter that the chief executive may deal with under this Act, the chief executive may deal with the application.

Clause 127 (1) applies to an entity mentioned in clause 21, that on the commencement day, is party to a continuing agreement.

Subclause (2) specifies that at any time while the continuing agreement is current, the chief executive may register the entity, even though the entity has not applied for registration under clause 28.

Subclause (3) sets out a number of factors to which the chief executive must have regard when deciding to register the entity. These are: the time for which the continuing agreement will remain current; the nature and extent of the assistance that has been or is proposed to be, provided to the entity under the continuing agreement; whether the entity has complied or is complying with the continuing agreement and the matters contained in clause 28(4).

Subclause (4) requires the chief executive to give the entity a notice proposing to register the entity and inviting it to give a written response within at least 14 days, before the chief executive can register the entity.

Subclause (5) requires the chief executive to consider any written response received from the entity within the stated time, before deciding whether to proceed with the registration.

Subclause (6) provides that immediately after deciding whether or not to register the entity, the chief executive must give the entity notice of the decision. This decision is a reviewable decision under clause 63 of this Act.

Subclause (7) provides that upon registration of the entity, each continuing agreement that is current at the time of registration is an assistance agreement for this Act; and a housing service provided by the entity using assistance from chief executive under an assistance agreement is a funded service.

Subclause (8) provides that this clause does not limit the application of Part 4.

Subclause (9) establishes a definition for the term “continuing agreement” as an agreement entered into between the commission and an

entity mentioned in clause 21, on or after 1 January 1996 and that was current immediately before commencement day.

Clause 128 (1) applies to a notification made under section 18(3) of the *State Housing Act 1945* on or before 23 December 1996, that was in force immediately before the commencement day.

Subclause (2) provides that the notification continues in force.

Subclause (3) provides that a reference in the notification to land being set apart to be used for the purposes of the repealed Act, is taken to be a reference to the land being set apart to be used for the purposes of this Act.

Subclause (4) provides that subclause (3) is not a further setting apart of the land.

Clause 129 (1) applies to leases granted under section 22B of the *State Housing Act 1945* that were in force immediately before the commencement date. Section 22B leases are leases over State land for commercial purposes.

Subclause (2) saves the application of section 22B, (as amended, renumbered as clause 112 and relocated to Schedule 1), to those leases.

Clause 130 (1) applies to loans to which section 23A(8)(b) and (c) of the *State Housing Act 1945* applied to immediately before the commencement day. These provisions continue to apply to a loan to which the provisions applied immediately before commencement day.

Subclause (2) provides that section 23A(8)(b) of the repealed Act continues to apply to the loan as if a reference in the provision to conferring a power, function, right or remedy on the commission or an officer of the commission were a reference to the chief executive acting on behalf of the State or to an officer in the department.

Clause 131 (1) applies to lots that are the subject of a reservation registered immediately before the commencement date under section 23B of the *State Housing Act 1945*.

Subclause (2) states that the repeal of section 23B does not affect the reservation.

Subclause (3) saves the application of section 23B(8) to (11) of the *State Housing Act 1945* to a lot while the reservation is registered over the lot. Section 23B(8) to (11) outline how a change of ownership of a reserved lot is to be effected, and provides for the cancellation of a reservation.

Subclause (4) states that for the purpose of subclause (3), the other provisions of section 23B continue to apply to the extent necessary.

Clause 132 (1) applies to contracts of sale entered into under section 24 of the *State Housing Act 1945* that were in force immediately before the commencement day.

Subclause (2) saves the application of section 24 (as amended, renumbered as clause 113 and relocated to Schedule 1), to those contracts of sale.

Clause 133 (1) applies to a freeholding lease entered into under section 24 of the *State Housing Act 1945* that was in force immediately before the commencement day.

Subclause (2) provides that the terms and conditions of the lease continue to apply.

Subclause (3) provides that the final payment of the purchase price must include the appropriate fees prescribed under the *Land Act 1994* and the *Land Title Act 1994* for the issue of a deed of grant.

Subclause (4) provides that the *Land Act 1994* applies to the lease, except that all lease payments are to be paid to the chief executive; a reference in the *Land Act 1994* to the Minister is taken to be a reference to the Minister administering this Act; and chapter 8, part 2 of that Act does not apply.

Subclause (5) sets out the circumstances under which the Governor-in-Council must issue a deed of grant for the land contained in the lease. These circumstances are when the terms and conditions of the lease and the contract of sale under the repealed Act, section 24 have been fulfilled; and when the purchase price of the land in the lease and any home erected on the land, interest on the purchase price and all relevant fees have been paid.

Subclause (6) provides that the deed of grant is issued subject to all the encumbrances to which the lease was subject and in the same priorities.

Clause 134 (1) applies to a lease, other than a freeholding lease, granted under section 24 of the *State Housing Act 1945* that was in force immediately before the commencement day.

Subclause (2) saves the application of section 24 (as amended, renumbered as clause 113 and relocated to Schedule 1) to the lease.

Subclause (3) provides that these leases are perpetual leases for residential purposes under the *Land Act 1994*. This clarifies the nature of these leases, which were referred to as perpetual town leases or perpetual suburban leases in the *State Housing Act 1945*; terms inconsistent with the terminology of the *Land Act 1994*.

Clause 135 (1) applies to agreements, leases or arrangements entered into under section 24A of the *State Housing Act 1945* that were in force immediately before the commencement day.

Subclause (2) saves the application of sections 24A(3C) to (7), (7B), (7C) and (7E) to (12) to these agreements, leases or arrangements.

Subclause (3) provides that these leases are perpetual leases for residential purposes. This clarifies the nature of these leases, which were referred to as perpetual town leases or perpetual suburban leases in the *State Housing Act 1945*; terms inconsistent with the terminology of the *Land Act 1994*.

Clause 136 (1) applies to leases granted under section 24 or 24A of the *State Housing Act 1945* and to which section 24C of the *State Housing Act 1945* applied, immediately before the commencement day.

Subclause (2) saves the application of section 24C(1) to (7) to these leases. This enables the ongoing calculation of rent payable on the leases.

Clause 137 (1) applies to contracts of sale entered into under the *State Housing Act 1945* that were in force immediately before the commencement day.

Subclause (2) saves the application of section 25(3)-(5) and the schedule of the *State Housing Act 1945* to these contracts of sale. This enables the on-going administration of these contracts of sale.

Clause 138 (1) applies to agreements to sell a dwelling house entered under section 26D(1) of the *State Housing Act 1945* before the commencement day.

Subclause (2) saves the application of s26D of the *State Housing Act 1945* to agreements entered into before the commencement date. This enables the finalisation of these sales.

Clause 139 (1) discontinues the approved housing institutions advances account established under section 29B of the *State Housing Act 1945*.

Subclause (2) provides that any amount in that account immediately before the commencement date, is transferred into the Queensland Housing Fund.

Clause 140 (1) applies to loans entered into under Part 6A of the *State Housing Act 1945* that had not been fully repaid immediately before the commencement day.

Subclause (2) saves the application of Part 6A to these loans until they are fully repaid.

Subclause (3) varies the application of Part 6A by providing that an amount received as repayment of the loan must be paid into the Queensland Housing Fund.

Clause 141 (1) applies to a trust asset or liability created under Part 6C of the *State Housing Act 1945* that existed immediately before the commencement day.

Subclause (2) states that a right, power, privilege or liability of the commission under Part 6C that existed immediately before the commencement day is a right, power, privilege or liability of the chief executive on behalf of the State.

Subclause (3) continues the application of sections 29I, 29L, 29M, 29O, 29Q and 29R of the *State Housing Act 1945*.

Clause 142 (1) applies to a public service employee who immediately before the commencement day was a party to a contract or agreement mentioned in section 30AA of the *State Housing Act 1945*.

Subclause (2) states that while the contract or agreement is in force, the person does not commit an offence against section 89 of the Criminal Code merely because the person is a public service employee and a party to the contract or agreement.

Clause 143 (1) applies to an interest rate applying to agreements immediately before the commencement day that was either the standard fixed interest rate or a rate calculated by reference to the standard fixed interest rate under section 32AA of the *State Housing Act 1945*.

Subclause (2) provides that for agreements applying the standard interest rate before the commencement day, the rate under the agreement continues to apply for the period stated in the agreement.

Subclause (3) states that until the standard fixed interest rate is declared under section 92, the standard interest rate for agreements that apply the standard fixed interest rate on or after the commencement day, is the standard fixed rate in force immediately before the commencement day. After the rate is declared under section 92, that declared rate applies.

Subclause (4) states that this clause does not prevent the parties to an agreement agreeing to a different interest rate.

Subclause (5) clarifies that a reference in this clause to the application of the standard interest rate includes the application of another rate calculated by reference to the standard rate.

Clause 144 (1) applies to interest rates applying to agreements immediately before the commencement day that were either the standard variable interest rate or calculated by reference to the standard rate under section 32AA of the *State Housing Act 1945*.

Subclause (2) states that until the standard variable interest rate is declared under section 92, the standard variable interest rate for agreements that apply the standard variable interest rate on or after the commencement day, is the standard variable rate in force immediately before the commencement day. After the rate is declared under section 92, that declared rate applies.

Subclause (3) states that this clause does not prevent the parties to the agreement agreeing to a different interest rate.

Subclause (4) clarifies that a reference in this clause to the application of standard interest rate includes the application of another rate calculated by reference to the standard rate.

Clause 145 (1) applies to interest rates applying to agreements immediately before the commencement day that were the standard variable interest rate under a repealed section of the *State Housing Act 1945*.

Subclause (2) states that clause 144 applies to the agreement from the commencement date as if the agreement applied the standard variable interest rate in force from time to time.

Subclause (3) states that for the purposes of this clause, a repealed section means sections 32AC or 32A of the *State Housing Act 1945*, and that the standard variable interest rate means the rate declared under section 32AA of the *State Housing Act 1945*.

Clause 146 (1) continues the application of section 33 of the *State Housing Act 1945* to loan agreements, contracts of sale and other agreements to which that section applied to immediately before the commencement day as if a reference in the section to the Governor-in-Council or the Minister were a reference to the chief executive.

Subclause (2) provides that an interest rate applying to an agreement under section 33 of the *State Housing Act 1945* that was decided by the Governor-in-Council or the Minister before the commencement day, is taken to have been decided or fixed by the chief executive.

Clause 147 continues the application of section 33A of the *State Housing Act 1945* to mortgages to which section 33A applied immediately before the commencement day.

Clause 148 continues the application of section 36 of the *State Housing Act 1945* to a security for a loan to which the section applied immediately before the commencement day.

Clause 149 (1) applies to freeholding leases that are in force under this Act, the *Housing (Freeholding of Land) Act 1957* or the *Land Act 1994* and subject to a mortgage to the chief executive.

Subclause (2) provides that the chief executive may pay the purchasing price and any fees or expenses required to issue a deed of grant in respect of the freeholding lease.

Subclause (3) states that if a payment is made under subclause (2), the lessee is taken to have fulfilled all conditions of the lease and any related contract of sale, and the amount of the payment is added to the amount owing under the mortgage to the chief executive.

Subclause (4) states that subclauses (2) and (3) apply despite any other Act.

Subclause (5) clarifies that freeholding leases issued under the *State Housing Act 1945* are taken to be in force under this Act.

Clause 150 states that a deed of grant issued under this Act is taken to have been issued under the *Land Act 1994*.

Clause 151 (1) continues the schedule to the *State Housing Act 1945* to the extent stated in this clause.

Subclause (2) provides that sections 12,13,15,16 and 17 of the schedule continue to apply to loans made under the *State Housing Act 1945* that have not been repaid.

Subclause (3) provides that section 18 of the schedule continues to apply to advances made under the *State Housing Act 1945* that have not been repaid, and to contracts or leases that are still in force.

Subclause (4) provides that sections 20 to 24 of the schedule continue to apply to a mortgage or other security held by the chief executive on behalf of the State.

Subclause (5) provides that section 25 of the schedule continues to apply to a lease or agreement entered into under section 26 of the *State Housing Act 1945* that is still in force.

Clause 152 (1) provides that a regulation (a “transitional regulation”) may make provision about a matter for which it is necessary to make provision to allow or facilitate the doing of anything to achieve the

transition from the operation of the *State Housing Act 1945* to this Act, and for which this Act does make provision or sufficient provision.

Subclause (2) provides that a transitional regulation may have retrospective operation to a day not earlier than the commencement day.

Subclause (3) states that a transitional regulation must declare it is a transitional regulation.

Subclause (4) provides this section and any transitional regulation expires 12 months after the commencement day.

PART 11—AMENDMENT OF ACTS

Clause 153 provides that Schedule 2 amends the Acts mentioned in it.

SCHEDULE 1 amends certain provisions of the *State Housing Act 1945*.

Clause 1 amends section 22B regarding the power to lease State land for industry, trade or business. The clause relocates section 22B, as amended, to clause 112 of the Bill.

Clause 2 amends section 24 regarding the power to sell houses and lease State land for residential purposes. The clause relocates section 24, as amended, to clause 113 of the Bill.

SCHEDULE 2 amends the Acts mentioned in it.

DUTIES ACT 2001

A new section 429 is inserted to clarify which instruments and transactions under the Housing Act will be subject to the payment of duty.

EVIDENCE ACT 1977

This Act's reference to the *State Housing Act 1945* is replaced with a reference to the *Housing Act 2003*.

INTEGRATED PLANNING ACT 1997

This Act's reference to the *State Housing Act 1945* is replaced with a reference to the *Housing Act 2003*.

LAND ACT 1994

This Act's definition of State housing lease is replaced with a new definition that refers to the *Housing Act 2003*.

LOCAL GOVERNMENT ACT 1993

This Act's reference to a section 24 contract is amended to clarify that it is a section 24 contract under the repealed *State Housing Act 1945*.

PROPERTY AGENTS AND MOTOR DEALERS ACT 2000

This Act's references to the Queensland Housing Commission are deleted.

PROPERTY LAW ACT 1974

This Act's references to the *State Housing Act 1945* are replaced with references to the *Housing Act 2003*.

RESIDENTIAL SERVICES (ACCREDITATION) ACT 2002

This Act's reference to the Queensland Housing Commission is deleted and reference to the *State Housing Act 1945* is replaced with a reference to the *Housing Act 2003*.

RESIDENTIAL TENANCIES ACT 1994

This Act's reference to the *State Housing Act 1945* is replaced with a reference to the *Housing Act 2003*.

STATE HOUSING (FREEHOLDING OF LAND) ACT 1957

This Act's references to the *State Housing Act 1945* are replaced with references to the *Housing Act 2003* and references to the Queensland Housing Commission are replaced with references to the chief executive. Other amendments to this Act remove the power to issue freeholding leases, in order to reflect the practice of the Department of Housing, which has not issued these leases since the introduction of the Consumer Credit Code, and clarify that the *Land Act 1994* applies to the freeholding lease previously issued under this Act.

VALUATION OF LAND ACT 1944

This Act's references to the Queensland Housing Commission are replaced with references to the chief executive and the reference to the *State Housing Act 1945* is replaced with a reference to the *Housing Act 2003*.

SCHEDULE 3 provides the dictionary for the Act.

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