

DEFENCE SERVICE HOMES AMENDMENT ACT 1976

No. 185 of 1976

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SCHEDULE 1

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DEFENCE SERVICE HOMES AMENDMENT ACT 1976

No. 185 of 1976

An Act to make provision for a Defence Service Homes Corporation, and for related purposes.

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

PART I—PRELIMINARY

1. This Act may be cited as the *Defence Service Homes Amendment Act* 1976.¹ Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commencement.

3. The persons who, immediately before the date of commencement of this Act, held office as members of the Australian Housing Corporation cease to hold office on that date. Members of Australian Housing Corporation to cease to hold office.

PART II—AMENDMENTS OF THE AUSTRALIAN HOUSING CORPORATION ACT

4. The *Australian Housing Corporation Act* 1975² is in this Part referred to as the Principal Act. Definition.

5. The title of the Principal Act is amended by omitting the words “an Australian Housing Corporation” and substituting the words “a Defence Service Homes Corporation”. Title.

6. Section 1 of the Principal Act is repealed and the following section substituted:—

“1. This Act may be cited as the *Defence Service Homes Corporation Act* 1976.”. Short title.

7. Sections 3 and 4 of the Principal Act are repealed and the following section substituted:—

Definitions. “3. In this Act, unless the contrary intention appears—
 ‘approved bank’ means a bank approved by the Treasurer for the purposes of the provision in which the expression occurs;
 ‘Corporation’ means the Defence Service Homes Corporation established by this Act;
 ‘Secretary’ means the Secretary to the Department of Veterans’ Affairs.”.

8. (1) Parts II, III, IV and V of the Principal Act are repealed and the following Part substituted:—

“PART II—THE DEFENCE SERVICE HOMES CORPORATION

Defence Service Homes Corporation. “5. (1) For the purposes of the *Defence Service Homes Act 1918* there shall be a body corporate under the name ‘Defence Service Homes Corporation’.

“(2) The body corporate that was established by the Part for which this Part was substituted by the *Defence Service Homes Amendment Act 1976*—

- (a) continues in existence by force of this section as the body corporate referred to in sub-section (1), under the name ‘Defence Service Homes Corporation’;
- (b) shall have a seal;
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

Secretary to conduct affairs of Corporation. “6. (1) The affairs of the corporation shall be conducted and controlled by the Secretary.

“(2) All acts and things done in the name of, or on behalf of, the Corporation by the Secretary, or under the authority of the Secretary, shall be deemed to have been done by the Corporation.

Functions of Corporation. “7. The Corporation has the functions conferred on it by the *Defence Service Homes Act 1918*.

Seal. “8. (1) The seal of the Corporation shall be kept in the custody of the Secretary and shall not be used except as authorized by the Secretary.

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

(2) The alteration of name and constitution resulting from the amendments made by sub-section (1) does not affect any property, powers, rights, liabilities or obligations of the corporation continued in existence by the Principal Act, as amended by this Act, or render defective any legal or other proceedings instituted or to be instituted by or against the corporation, and any legal or other proceedings may be continued or commenced by or against the corporation by the name of the Defence Service Homes Corporation that might have been continued or commenced by or against the corporation by the name of the Australian Housing Corporation.

(3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Australian Housing Corporation affixed to a document before the commencement of this section and shall presume that it was duly affixed.

9. Sections 49 and 50 of the Principal Act are repealed.

Repeal.

10. Section 51 of the Principal Act is amended by omitting the words “the General Manager or”.

Rights of
Public
Servants.

11. Sections 52 and 53 of the Principal Act are repealed and the following section substituted:—

“52. (1) The Secretary may, either generally or otherwise as provided by the instrument of delegation, by writing signed by him, delegate to a person any of his powers under section 6.

Delegation.

“(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Secretary.

“(3) A delegation under this section does not prevent the exercise of a power by the Secretary.”.

12. The Principal Act is amended as set out in Schedule 1.

Formal
amendments.

PART III—AMENDMENTS OF THE DEFENCE SERVICE HOMES ACT

13. The *Defence Service Homes Act 1918*³ is in this Part referred to as the Principal Act.

Definition.

14. Section 4 of the Principal Act is amended by omitting from sub-section (1) the definition of “Corporation” and substituting the following definition:—

Interpretation.

“ ‘Corporation’ means the Defence Service Homes Corporation;”.

Sale of
dwelling-
houses.

15. Section 19 of the Principal Act is amended by omitting from subsections (1) and (1A) the words “in pursuance of the last preceding Part” and substituting the words “for the purposes of this Act”.

Further
amend-
ments.

16. The Principal Act is amended as set out in Schedule 2.

SCHEDULE 1

Section 12

FORMAL AMENDMENTS OF THE AUSTRALIAN HOUSING CORPORATION ACT

The following provisions of the *Australian Housing Corporation Act 1975* are amended by omitting the word “Australia” (wherever occurring) and substituting the words “the Commonwealth”:-

Sections 38, 39, 40, 42 and 47.

SCHEDULE 2

Section 16

AMENDMENTS OF THE DEFENCE SERVICE HOMES ACT

The following provisions of the *Defence Service Homes Act 1918* are amended by omitting the word “Director” (wherever occurring) and substituting the word “Corporation”:-

Sections 4 (1) (definitions of “Australian Soldier” and “Purchaser”), 14A, 21, 30 (3) and 51.

NOTES

1. Act No. 185, 1976; assented to 13 December 1976.
2. Act No. 25, 1975, as amended. For previous amendments *see* Acts Nos. 37 and 91, 1976.
3. Act No. 43, 1918, as amended. For previous amendments *see* Act No. 28, 1919; No. 35, 1920; No. 18, 1923; No. 26, 1925; No. 47, 1926; No. 17, 1927; No. 13, 1929; Nos. 6 and 68, 1932; No. 63, 1934; No. 54, 1935; No. 25, 1937; No. 1, 1941; No. 8, 1946; Nos. 1, 38 and 71, 1947; No. 67, 1948; No. 24, 1949; No. 74, 1951; No. 69, 1954; No. 69, 1955; No. 100, 1956; No. 73, 1961; Nos. 2 and 93, 1962; No. 65, 1966; No. 93, 1966 (as amended by No. 3, 1967); No. 99, 1968; No. 120, 1971; No. 31, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 125, 1974; and No. 25, 1975.