

EXPOSURE DRAFT

2022-2023

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

Housing Australia Future Fund Bill 2023

No. , 2023

(Finance)

**A Bill for an Act to establish the Housing Australia
Future Fund, and for other purposes**

EXPOSURE DRAFT

EXPOSURE DRAFT

Contents

Part 1—Preliminary	1
1 Short title	1
2 Commencement	2
2A Object	2
3 Simplified outline of this Act	3
4 Definitions	4
5 Crown to be bound	9
6 Extension to external Territories	9
7 Extra-territorial application	9
Part 2—Housing Australia Future Fund	10
Division 1—Introduction	10
8 Simplified outline of this Part	10
Division 2—Establishment of the Housing Australia Future Fund and the Housing Australia Future Fund Special Account	11
9 Establishment of the Housing Australia Future Fund	11
10 Establishment of the Housing Australia Future Fund Special Account	11
Division 3—Credits of amounts to the Housing Australia Future Fund Special Account	12
11 Credits of amounts	12
Division 4—Debits of amounts from the Housing Australia Future Fund	13
12 Main purposes of the Housing Australia Future Fund Special Account	13
13 Purposes of the Housing Australia Future Fund Special Account—purposes related exclusively to the investments etc. of the Housing Australia Future Fund	13
14 Purposes of the Housing Australia Future Fund Special Account—purposes not related exclusively to the Housing Australia Future Fund	14
15 Future Fund Board must ensure that the balance of the Housing Australia Future Fund Special Account is sufficient to cover authorised debits etc.	16
16 Transfers from the Housing Australia Future Fund to the Future Fund	16

EXPOSURE DRAFT

Part 3—Grants	17
Division 1—Introduction	17
17 Simplified outline of this Part.....	17
Division 2—Grants	18
18 Grants	18
19 Terms and conditions of grants.....	19
20 Designated Minister has powers etc. of the Commonwealth	19
21 Conferral of powers on a designated Minister	20
22 Constitutional limits—grants to persons or bodies other than a State or Territory.....	20
23 Executive power of the Commonwealth.....	21
24 Publication of information relating to grants	21
Division 3—Housing Australia Future Fund Payments Special Account	23
25 Housing Australia Future Fund Payments Special Account	23
26 Transfers from the Housing Australia Future Fund Special Account to the Housing Australia Future Fund Payments Special Account.....	23
27 Other credits to the Housing Australia Future Fund Payments Special Account.....	25
28 Purpose of the Housing Australia Future Fund Payments Special Account.....	25
Division 4—Channelling State/Territory grants through the COAG Reform Fund	26
29 Channelling State/Territory grants through the COAG Reform Fund.....	26
30 Debits from the COAG Reform Fund.....	27
31 Other credits to the Housing Australia Future Fund Special Account	27
Part 4—Transfers from the Housing Australia Future Fund Special Account to the Housing Australia Special Account	28
32 Simplified outline of this Part.....	28
33 Transfers from the Housing Australia Future Fund Special Account to the Housing Australia Special Account.....	28
34 Debits from the Housing Australia Special Account	30
Part 5—Annual limit on amounts debited from the Housing Australia Future Fund Special Account	31

EXPOSURE DRAFT

35	Simplified outline of this Part.....	31
36	Annual limit on amounts debited from the Housing Australia Future Fund Special Account	31
Part 6—Investment of the Housing Australia Future Fund		32
37	Simplified outline of this Part.....	32
38	Objects of investment of the Housing Australia Future Fund.....	32
39	Investment of the Housing Australia Future Fund.....	32
40	Management of investments of the Housing Australia Future Fund.....	33
41	Housing Australia Future Fund Investment Mandate	34
42	Obligation on Future Fund Board in performing investment functions.....	35
43	Limitation on Housing Australia Future Fund Investment Mandate	35
44	Future Fund Board to be consulted on Housing Australia Future Fund Investment Mandate	36
45	Compliance with Housing Australia Future Fund Investment Mandate.....	36
46	Future Fund Board must not trigger the takeover provisions of the <i>Corporations Act 2001</i>	37
47	Borrowing.....	38
48	Housing Australia Future Fund investment policies.....	38
49	Derivatives	39
50	Additional financial assets.....	40
51	Securities lending arrangements	40
52	Investment managers	41
53	Refund of franking credits	42
54	Realisation of non-financial assets	42
55	Additional function of the Future Fund Board.....	42
Part 7—Reporting obligations etc.		43
56	Simplified outline of this Part.....	43
57	Finance Minister may require Future Fund Board to prepare reports or give information	43
58	Keeping the responsible Ministers informed etc.....	44
59	Finance Minister may give reports, documents and other information to other Ministers	44
Part 8—Miscellaneous		45
60	Simplified outline of this Part.....	45
61	Delegation by the Finance Minister	45

EXPOSURE DRAFT

62	Delegation by the Treasurer.....	46
63	Delegation by a designated Minister	46
64	Delegation by the Housing Minister.....	47
65	Reviews of operation of Act.....	47
66	Rules.....	49

EXPOSURE DRAFT

1 **A Bill for an Act to establish the Housing Australia**
2 **Future Fund, and for other purposes**

3 The Parliament of Australia enacts:

4 **Part 1—Preliminary**
5

6 **1 Short title**

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

EXPOSURE DRAFT

EXPOSURE DRAFT

Part 1 Preliminary

Section 2

1 **2 Commencement**

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

6

Commencement information

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

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

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

13 **2A Object**

- 14 The object of this Act is to provide a funding mechanism:
- 15 (a) to address acute housing needs, including the acute housing
16 needs of:
- 17 (i) Indigenous persons; and
18 (ii) women; and
19 (iii) children; and
20 (iv) veterans; and
- 21 (b) to enable support to be provided to increase the availability
22 of social housing and affordable housing.

1 **3 Simplified outline of this Act**

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- This Act establishes the Housing Australia Future Fund, which will enhance the Commonwealth’s ability to:
 - (a) make grants in relation to acute housing needs, social housing or affordable housing; and
 - (b) make payments to Housing Australia for the purposes of enabling Housing Australia to make grants in relation to acute housing needs, social housing or affordable housing.
- The Housing Australia Future Fund consists of:
 - (a) the Housing Australia Future Fund Special Account; and
 - (b) the investments of the Housing Australia Future Fund.
- The Future Fund Board is responsible for deciding how to invest the Housing Australia Future Fund. In doing so, the Future Fund Board is bound by the Housing Australia Future Fund Investment Mandate given to it by the responsible Ministers.
- A grant may be made in relation to acute housing needs, social housing or affordable housing.
- This Act establishes the Housing Australia Future Fund Payments Special Account.
- Amounts will be transferred from the Housing Australia Future Fund Special Account to the Housing Australia Future Fund Payments Special Account.
- The purpose of the Housing Australia Future Fund Payments Special Account is to make grants in relation to acute housing needs.
- Amounts will be transferred from the Housing Australia Future Fund Special Account to the COAG Reform Fund for the purposes of making grants to the States and Territories in

EXPOSURE DRAFT

Part 1 Preliminary

Section 4

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relation to acute housing needs, social housing or affordable housing.

- Amounts will be transferred from the Housing Australia Future Fund Special Account to the Housing Australia Special Account for the purposes of enabling Housing Australia to make grants in relation to acute housing needs, social housing or affordable housing.

8

4 Definitions

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In this Act:

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

12

acquire includes acquire by way of issue.

13

Agency means the Future Fund Management Agency.

14
15

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

16

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

17

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

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- amounts standing to the credit of the Housing Australia Future Fund Special Account; and
- the value of investments of the Housing Australia Future Fund.

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

24

business entity means:

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- a company; or
- a partnership; or
- a trust; or
- a body politic.

EXPOSURE DRAFT

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

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

7 **Commonwealth employee** means:

- 8 (a) a person who is employed by the Commonwealth or an
9 authority of the Commonwealth; or
10 (b) a person who holds, or is acting in, an office under:
11 (i) a law of the Commonwealth; or
12 (ii) the Constitution.

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

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

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

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

21 **designated Minister** means:

- 22 (a) the Housing Minister; or
23 (b) the Indigenous Australians Minister; or
24 (c) the Social Services Minister; or
25 (d) the Veterans' Affairs Minister.

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

28 **family member** of a person means:

- 29 (a) the person's spouse; or
30 (b) the person's de facto partner; or

EXPOSURE DRAFT

Part 1 Preliminary

Section 4

- 1 (c) a child or step-child of the person.
- 2 ***Finance Department*** means the Department administered by the
3 Finance Minister.
- 4 ***Finance Minister*** has the same meaning as in the *Public*
5 *Governance, Performance and Accountability Act 2013*.
- 6 ***financial asset*** has the same meaning as in the *Future Fund Act*
7 *2006*.
- 8 ***Future Fund Board*** means the Future Fund Board of Guardians
9 established by section 34 of the *Future Fund Act 2006*.
- 10 ***Future Fund Special Account*** means the Future Fund Special
11 Account established by section 12 of the *Future Fund Act 2006*.
- 12 ***Housing Australia Future Fund*** means the Housing Australia
13 Future Fund established by section 9.
- 14 ***Housing Australia Future Fund investment function*** of the
15 Future Fund Board means:
- 16 (a) a function or power conferred on the Future Fund Board by
17 section 39, 40, 47, 49, 51 or 52; or
- 18 (b) a right or power conferred on the Future Fund Board in its
19 capacity as the holder of an investment of the Housing
20 Australia Future Fund.
- 21 ***Housing Australia Future Fund Investment Mandate*** has the
22 meaning given by subsection 41(3).
- 23 ***Housing Australia Future Fund Payments Special Account***
24 means the Housing Australia Future Fund Payments Special
25 Account established by section 25.
- 26 ***Housing Australia Future Fund Special Account*** means the
27 Housing Australia Future Fund Special Account established by
28 section 10.

EXPOSURE DRAFT

Preliminary Part 1

Section 4

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

4 ***Housing Minister*** means:

- 5 (a) the Minister declared by the Prime Minister, by notifiable
6 instrument, to be the Housing Minister for the purposes of
7 this Act; or
8 (b) if no declaration is in force under paragraph (a)—the
9 Minister who administers the *Housing Australia Act 2018*.

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

12 ***Indigenous person*** means:

- 13 (a) an Aboriginal person; or
14 (b) a Torres Strait Islander.

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

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

- 20 (a) invest amounts on behalf of the Future Fund Board;
21 (b) manage the investment of funds on behalf of the Future Fund
22 Board;
23 (c) acquire derivatives on behalf of the Future Fund Board;
24 (d) manage derivatives on behalf of the Future Fund Board;
25 (e) enter into securities lending arrangements on behalf of the
26 Future Fund Board;
27 (f) realise financial assets on behalf of the Future Fund Board;
28 (g) perform custodial functions in relation to the financial assets
29 of the Future Fund Board.

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

EXPOSURE DRAFT

Part 1 Preliminary

Section 4

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

3 **person** includes a partnership.

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

5 **realise** includes redeem or dispose of.

6 **responsible Ministers** means:

7 (a) the Treasurer; and

8 (b) the Finance Minister.

9 **rules** means rules made under section 66.

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

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

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

19 **Treasury Department** means the Department administered by the
20 Treasurer.

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

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

27 **Veterans' Affairs Minister** means the Minister who administers
28 the *Veterans' Entitlements Act 1986*.

1 **5 Crown to be bound**

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

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

5 **6 Extension to external Territories**

6 This Act extends to every external Territory.

7 **7 Extra-territorial application**

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

EXPOSURE DRAFT

Part 2 Housing Australia Future Fund

Division 1 Introduction

Section 8

1 **Part 2—Housing Australia Future Fund**

2 **Division 1—Introduction**

3 **8 Simplified outline of this Part**

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

EXPOSURE DRAFT

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

4 **9 Establishment of the Housing Australia Future Fund**

- 5 (1) The Housing Australia Future Fund is established by this section.
- 6 (2) The Housing Australia Future Fund consists of:
- 7 (a) the Housing Australia Future Fund Special Account; and
- 8 (b) the investments of the Housing Australia Future Fund.

9 **10 Establishment of the Housing Australia Future Fund Special**
10 **Account**

- 11 (1) The Housing Australia Future Fund Special Account is established
12 by this section.
- 13 (2) The Housing Australia Future Fund Special Account is a special
14 account for the purposes of the *Public Governance, Performance*
15 *and Accountability Act 2013*.

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

EXPOSURE DRAFT

Part 2 Housing Australia Future Fund

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

Section 11

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

3 **11 Credits of amounts**

4 (1) \$10 billion is to be credited to the Housing Australia Future Fund
5 Special Account as soon as practicable after the commencement of
6 this section.

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

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

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

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

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

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

EXPOSURE DRAFT

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

3 **12 Main purposes of the Housing Australia Future Fund Special**
4 **Account**

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

- 7 (a) to transfer amounts to the Housing Australia Future Fund
8 Payments Special Account in accordance with section 26 for
9 the purposes of making grants under subsection 18(1);
10 (b) to transfer amounts to the COAG Reform Fund in accordance
11 with section 29 for the purposes of making grants to the
12 States and Territories under subsection 18(3);
13 (c) to transfer amounts to the Housing Australia Special Account
14 in accordance with section 33.

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

17 **13 Purposes of the Housing Australia Future Fund Special**
18 **Account—purposes related exclusively to the investments**
19 **etc. of the Housing Australia Future Fund**

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

- 22 (a) paying the costs of, or incidental to, the acquisition of
23 financial assets under section 39;
24 (b) paying expenses of an investment of the Housing Australia
25 Future Fund;
26 (c) paying the costs of, or incidental to, the acquisition of
27 derivatives under section 49;
28 (d) paying or discharging the costs, expenses and other
29 obligations incurred by the Future Fund Board under a
30 contract between the Board and an investment manager
31 engaged under subsection 52(1);

EXPOSURE DRAFT

Part 2 Housing Australia Future Fund

Division 4 Debits of amounts from the Housing Australia Future Fund

Section 14

- 1 (e) paying or discharging the costs, expenses and other
2 obligations incurred in connection with the establishment,
3 maintenance or operation of a bank account of the Future
4 Fund Board, if the bank account relates exclusively to the
5 Housing Australia Future Fund;
6 (f) paying a premium in respect of a contract of insurance
7 entered into by the Future Fund Board exclusively in
8 connection with the Housing Australia Future Fund;
9 (g) paying or discharging any other costs, expenses, obligations
10 or liabilities incurred by the Future Fund Board exclusively
11 in connection with the Housing Australia Future Fund.

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

14 **14 Purposes of the Housing Australia Future Fund Special** 15 **Account—purposes not related exclusively to the Housing** 16 **Australia Future Fund**

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

- 19 (a) paying or discharging the costs, expenses and other
20 obligations incurred in connection with the establishment,
21 maintenance or operation of a bank account of the Future
22 Fund Board, if those costs, expenses or obligations are not
23 covered by:
24 (i) paragraph 13(e); or
25 (ii) paragraph 2(1)(g) of Schedule 2 to the *Future Fund Act*
26 *2006*; or
27 (iii) paragraph 15(e) of the *Disaster Ready Fund Act 2019*;
28 or
29 (iv) paragraph 16(e) of the *Future Drought Fund Act 2019*;
30 or
31 (v) paragraph 18(e) of the *Medical Research Future Fund*
32 *Act 2015*; or
33 (vi) paragraph 15(e) of the *DisabilityCare Australia Fund*
34 *Act 2013*; or

EXPOSURE DRAFT

Housing Australia Future Fund **Part 2**
Debits of amounts from the Housing Australia Future Fund **Division 4**

Section 14

- 1 (vii) paragraph 15(e) of the *Aboriginal and Torres Strait*
2 *Islander Land and Sea Future Fund Act 2018*;
- 3 (b) paying a premium in respect of a contract of insurance
4 entered into by the Future Fund Board, if the premium is not
5 covered by:
- 6 (i) paragraph 13(f); or
7 (ii) paragraph 2(1)(h) of Schedule 2 to the *Future Fund Act*
8 *2006*; or
9 (iii) paragraph 15(f) of the *Disaster Ready Fund Act 2019*;
10 or
11 (iv) paragraph 16(f) of the *Future Drought Fund Act 2019*;
12 or
13 (v) paragraph 18(f) of the *Medical Research Future Fund*
14 *Act 2015*; or
15 (vi) paragraph 15(f) of the *DisabilityCare Australia Fund*
16 *Act 2013*; or
17 (vii) paragraph 15(f) of the *Aboriginal and Torres Strait*
18 *Islander Land and Sea Future Fund Act 2018*;
- 19 (c) paying or discharging any other costs, expenses, obligations
20 or liabilities incurred by the Future Fund Board, if the costs,
21 expenses, obligations or liabilities are not covered by:
- 22 (i) a paragraph of section 13; or
23 (ii) a paragraph of subclause 2(1) of Schedule 2 to the
24 *Future Fund Act 2006*; or
25 (iii) a paragraph of section 15 of the *Disaster Ready Fund*
26 *Act 2019*; or
27 (iv) a paragraph of section 16 of the *Future Drought Fund*
28 *Act 2019*; or
29 (v) a paragraph of section 18 of the *Medical Research*
30 *Future Fund Act 2015*; or
31 (vi) a paragraph of section 15 of the *DisabilityCare*
32 *Australia Fund Act 2013*; or
33 (vii) a paragraph of section 15 of the *Aboriginal and Torres*
34 *Strait Islander Land and Sea Future Fund Act 2018*;
- 35 (d) paying remuneration and allowances of Future Fund Board
36 members;
-

EXPOSURE DRAFT

Part 2 Housing Australia Future Fund

Division 4 Debits of amounts from the Housing Australia Future Fund

Section 15

- 1 (e) paying remuneration, and other employment-related costs
2 and expenses, in respect of members of the staff of the
3 Agency;
4 (f) paying or discharging the costs, expenses and other
5 obligations incurred by the Commonwealth or the Future
6 Fund Board:
7 (i) under a contract entered into under section 78 or 82 of
8 the *Future Fund Act 2006*; or
9 (ii) in connection with the operation of the Agency.

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

12 **15 Future Fund Board must ensure that the balance of the Housing** 13 **Australia Future Fund Special Account is sufficient to** 14 **cover authorised debits etc.**

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

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

21 **16 Transfers from the Housing Australia Future Fund to the Future** 22 **Fund**

- 23 (1) If an amount is debited from the Future Fund Special Account for a
24 purpose mentioned in subclause 2(2) of Schedule 2 to the *Future*
25 *Fund Act 2006*, the Finance Minister may, by writing, direct that,
26 on a specified day, a specified amount is to be:
27 (a) debited from the Housing Australia Future Fund Special
28 Account; and
29 (b) credited to the Future Fund Special Account.
30 (2) The specified amount must not exceed the amount debited from the
31 Future Fund Special Account as mentioned in subsection (1).
32 (3) A direction under subsection (1) is not a legislative instrument.

1 **Part 3—Grants**

2 **Division 1—Introduction**

3 **17 Simplified outline of this Part**

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

EXPOSURE DRAFT

Part 3 Grants

Division 2 Grants

Section 18

1 **Division 2—Grants**

2 **18 Grants**

3 *Grants to persons or bodies other than a State or Territory*

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

7 Note: See also section 22 (constitutional limits).

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

10 *Grants to a State or Territory*

11 (3) A designated Minister may, on behalf of the Commonwealth, make
12 a grant of financial assistance to a State or Territory in relation to
13 any of the following:

14 (a) acute housing needs;

15 (b) social housing;

16 (c) affordable housing.

17 *Other matters*

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

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

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

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

24 (8) A grant under subsection (1) or (3) must not be made before 1 July
25 2023.

1 **19 Terms and conditions of grants**

2 *Scope*

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

5 *Terms and conditions*

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

9 Note: See also section 22 (constitutional limits).

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

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

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

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

18 **20 Designated Minister has powers etc. of the Commonwealth**

19 *Scope*

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

22 *Powers etc.*

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

- 27 (3) Without limiting subsection (2):

EXPOSURE DRAFT

Part 3 Grants
Division 2 Grants

Section 21

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

9 **21 Conferral of powers on a designated Minister**

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

12 **22 Constitutional limits—grants to persons or bodies other than a**
13 **State or Territory**

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

- 17 (a) with respect to a Territory; or
18 (b) with respect to implementing any of Australia's international
19 obligations under:
20 (i) the Convention on the Rights of Persons with
21 Disabilities done at New York on 13 December 2006; or
22 (ii) the Convention on the Elimination of All Forms of
23 Discrimination against Women done at New York on
24 18 December 1979; or
25 (iii) the Convention on the Rights of the Child done at New
26 York on 20 November 1989; or
27 (c) with respect to the granting of financial assistance to a
28 constitutional corporation for the purposes of carrying out the
29 corporation's activities; or
30 (d) with respect to housing for Indigenous persons; or
31 (e) with respect to housing for:
32 (i) veterans; or
33 (ii) veterans and their family members; or

- 1 (f) with respect to housing for aliens (within the meaning of
2 paragraph 51(xix) of the Constitution); or
3 (g) with respect to housing provided by way of:
4 (i) an unemployment benefit; or
5 (ii) a sickness benefit; or
6 (iii) a benefit to students; or
7 (h) with respect to housing for:
8 (i) Commonwealth employees; or
9 (ii) Commonwealth employees and their family members.

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

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

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

22 **23 Executive power of the Commonwealth**

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

25 **24 Publication of information relating to grants**

- 26 (1) A designated Minister must cause the following information to be
27 published on the website of the Department, or an Executive
28 Agency, administered by the designated Minister:
29 (a) each amount paid by the Commonwealth as a section 18
30 grant made by the designated Minister on behalf of the
31 Commonwealth;
32 (b) the total of the amounts referred to in paragraph (a);

EXPOSURE DRAFT

Part 3 Grants

Division 2 Grants

Section 24

- 1 (c) the total of the amounts payable, but not yet paid, by the
2 Commonwealth as a section 18 grant made by the designated
3 Minister on behalf of the Commonwealth;
- 4 (d) for each section 18 grant made by the designated Minister on
5 behalf of the Commonwealth to a person (other than an
6 individual) or body—the following information:
7 (i) the name of the person or body;
8 (ii) the purpose of the grant;
- 9 (e) the date of the most recent amount paid by the
10 Commonwealth as a section 18 grant made by the designated
11 Minister on behalf of the Commonwealth.
- 12 (2) The information published under subsection (1) must be kept
13 up-to-date.
- 14 (3) For the purposes of subsection (2), information is up-to-date if it is
15 published as soon as practicable.

1 **Division 3—Housing Australia Future Fund Payments**
2 **Special Account**

3 **25 Housing Australia Future Fund Payments Special Account**

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

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

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

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

16 **26 Transfers from the Housing Australia Future Fund Special**
17 **Account to the Housing Australia Future Fund Payments**
18 **Special Account**

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

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

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

EXPOSURE DRAFT

Part 3 Grants

Division 3 Housing Australia Future Fund Payments Special Account

Section 26

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

3 *Transfer*

- 4 (4) If:
5 (a) during a financial year, a designated Minister requests the
6 Finance Minister under subsection (1) to transfer an amount
7 from the Housing Australia Future Fund Special Account to
8 the Housing Australia Future Fund Payments Special
9 Account; and
10 (b) the Finance Minister is satisfied that the transfer will not
11 contravene section 36 (annual limit);
12 the Finance Minister must, in writing, direct that a specified
13 amount (which must equal the requested amount) is to be:
14 (c) debited from the Housing Australia Future Fund Special
15 Account; and
16 (d) credited to the Housing Australia Future Fund Payments
17 Special Account;
18 on a specified day during the financial year.
- 19 (5) A direction under subsection (4) is not a legislative instrument.
- 20 (6) If the Finance Minister personally gives a direction under
21 subsection (4), the Finance Minister must give a copy of the
22 direction to the Treasurer and the designated Minister concerned.
- 23 (7) If a delegate of the Finance Minister gives a direction under
24 subsection (4), the delegate must give a copy of the direction to:
25 (a) the Treasury Department; and
26 (b) the Department, or an Executive Agency, administered by the
27 designated Minister concerned.

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

- 30 (8) If:
31 (a) a designated Minister requests the Finance Minister under
32 subsection (1) to transfer an amount from the Housing
-

EXPOSURE DRAFT

- 1 Australia Future Fund Special Account to the Housing
2 Australia Future Fund Payments Special Account; and
3 (b) as a result of the request, an amount has been credited to the
4 Housing Australia Future Fund Payments Special Account
5 under paragraph (4)(d); and
6 (c) one or more of the grants to which the request relates cannot
7 be made;
8 an amount equal to the total amount of the grants that cannot be
9 made is to be:
10 (d) debited from the Housing Australia Future Fund Payments
11 Special Account; and
12 (e) credited to the Housing Australia Future Fund Special
13 Account.

14 **27 Other credits to the Housing Australia Future Fund Payments** 15 **Special Account**

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

20 **28 Purpose of the Housing Australia Future Fund Payments Special** 21 **Account**

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

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

EXPOSURE DRAFT

Part 3 Grants

Division 4 Channelling State/Territory grants through the COAG Reform Fund

Section 29

1 **Division 4—Channelling State/Territory grants through**
2 **the COAG Reform Fund**

3 **29 Channelling State/Territory grants through the COAG Reform**
4 **Fund**

- 5 (1) If a designated Minister decides that a grant of financial assistance
6 should be made to a State or Territory under subsection 18(3)
7 during a financial year beginning on or after 1 July 2023, the
8 designated Minister may request the Finance Minister to transfer a
9 specified amount (which must equal the amount of the grant) from
10 the Housing Australia Future Fund Special Account to the COAG
11 Reform Fund.
- 12 (2) If a designated Minister requests the Finance Minister under
13 subsection (1) to transfer an amount from the Housing Australia
14 Future Fund Special Account to the COAG Reform Fund, the
15 Finance Minister must, by writing, direct that, on a specified day, a
16 specified amount (which must equal the requested amount) is to be:
17 (a) debited from the Housing Australia Future Fund Special
18 Account; and
19 (b) credited to the COAG Reform Fund.
- 20 (3) The direction must be expressed to be given in order to enable the
21 amount to be debited from the COAG Reform Fund for the
22 purpose of making the grant.
- 23 (4) The Finance Minister must not give a direction under
24 subsection (2) if doing so would contravene section 36 (annual
25 limit).
- 26 (5) Two or more directions under subsection (2) may be set out in the
27 same document.
- 28 (6) A direction under subsection (2) is not a legislative instrument.

EXPOSURE DRAFT

- 1 (7) If the Finance Minister personally gives a direction under
2 subsection (2) in response to a request made by a designated
3 Minister, the Finance Minister must give a copy of the direction to:
4 (a) the Treasurer; and
5 (b) the Housing Minister; and
6 (c) if the designated Minister is not the Housing Minister—the
7 designated Minister.
- 8 (8) If a delegate of the Finance Minister gives a direction under
9 subsection (2) in response to a request made by a designated
10 Minister, the delegate must give a copy of the direction to:
11 (a) the Treasury Department; and
12 (b) the Department, or an Executive Agency, administered by the
13 designated Minister.

14 **30 Debits from the COAG Reform Fund**

- 15 (1) If an amount has been credited under paragraph 29(2)(b) to the
16 COAG Reform Fund for a purpose in relation to a grant of
17 financial assistance to a State or Territory, the Treasurer must:
18 (a) ensure that the COAG Reform Fund is debited for the
19 purposes of making the grant; and
20 (b) do so as soon as practicable after the amount has been
21 credited.
- 22 (2) However, if the grant cannot be made, an amount equal to the
23 credited amount is to be:
24 (a) debited from the COAG Reform Fund; and
25 (b) credited to the Housing Australia Future Fund Special
26 Account.

27 **31 Other credits to the Housing Australia Future Fund Special 28 Account**

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

EXPOSURE DRAFT

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

Section 32

1 **Part 4—Transfers from the Housing Australia**
2 **Future Fund Special Account to the**
3 **Housing Australia Special Account**
4

5 **32 Simplified outline of this Part**

- 6 • Amounts will be transferred from the Housing Australia
7 Future Fund Special Account to the Housing Australia Special
8 Account for the purposes of enabling Housing Australia to
9 make grants in relation to acute housing needs, social housing
10 or affordable housing.

11 **33 Transfers from the Housing Australia Future Fund Special**
12 **Account to the Housing Australia Special Account**

- 13 (1) If the Housing Minister decides that one or more payments should
14 be made to Housing Australia:
15 (a) during a financial year beginning on or after 1 July 2023; and
16 (b) under paragraph 47C(1)(b) of the *Housing Australia Act*
17 2018;

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

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

- 26 (2) The Housing Minister must not make more than one request under
27 subsection (1) in relation to a particular payment.
28 (3) To avoid doubt, the Housing Minister may make 2 or more
29 requests under subsection (1) during a financial year.

EXPOSURE DRAFT

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Transfer

- (4) If:
- (a) during a financial year, the Housing Minister requests the Finance Minister under subsection (1) to transfer an amount from the Housing Australia Future Fund Special Account to the Housing Australia Special Account; and
 - (b) the Finance Minister is satisfied that the transfer will not contravene section 36 (annual limit);
- the Finance Minister must, in writing, direct that a specified amount (which must equal the requested amount) is to be:
- (c) debited from the Housing Australia Future Fund Special Account; and
 - (d) credited to the Housing Australia Special Account;
- on a specified day during the financial year.
- (5) A direction under subsection (4) is not a legislative instrument.
- (6) If the Finance Minister personally gives a direction under subsection (4), the Finance Minister must give a copy of the direction to the Housing Minister and the Treasurer.
- (7) If a delegate of the Finance Minister gives a direction under subsection (4), the delegate must give a copy of the direction to the Treasury Department.

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

- (8) If:
- (a) the Housing Minister requests the Finance Minister under subsection (1) to transfer an amount from the Housing Australia Future Fund Special Account to the Housing Australia Special Account; and
 - (b) as a result of the request, an amount has been credited to the Housing Australia Special Account under paragraph (4)(d);
- and

EXPOSURE DRAFT

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

Section 34

- 1 (c) the payment or payments to which the request relates were to
2 be applied by Housing Australia in making one or more
3 grants; and
4 (d) one or more of those grants cannot be made;
5 an amount equal to the total amount of the grants that cannot be
6 made is to be:
7 (e) debited from the Housing Australia Special Account; and
8 (f) credited to the Housing Australia Future Fund Special
9 Account.

10 **34 Debits from the Housing Australia Special Account**

- 11 If an amount has been credited under paragraph 33(4)(d) to the
12 Housing Australia Special Account for a purpose in relation to a
13 payment to Housing Australia, the Housing Minister must:
14 (a) ensure that the Housing Australia Special Account is debited
15 for the purposes of making the payment; and
16 (b) do so as soon as practicable after the amount has been
17 credited.

EXPOSURE DRAFT

Annual limit on amounts debited from the Housing Australia Future Fund Special
Account **Part 5**

Section 35

1 **Part 5—Annual limit on amounts debited from the**
2 **Housing Australia Future Fund Special**
3 **Account**
4

5 **35 Simplified outline of this Part**

- 6
 - There is an annual limit on amounts debited from the Housing

7 Australia Future Fund Special Account.

8 **36 Annual limit on amounts debited from the Housing Australia**
9 **Future Fund Special Account**

10 The total amount debited from the Housing Australia Future Fund
11 Special Account under sections 26, 29 and 33 during:
12 (a) the financial year beginning on 1 July 2023; or
13 (b) a later financial year;
14 must not exceed \$500 million.

EXPOSURE DRAFT

Part 6 Investment of the Housing Australia Future Fund

Section 37

Part 6—Investment of the Housing Australia Future Fund

37 Simplified outline of this Part

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

38 Objects of investment of the Housing Australia Future Fund

- (1) The main objects of the acquisition by the Future Fund Board of a financial asset as an investment of the Housing Australia Future Fund are to enhance the Commonwealth's ability to transfer amounts in accordance with sections 26, 29 and 33.
- (2) The ancillary objects of the acquisition by the Future Fund Board of a financial asset as an investment of the Housing Australia Future Fund are to enhance the ability of the Commonwealth and the Future Fund Board to discharge the costs, expenses, obligations and liabilities mentioned in sections 13 and 14.

39 Investment of the Housing Australia Future Fund

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

EXPOSURE DRAFT

- 1 (2) Investments under subsection (1) are to be made in the name of the
2 Future Fund Board.
- 3 (3) Investments under subsection (1) are taken to be investments of the
4 Housing Australia Future Fund.
- 5 (4) This section does not authorise the acquisition of a derivative.
6 Note: For acquisition of derivatives, see section 49.

40 Management of investments of the Housing Australia Future Fund

- 9 (1) Income derived from an investment of the Housing Australia
10 Future Fund is to be credited to the Housing Australia Future Fund
11 Special Account.
- 12 (2) A return of capital, or any other financial distribution, relating to
13 an investment of the Housing Australia Future Fund is to be
14 credited to the Housing Australia Future Fund Special Account.
- 15 (3) The Future Fund Board may realise an investment of the Housing
16 Australia Future Fund.
- 17 (4) Upon realisation of an investment of the Housing Australia Future
18 Fund, the proceeds of the investment are to be credited to the
19 Housing Australia Future Fund Special Account.
- 20 (5) At any time before an investment of the Housing Australia Future
21 Fund matures, the Future Fund Board may authorise the
22 re-investment of the proceeds upon maturity in a financial asset
23 investment with the same entity. The new investment is taken to be
24 an investment of the Housing Australia Future Fund.
- 25 (6) Section 58 of the *Public Governance, Performance and*
26 *Accountability Act 2013* (which deals with investment by the
27 Commonwealth) does not apply to an investment of the Housing
28 Australia Future Fund.

EXPOSURE DRAFT

Part 6 Investment of the Housing Australia Future Fund

Section 41

1 **41 Housing Australia Future Fund Investment Mandate**

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

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

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

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

- 12 (a) the need to maximise the return earned on the Housing
13 Australia Future Fund over the long term, consistent with
14 international best practice for institutional investment; and
15 (b) the need to enhance the Commonwealth's ability to make
16 grants under section 18 and transfers under section 33; and
17 (c) such other matters as the responsible Ministers consider
18 relevant.

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

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

- 24 (a) matters of risk and return; and
25 (b) the allocation of financial assets.

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

28 *Relationship between directions and other provisions of this Act*

29 (5) A direction under subsection (1):

- 30 (a) prevails over section 42 to the extent of any inconsistency;
31 and
32 (b) must not otherwise be inconsistent with this Act.

EXPOSURE DRAFT

1 *When direction takes effect*

2 (6) A direction under subsection (1) must not take effect before the
3 15th day after the day on which it is given.

4 *Direction is a legislative instrument*

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

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

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

12 **42 Obligation on Future Fund Board in performing investment** 13 **functions**

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

20 **43 Limitation on Housing Australia Future Fund Investment** 21 **Mandate**

- 22 (1) The responsible Ministers must not give a direction under
23 subsection 41(1) that has the purpose, or has or is likely to have the
24 effect, of directly or indirectly requiring the Future Fund Board to:
- 25 (a) invest an amount standing to the credit of the Housing
26 Australia Future Fund Special Account in a particular
27 financial asset; or
 - 28 (b) acquire a particular derivative; or
 - 29 (c) allocate financial assets to:
 - 30 (i) a particular business entity; or
 - 31 (ii) a particular activity; or

EXPOSURE DRAFT

Part 6 Investment of the Housing Australia Future Fund

Section 44

1 (iii) a particular business.

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

3 **44 Future Fund Board to be consulted on Housing Australia Future** 4 **Fund Investment Mandate**

5 (1) Before giving the Future Fund Board a direction under
6 subsection 41(1), the responsible Ministers must:

7 (a) send a draft of the direction to the Future Fund Board; and

8 (b) invite the Future Fund Board to make a submission to the
9 responsible Ministers on the draft direction within a
10 reasonable time limit specified by the responsible Ministers;
11 and

12 (c) consider any submission that is received from the Future
13 Fund Board within that time limit.

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

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

19 **45 Compliance with Housing Australia Future Fund Investment** 20 **Mandate**

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

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

27 (a) informing the responsible Ministers of the failure to comply
28 with the Investment Mandate; and

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

EXPOSURE DRAFT

- 1 (3) If the responsible Ministers are satisfied that the Future Fund
2 Board has failed to comply with the Housing Australia Future Fund
3 Investment Mandate, the responsible Ministers may, by written
4 notice given to the Board, direct the Board:
5 (a) to give the responsible Ministers, within a period specified in
6 the notice, a written explanation for the failure to comply
7 with the Investment Mandate; and
8 (b) to take action specified in the notice, within a period
9 specified in the notice, in order to comply with the
10 Investment Mandate.
- 11 (4) The Future Fund Board must comply with a direction under
12 subsection (3).
- 13 (5) A failure to comply with:
14 (a) the Housing Australia Future Fund Investment Mandate; or
15 (b) a direction under subsection (3);
16 does not affect the validity of any transaction.
- 17 (6) A direction under subsection (3) is not a legislative instrument.

18 **46 Future Fund Board must not trigger the takeover provisions of**
19 **the *Corporations Act 2001***

- 20 (1) Subsections 606(1A) and (2A) and section 611 of the *Corporations*
21 *Act 2001* do not apply to an acquisition by the Future Fund Board
22 if the acquisition is the result of the performance by the Future
23 Fund Board of its Housing Australia Future Fund investment
24 functions.
- 25 (2) A failure by the Future Fund Board to comply with section 606 of
26 the *Corporations Act 2001* (as modified by this section) does not
27 affect the validity of any transaction.

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

EXPOSURE DRAFT

Part 6 Investment of the Housing Australia Future Fund

Section 47

1 **47 Borrowing**

- 2 (1) The Future Fund Board must not borrow money for a purpose in
3 connection with the Housing Australia Future Fund unless the
4 borrowing is authorised by subsection (2) or (3).
- 5 (2) The Future Fund Board is authorised to borrow money for a
6 purpose in connection with the Housing Australia Future Fund if:
7 (a) the purpose of the borrowing is to enable the Board to cover
8 settlement of a transaction for the acquisition of one or more
9 financial assets; and
10 (b) at the time the relevant acquisition decision was made, it was
11 likely that the borrowing would not be needed; and
12 (c) the period of the borrowing does not exceed 7 days; and
13 (d) if the borrowing were to take place, the total amount
14 borrowed by the Board would not exceed 10% of the balance
15 of the Fund.
- 16 (3) The Future Fund Board is authorised to borrow money for a
17 purpose in connection with the Housing Australia Future Fund if
18 the borrowing takes place in such circumstances (if any) as are
19 specified in the rules.

20 **48 Housing Australia Future Fund investment policies**

- 21 (1) The Future Fund Board must formulate written policies to be
22 complied with by it in relation to the following matters in
23 connection with the Housing Australia Future Fund:
24 (a) the investment strategy for the Fund;
25 (b) benchmarks and standards for assessing the performance of
26 the Fund;
27 (c) risk management for the Fund;
28 (d) a matter relating to international best practice for institutional
29 investment;
30 (e) a matter specified in the rules.

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

EXPOSURE DRAFT

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

4 *Publication of policies*

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

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

11 *Review of policies*

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

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

17 *Compliance with policies*

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

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

22 *Policies*

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

25 **49 Derivatives**

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

EXPOSURE DRAFT

Part 6 Investment of the Housing Australia Future Fund

Section 50

- 1 (a) protecting the value of an investment of the Housing
2 Australia Future Fund (other than a derivative); or
3 (b) protecting the return on an investment of the Housing
4 Australia Future Fund (other than a derivative); or
5 (c) achieving indirect exposure to financial assets (other than
6 derivatives) for a purpose in connection with the Housing
7 Australia Future Fund; or
8 (d) achieving transactional efficiency for a purpose in connection
9 with the Housing Australia Future Fund;
10 but must not acquire a derivative for the purpose of speculation or
11 leverage.
- 12 (2) The acquisition of a derivative under subsection (1) of this section
13 must be consistent with the investment strategy embodied in a
14 policy formulated by the Future Fund Board under
15 subsection 48(1).
- 16 (3) A derivative acquired under subsection (1) of this section is to be
17 held in the name of the Future Fund Board.
- 18 (4) A derivative acquired under subsection (1) is taken to be an
19 investment of the Housing Australia Future Fund.

20 **50 Additional financial assets**

- 21 An asset is taken to be an investment of the Housing Australia
22 Future Fund if the Future Fund Board becomes the holder of the
23 financial asset as a result of:
24 (a) the Board's holding of an investment of the Fund; or
25 (b) the exercise of any rights or powers conferred on the Board
26 in its capacity as the holder of an investment of the Fund.

27 **51 Securities lending arrangements**

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

EXPOSURE DRAFT

- 1 (2) Any money received by the Future Fund Board under a securities
2 lending arrangement entered into under subsection (1) is to be
3 credited to the Housing Australia Future Fund Special Account.
- 4 (3) To avoid doubt, a securities lending arrangement entered into
5 under subsection (1) may provide for the Future Fund Board to
6 realise an investment of the Housing Australia Future Fund.
- 7 (4) A financial asset is taken to be an investment of the Housing
8 Australia Future Fund if, as the result of the operation of a
9 securities lending arrangement entered into under subsection (1),
10 the Future Fund Board becomes the holder of the financial asset.

11 **52 Investment managers**

- 12 (1) The Future Fund Board may engage one or more investment
13 managers for purposes in connection with the Housing Australia
14 Future Fund.
- 15 (2) The Future Fund Board must not:
16 (a) invest amounts under subsection 39(1); or
17 (b) acquire derivatives under subsection 49(1); or
18 (c) enter into a securities lending arrangement under
19 subsection 51(1); or
20 (d) realise financial assets that are investments of the Housing
21 Australia Future Fund;
22 unless the Board does so:
23 (e) through an investment manager engaged by the Board under
24 subsection (1) of this section; or
25 (f) in a manner approved, in writing, by the responsible
26 Ministers.
- 27 (3) The Future Fund Board must ensure that any investment manager
28 engaged by the Board under subsection (1) operates within this
29 Act.
- 30 (4) The Future Fund Board must ensure that any investment manager
31 engaged by the Board under subsection (1) reports to the Board
32 and the Agency on the state of the investments of the Housing

EXPOSURE DRAFT

Part 6 Investment of the Housing Australia Future Fund

Section 53

1 Australia Future Fund at such times and in such manner as the
2 Board determines.

3 **53 Refund of franking credits**

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

- 7 (a) the Future Fund Board receives the refund; and
8 (b) the tax offset is attributable to an investment of the Housing
9 Australia Future Fund.

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

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

13 **54 Realisation of non-financial assets**

- 14 (1) This section applies if the Future Fund Board becomes aware of
15 the fact that:
16 (a) an asset held by the Board as an investment of the Housing
17 Australia Future Fund has ceased to be a financial asset; or
18 (b) an asset acquired by the Board, purportedly as an investment
19 of the Housing Australia Future Fund, is not a financial asset.
- 20 (2) The Future Fund Board must realise the asset as soon as
21 practicable after the Board becomes aware of the fact.
- 22 (3) This Act (other than this section) applies in relation to the asset
23 (including in relation to the realisation of the asset) as if the asset
24 had been a financial asset, and an investment of the Housing
25 Australia Future Fund, from the time of its acquisition by the
26 Future Fund Board until the realisation.

27 **55 Additional function of the Future Fund Board**

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

1 **Part 7—Reporting obligations etc.**
2

3 **56 Simplified outline of this Part**

- | | |
|---|--|
| 4 | • The Future Fund Board must keep the responsible Ministers |
| 5 | informed of its operations under this Act. It may also be |
| 6 | required by the Finance Minister to provide reports and |
| 7 | information. |
| 8 | • The Finance Minister may give reports, documents and other |
| 9 | information to other Ministers. |

10 **57 Finance Minister may require Future Fund Board to prepare**
11 **reports or give information**

12 *Reports and information*

- 13 (1) The Finance Minister may, by written notice given to the Future
14 Fund Board, require the Board to:
- 15 (a) prepare a report or document about one or more specified
16 matters relating to the performance of the Board's functions
17 under this Act; and
- 18 (b) give copies of the report or document to the Finance Minister
19 within the period specified in the notice.

20 *Compliance*

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

23 *Publication of reports and documents*

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

EXPOSURE DRAFT

Part 7 Reporting obligations etc.

Section 58

1 *Reports and documents*

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

4 **58 Keeping the responsible Ministers informed etc.**

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

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

10 **59 Finance Minister may give reports, documents and other** 11 **information to other Ministers**

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

- 14 (a) a report or document under subsection 57(1) or 58(2);
15 (b) any other information or document obtained by the Finance
16 Minister under this Act.

1 **Part 8—Miscellaneous**
2

3 **60 Simplified outline of this Part**

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

6 **61 Delegation by the Finance Minister**

- 7 (1) The Finance Minister may, by writing, delegate any or all of the
8 Finance Minister's functions or powers under section 26, 29 or 33
9 to:
10 (a) the Secretary of the Finance Department; or
11 (b) an SES employee, or acting SES employee, in the Finance
12 Department.

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

- 15 (2) The Finance Minister may, by writing, delegate any or all of the
16 Finance Minister's powers under section 16 to:
17 (a) the Secretary of the Finance Department; or
18 (b) an SES employee, or acting SES employee, in the Finance
19 Department; or
20 (c) the Chair (within the meaning of section 5 of the *Future*
21 *Fund Act 2006*); or
22 (d) an SES employee, or acting SES employee, in the Agency.

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

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

EXPOSURE DRAFT

Part 8 Miscellaneous

Section 62

1 **62 Delegation by the Treasurer**

- 2 (1) The Treasurer may, by writing, delegate any or all of the
3 Treasurer's functions or powers under section 30 to:
4 (a) the Secretary of the Treasury Department; or
5 (b) an SES employee, or acting SES employee, in the Treasury
6 Department.

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

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

12 **63 Delegation by a designated Minister**

- 13 (1) A designated Minister may, by writing, delegate any or all of the
14 designated Minister's functions or powers under Division 2 of
15 Part 3 or section 29 to:
16 (a) the Secretary of the Department administered by the
17 designated Minister; or
18 (b) a person who:
19 (i) is an SES employee, or acting SES employee, in the
20 Department administered by the designated Minister;
21 and
22 (ii) has the expertise appropriate to the function or power;
23 or
24 (c) the Head of an Executive Agency administered by the
25 designated Minister; or
26 (d) a person who:
27 (i) is an SES employee, or acting SES employee, in an
28 Executive Agency administered by the designated
29 Minister; and
30 (ii) has the expertise appropriate to the function or power;
31 or
32 (e) a person who:
33 (i) is an official of a Commonwealth entity; and

- 1 (ii) is not covered by paragraph (a), (b), (c) or (d); and
2 (iii) has the expertise appropriate to the function or power.
- 3 Note: The expressions *SES employee* and *acting SES employee* are defined
4 in section 2B of the *Acts Interpretation Act 1901*.
- 5 (2) In performing functions, or exercising powers, under a delegation
6 under subsection (1), the delegate must comply with any directions
7 of the designated Minister concerned.

8 **64 Delegation by the Housing Minister**

- 9 (1) The Housing Minister may, by writing, delegate any or all of the
10 Housing Minister's functions or powers under section 33 or 34 to:
11 (a) the Secretary of the Treasury Department; or
12 (b) a person who:
13 (i) is an SES employee, or acting SES employee, in the
14 Treasury Department; and
15 (ii) has the expertise appropriate to the function or power.
- 16 Note: The expressions *SES employee* and *acting SES employee* are defined
17 in section 2B of the *Acts Interpretation Act 1901*.
- 18 (2) In performing functions, or exercising powers, under a delegation
19 under subsection (1), the delegate must comply with any directions
20 of the Housing Minister.

21 **65 Reviews of operation of Act**

- 22 (1) The Housing Minister must cause reviews of the operation of this
23 Act to be conducted.
- 24 (2) A review must consider:
25 (a) the extent to which grants under section 18, and transfers
26 under section 33, have improved housing outcomes for
27 Australians; and
28 (b) the extent to which the operation of this Act is meeting the
29 needs of Australians in relation to:
30 (i) acute housing needs; and
31 (ii) social housing; and

EXPOSURE DRAFT

Part 8 Miscellaneous

Section 65

- 1 (iii) affordable housing;
2 as the housing market evolves and economic parameters
3 shift.
- 4 (3) Subsection (2) does not limit subsection (1).
- 5 (4) Before causing a review to be conducted, the Housing Minister
6 must consult the responsible Ministers.
- 7 *Report of review etc.*
- 8 (5) The person or persons who conduct a review must give the
9 Housing Minister a written report of the review.
- 10 (6) The Housing Minister must cause a copy of:
11 (a) the terms of reference for the review; and
12 (b) the report of the review;
13 to be tabled in each House of the Parliament within 15 sitting days
14 of that House after the report of the review is given to the Housing
15 Minister.
- 16 (7) The Housing Minister must cause a copy of:
17 (a) the terms of reference for the review; and
18 (b) the report of the review;
19 to be published on the internet as soon as practicable after the
20 earliest day on which a copy of the report of the review is tabled in
21 a House of the Parliament.
- 22 (8) The Housing Minister must give a copy of the report of the review
23 to each of the responsible Ministers.
- 24 *Timing of reviews*
- 25 (9) The first review must be completed by 31 December 2028.
- 26 (10) Each subsequent review must be completed within 5 years after the
27 completion of the previous review.

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

4 **66 Rules**

- 5 (1) The Finance Minister may, by legislative instrument, make rules
6 prescribing matters:
7 (a) required or permitted by this Act to be prescribed by the
8 rules; or
9 (b) necessary or convenient to be prescribed for carrying out or
10 giving effect to this Act.
- 11 (2) To avoid doubt, the rules may not do the following:
12 (a) create an offence or civil penalty;
13 (b) provide powers of:
14 (i) arrest or detention; or
15 (ii) entry, search or seizure;
16 (c) impose a tax;
17 (d) set an amount to be appropriated from the Consolidated
18 Revenue Fund under an appropriation in this Act;
19 (e) directly amend the text of this Act.