



ANNO TRICESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1989

No. 17 of 1989

An Act to amend the South Australian Housing Trust Act, 1936.

[Assented to 20 April 1989]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *South Australian Housing Trust Act Amendment Act, 1989*.

(2) The *South Australian Housing Trust Act, 1936*, is referred to in this Act as “the principal Act”.

Substitution of s. 9

2. Section 9 of the principal Act is repealed and the following sections are substituted:

Disqualification from membership of trust

9. (1) Subject to subsection (2), no person may be appointed or continue as the chairman or a member of the trust, whether on a permanent or an acting basis, if the person has a direct or indirect interest in a contract made by the trust.

(2) A person is not disqualified as referred to in subsection (1) by reason only of the fact that—

- (a) the person has an interest in shares in a public company that is interested in a contract made by the trust, provided that the person’s interest does not amount to a substantial shareholding in the company;
- (b) the person is a party to a contract for the letting or sale of a house by the trust, or occupies, or is to occupy, a house or part of a house as a result of any such contract made by the trust with another person;

or

- (c) the person is a member of a non-profit association, or of the governing body or a committee of a non-profit association, that is a party to a contract with the trust.

(3) In this section—

“non-profit association” means an association (whether incorporated or unincorporated)—

(a) that does not have as its principal object, or one of its principal objects, the carrying on of a trade or the making of a profit;

and

(b) that is so constituted that its profits (if any) must be applied towards the purposes for which it is established and may not be distributed to its members:

“public company” means a public company as defined in section 5 (1) of the *Companies (South Australia) Code*.

(4) For the purposes of this section, a person has a substantial shareholding in a public company if—

(a) the person has a substantial shareholding in the company for the purposes of Division 4 of Part IV of the *Companies (South Australia) Code*,

or

(b) the person would have a substantial shareholding in the company for the purposes of Division 4 of Part IV of the *Companies (South Australia) Code* if the company were a company within the meaning of that Division.

Disclosure of interest

9a. (1) A person holding office as the chairman or a member of the trust, whether on a permanent or an acting basis, who is directly or indirectly interested in a contract, or proposed contract, made by, or in the contemplation of, the trust is guilty of a summary offence unless the person—

(a) as soon as practicable after becoming aware of the contract, or the proposal to make the contract, discloses the nature of that interest to the trust;

and

(b) refrains from taking part in any deliberations or decisions of the trust with respect to that contract.

Penalty: Division 6 fine.

(2) A disclosure under this section must be recorded in the minutes of the trust.

(3) Where a person makes a disclosure of interest in respect of a contract or proposed contract in accordance with this section—

(a) the contract is not void, or liable to be avoided, on any ground arising from the person's interest in the contract;

and

(b) the person is not liable to account to the trust for any profits derived from the contract.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor