



## HOMES (MOVABLE DWELLING UNITS)

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No. 101 of 1976

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### ANALYSIS

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**AN ACT to amend the Homes Act 1935 and the Stamp Duties Act 1931.**

[15 December 1976]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1—**(1) This Act may be cited as the *Homes (Movable Dwelling Units) Act 1976*. Short title and citation.

(2) The *Homes Act 1935*, as subsequently amended, is in this Act referred to as the Principal Act.

2 After Part VI of the Principal Act the following Part is inserted:—

“ PART VIA

MOVABLE DWELLING UNITS

Nature of  
movable  
dwelling units.

“ 37A—(1) For the purposes of this Part a movable dwelling unit shall be taken to be any unit designed for use as a dwelling for one or two individuals that is capable of being transferred from place to place with reasonable facility.

“(2) References in this Part to the ancillary features of a unit shall be construed as references to—

- (a) any component or other part of the unit;
- (b) any fittings, equipment, or furniture, provided for use in connection with the unit;
- (c) any foundations, footings, steps, or other works required for the erection or use of the unit.

Purpose of  
provision of  
movable  
dwelling units.

“ 37B—(1) The Director may make arrangements for the provision of a movable dwelling unit in connection with a dwelling house so that that unit may be used as a dwelling by one or two persons who, he is satisfied, are eligible individuals who are, or one of whom is, related to one or more of the individuals ordinarily resident in the dwelling house.

“(2) For the purposes of subsection (1) an individual shall be taken to be an eligible individual if he is of advancing years or suffers from some infirmity or disability that renders it advisable that he live close to someone who is available to render him any assistance that he may require.

“(3) Two individuals may be taken to be related to each other for the purposes of subsection (1) if they have been living together for a substantial period as members of one family in the same household, notwithstanding that they are not related by consanguinity or affinity.

“(4) Notwithstanding anything in this section a movable dwelling unit shall not be erected on any land without the approval of the corporation of the municipality in which the land is situated.

“ 37C For the purposes of this Part the Director may provide, or make arrangements for the provision of, the movable dwelling units and the ancillary features thereof, and may carry out, or arrange for the carrying out of, any work necessary in connection with the erection, maintenance, use, or removal of the units. Provision of movable dwelling units.

“ 37D—(1) In the exercise of the powers conferred on him by this Part the Director may enter into, and carry into effect, agreements (in this Part referred to as ‘ hiring agreements ’) with respect to the erection and use of a movable dwelling unit in accordance with this Part. Agreements with respect to movable dwelling units.

“(2) Without prejudice to the generality of the provisions of subsection (1), a hiring agreement in respect of a movable dwelling unit may make provision with respect to all or any of the following matters:—

- (a) The hiring charges payable in respect of the unit or any of its ancillary features, including the fixing of the amount, the manner of payment, and recovery, of any such charges;
- (b) The payment or return of deposits in respect of the erection or installation of the unit or any of its ancillary features;
- (c) The maintenance of the unit or any of its ancillary features, and their preservation from damage;
- (d) The provision and maintenance of the services required in connection with the use of the unit as a dwelling;
- (e) The removal of the unit or any of its ancillary features, and the restoration of the site from which it or they are removed;
- (f) The persons who may be allowed to use the unit as a dwelling;
- (g) The terms and conditions on which persons may be allowed to use the unit as a dwelling, and the charges that may be made in respect of any such use;
- (h) The notifications required to be given with respect to the use of the unit or the occupation or ownership of the land on which it is situated;
- (i) The rights of entry of the Director and persons acting under his authority in relation to matters arising under the agreement;
- (j) The effect of a failure to comply with any of the terms of the agreement.

“(3) A movable dwelling unit and the ancillary features of a unit shall be the property of the Director and remain personal property, and shall be deemed not to be affixed, within the meaning of any law relating to real property, to any land upon which it is for the time being situated.

“(4) A hiring agreement may make provision for the termination thereof, by act of any party thereto or otherwise.

“(5) A hiring agreement may be an agreement altering or replacing a previous hiring agreement.

“(6) The Director may cause a hiring agreement to be registered in accordance with the third Schedule.

“(7) Where the Director registers a hiring agreement in accordance with subsection (6), he shall, upon the determination of that agreement, serve upon the Recorder of Titles a notice in respect thereof and the Recorder shall make an entry on the relevant folium of the register book that the agreement so registered has been cancelled.

Power to  
remove units.

“37E—(1) Where a hiring agreement in respect of a movable dwelling unit has been registered as mentioned in section 37D (6) and the Director becomes entitled, on the termination of the agreement or otherwise, to remove the unit or any ancillary features thereof from the land in respect of which the agreement was registered any authorized person may enter upon that land and remove or assist in removing that unit or that ancillary feature.

“(2) For the purposes of this section an authorized person is any person authorized by the Director to remove the unit or ancillary feature, and any other person acting under the direction of the person so authorized.”.

Registration of  
hire agreements.

**3** The Schedule contained in the Schedule to this Act is added to the Principal Act as the Third Schedule thereto.

Exemption of  
hire agreements  
from stamp  
duty.

**4** Part I of the third Schedule to the *Stamp Duties Act* 1931 is amended—

(a) with respect to the exemption operating in relation to Item 1 in the second Schedule to that Act, by adding in the second column of that Part the words—

“ Any hire agreement under section 37D of the *Homes Act* 1935 ”;

(b) with respect to the exemption operating in relation to Item 20 in the second Schedule to that Act, by adding in the second column of that Part the words—

“ Any hire agreement under section 37D of the *Homes Act 1935* ”; and

(c) with respect to the exemption operating in relation to Item 27 in the second Schedule to that Act—

(i) by omitting the word “ or ” occurring at the end of paragraph (c) in that column; and

(ii) by adding the following paragraph in that column to follow paragraph (d):—

“(e) Where the agreement is a hiring agreement under section 37D of the *Homes Act 1935*.”.

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## SCHEDULE

(Section 3)

### “ THE THIRD SCHEDULE

(Section 37D (6))

#### *Registration of hire agreements in respect of movable dwelling units*

1—(1) Where a hire agreement is required to be registered in accordance with this Schedule it shall be so registered by lodging with the Recorder of Titles—

(a) a copy of the agreement; and

(b) particulars of the title to the land on which the movable dwelling unit to which the agreement relates is, or is to be, erected.

(2) Where an agreement has been registered under sub-paragraph (1) the Recorder shall make an appropriate entry of the agreement on the folium of the register book constituting the title to the land referred to in clause (b) of that sub-paragraph.

2—(1) Where the whole or any part of the land referred to in paragraph 1 (1) is not under the *Real Property Act 1862* the Recorder shall bring under that Act so much of the land that is not under that Act by registering a qualified certificate of title thereto in accordance with section 19 of that Act.

(2) Where part only of the land referred to in clause (b) of paragraph 1 (1) is required to be brought under the *Real Property Act 1862* by this paragraph the Recorder shall issue a consolidated title to the whole of the land so referred to and for that purpose may call in and cancel the certificates of title to the parts of the land in accordance with section 136 of that Act.

(3) The Recorder is not bound, for the purposes of sub-paragraph (1), to investigate the title to any land.

(4) Where by this paragraph the Recorder is required to bring any land under the *Real Property Act 1862*, and no survey such as he could require under section 104 of that Act is available, the land may be described on the certificate of title by means of a description by metes and bounds instead of by reference to a plan.

(5) Where, in any certificate of title registered pursuant to this paragraph, land is described by means of a description by metes and bounds—

- (a) no action shall be brought against the Recorder or the assurance fund constituted under the *Real Property Act 1862* by reason or in respect of any difference between the area of the land or the position or dimensions of the boundaries stated in the certificate of title and the actual area, position, or dimensions as found by admeasurement on the ground;
- (b) a solicitor who acts for any party taking or proposing to take any estate or interest in the land from the registered proprietor of the certificate of title is not under any duty to check that the description in the certificate of title agrees with the description in the antecedent document of title; and
- (c) upon such evidence of boundaries as he deems sufficient, the Recorder may cancel the certificate of title and replace it by a fresh certificate of title describing the land in accordance with that evidence.

3 No fee is payable in respect of the registration of a hire agreement in accordance with this Schedule.”