

EXPOSURE DRAFT

2022-2023

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

Treasury Laws Amendment (Housing Measures No. 1) Bill 2023

No. , 2023

(Treasury)

**A Bill for an Act to amend the law relating to the
National Housing Finance and Investment
Corporation, and to deal with consequential
matters arising from the enactment of the *Housing
Australia Future Fund Act 2023*, and for other
purposes**

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1 **A Bill for an Act to amend the law relating to the**
2 **National Housing Finance and Investment**
3 **Corporation, and to deal with consequential**
4 **matters arising from the enactment of the *Housing***
5 ***Australia Future Fund Act 2023*, and for other**
6 **purposes**

7 The Parliament of Australia enacts:

8 **1 Short title**

9 This Act is the *Treasury Laws Amendment (Housing Measures No.*
10 *1) Act 2023*.

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2 Commencement

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

Commencement information

| Column 1 | Column 2 | Column 3 |
|---|--|--------------|
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | |
| 2. Schedule 1, Part 1 | The day after this Act receives the Royal Assent. | |
| 3. Schedule 1, Part 2 | Immediately after the commencement of the provisions covered by table item 2. | |
| 4. Schedule 2, Part 1 | Immediately after the commencement of the provisions covered by table item 2. | |
| 5. Schedule 2, Part 2 | Immediately after the commencement of the provisions covered by table item 7. | |
| 6. Schedule 3 | Immediately after the commencement of the provisions covered by table item 2. | |
| 7. Schedule 4 | At the same time as the <i>Housing Australia Future Fund Act 2023</i> commences. However, the provisions do not commence at all if the <i>Housing Australia Future Fund Act 2023</i> does not commence. | |

Note: This table relates only to the provisions of this Act as originally enacted.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

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

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1 **3 Schedules**

2 Legislation that is specified in a Schedule to this Act is amended or
3 repealed as set out in the applicable items in the Schedule
4 concerned, and any other item in a Schedule to this Act has effect
5 according to its terms.

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Schedule 1 Housing Australia

Part 1 Main amendments

1 **Schedule 1—Housing Australia**

2 **Part 1—Main amendments**

3 *National Housing Finance and Investment Corporation Act*
4 *2018*

5 **1 Title**

6 Omit “the National Housing Finance and Investment Corporation”,
7 substitute “Housing Australia”.

8 **2 Section 1**

9 Omit “National Housing Finance and Investment Corporation Act
10 2018”, substitute “Housing Australia Act 2018”.

11 Note: This item amends the short title of the Act. If another amendment of the Act is
12 described by reference to the Act’s previous short title, that other amendment has effect
13 after the commencement of this item as an amendment of the Act under its amended
14 short title (see section 10 of the *Acts Interpretation Act 1901*).

15 **3 Section 3**

16 Omit “the National Housing Finance and Investment Corporation”,
17 substitute “Housing Australia”.

18 **4 Section 4 (paragraph beginning “The National Housing
19 Finance and Investment Corporation”)**

20 Omit “The National Housing Finance and Investment Corporation”,
21 substitute “Housing Australia”.

22 **5 Section 5 (definition of *NHFIC*)**

23 Repeal the definition.

24 **6 Part 2 (heading)**

25 Repeal the heading, substitute:

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Housing Australia **Schedule 1**
Main amendments **Part 1**

1 **Part 2—Housing Australia**

2 **7 Subsection 7(1)**

3 Repeal the subsection, substitute:

4 (1) The body corporate that was established by this subsection as
5 previously in force by the name National Housing Finance and
6 Investment Corporation continues in existence as Housing
7 Australia.

8 Note 1: Subsection 25B(1) of the *Acts Interpretation Act 1901* provides that a
9 body whose name is altered by an Act continues in existence under the
10 new name so that its identity is not affected.

11 Note 2: The *Public Governance, Performance and Accountability Act 2013*
12 applies to Housing Australia. That Act deals with matters relating to
13 Commonwealth entities, including reporting and the use and
14 management of public resources.

15 **8 Paragraph 13(d)**

16 Omit “NHFIC’s”, substitute “Housing Australia’s”.

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Schedule 1 Housing Australia

Part 2 Consequential amendments

1 **Part 2—Consequential amendments**

2 *Administrative Decisions (Judicial Review) Act 1977*

3 **9 Paragraph (zd) of Schedule 2**

4 Repeal the paragraph, substitute:

5 (zd) decisions relating to the activities of Housing Australia under
6 the *Housing Australia Act 2018*.

7 *Freedom of Information Act 1982*

8 **10 Division 1 of Part II of Schedule 2 (item dealing with the**
9 **National Housing Finance and Investment Corporation)**

10 Omit “National Housing Finance and Investment Corporation”,
11 substitute “Housing Australia”.

12 *Housing Australia Act 2018*

13 **11 The whole of the Act**

14 The *Housing Australia Act 2018* is amended as follows:

- 15 (a) by omitting “The NHFIC” (wherever occurring) and
16 substituting “Housing Australia”;
- 17 (b) by omitting “the NHFIC” (wherever occurring) and
18 substituting “Housing Australia”;
- 19 (c) by omitting “The NHFIC’s” (wherever occurring) and
20 substituting “Housing Australia’s”;
- 21 (d) by omitting “the NHFIC’s” (wherever occurring) and
22 substituting “Housing Australia’s”;
- 23 (e) by omitting “NHFIC” (wherever occurring) and substituting
24 “**Housing Australia**”.

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Housing Australia functions **Schedule 2**
Main amendments **Part 1**

1 Schedule 2—Housing Australia functions

2 Part 1—Main amendments

3 *Housing Australia Act 2018*

4 1 Section 5

5 Insert:

6 *capacity building function*: see subsection 8(1C).

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

9 *entity* includes:

10 (a) a company; and

11 (b) a trust; and

12 (c) a partnership.

13 *financing function*: see subsection 8(1A).

14 *guarantee function*: see subsection 8(1B).

15 *research function*: see subsection 8(1D).

16 2 Paragraphs 8(1)(a) to (cb)

17 Repeal the paragraphs, substitute:

18 (a) the financing function; and

19 (b) the guarantee function; and

20 (c) the capacity building function; and

21 (ca) the research function; and

22 3 After subsection 8(1)

23 Insert:

24 *Financing function*

25 (1A) Housing Australia's *financing function* is to make loans and
26 grants to:

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Schedule 2 Housing Australia functions

Part 1 Main amendments

- 1 (a) constitutional corporations, where this:
2 (i) is for the purpose of improving, directly or indirectly,
3 housing outcomes; and
4 (ii) assists the constitutional corporation in the performance
5 or development of its activities, functions, relationships
6 or business; and
7 (b) States and Territories, where this:
8 (i) is for the purpose of improving, directly or indirectly,
9 housing outcomes; and
10 (ii) is provided by way of a grant of financial assistance to
11 the State or Territory; and
12 (c) entities, where this is for the purpose of improving, directly
13 or indirectly, housing outcomes:
14 (i) in a Territory; or
15 (ii) for Aboriginal or Torres Strait Islander people; or
16 (iii) for members of the Australian Defence Force; or
17 (iv) for aliens (within the meaning of paragraph 51(xix) of
18 the Constitution); and
19 (d) entities, where this:
20 (i) is for the purpose of improving, directly or indirectly,
21 housing outcomes; and
22 (ii) contributes to the achievement of Australia's obligations
23 under an international agreement.

24 *Guarantee function*

- 25 (1B) Housing Australia's ***guarantee function*** is to issue guarantees to
26 constitutional corporations, where this:
27 (a) is for the purpose of improving housing outcomes; and
28 (b) assists the constitutional corporation in the performance or
29 development of its activities, functions, relationships or
30 business.

31 *Capacity building functions*

- 32 (1C) Housing Australia's ***capacity building function*** is to provide
33 business advisory services and other assistance in capacity building
34 to:

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Housing Australia functions **Schedule 2**
Main amendments **Part 1**

- 1 (a) registered community housing providers that are
2 constitutional corporations, where this:
3 (i) is for the purpose of improving housing outcomes; and
4 (ii) assists the registered community housing provider in the
5 performance or development of its activities, functions,
6 relationships or business; and
7 (b) registered community housing providers, where this is for the
8 purpose of improving housing outcomes:
9 (i) in a Territory; or
10 (ii) for Aboriginal or Torres Strait Islander people; or
11 (iii) for members of the Australian Defence Force; or
12 (iv) for aliens (within the meaning of paragraph 51(xix) of
13 the Constitution).

14 *Research functions*

- 15 (1D) Housing Australia's *research function* is to undertake research to
16 assist it in the performance of its functions.

17 **4 Subsection 8(2)**

18 Repeal the subsection.

19 **5 Before subsection 8(3)**

20 Insert:

21 *Obligation to act properly, efficiently and effectively*

22 **6 Section 10**

23 Repeal the section, substitute:

24 **10 Financing, guarantee and capacity building functions**

- 25 (1) This section applies in relation to Housing Australia's financing
26 function, guarantee function and capacity building function.

27 *Applications*

- 28 (2) An entity may apply to Housing Australia for a loan, grant or
29 guarantee, or for assistance in capacity building, in circumstances

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Schedule 2 Housing Australia functions

Part 1 Main amendments

- 1 where the Investment Mandate provides that Housing Australia
2 must consider such an application.
- 3 (3) Housing Australia must consider the application:
4 (a) within the timeframe specified in the Investment Mandate (if
5 any); and
6 (b) in accordance with the decision-making criteria and limits
7 specified in the Investment Mandate.
- 8 (4) Housing Australia may only make loans and grants, issue
9 guarantees or provide assistance in capacity building to an entity in
10 the performance of its functions mentioned in subsection (1) if the
11 entity has applied to Housing Australia for the loan, grant,
12 guarantee or assistance in capacity building under subsection (2).
- 13 *Terms and conditions*
- 14 (5) The terms and conditions on which the loan, grant, guarantee or
15 assistance in capacity building is provided must be set out in a
16 written agreement between Housing Australia and the entity.
- 17 (6) The entity must comply with the terms and conditions.
- 18 *Payments under the agreements*
- 19 (7) If, under the terms and conditions set out in the written agreement,
20 an amount is payable to Housing Australia:
21 (a) the amount is a debt due by the entity to Housing Australia;
22 and
23 (b) the amount is recoverable by action in a court of competent
24 jurisdiction.

7 Paragraph 47C(2)(a)

25 Omit “function mentioned in paragraph 8(1)(a)”, substitute “financing
26 function”.

8 Subsection 48A(2)

27
28 Omit “function under paragraph 8(1)(ca)”, substitute “guarantee
29 function”.
30

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Housing Australia functions **Schedule 2**
Main amendments **Part 1**

1 **9 After section 57A**

2 Insert:

3 **57B Review of financing function**

- 4 (1) The Minister must cause a review of the NHIF (within the meaning
5 of the *National Housing Finance and Investment Corporation*
6 *Investment Mandate Direction 2018*) to be commenced within 3
7 months after the end of:
- 8 (a) the period beginning on the day Schedule 2 to the *Treasury*
9 *Laws Amendment (Housing Measures No. 1) Act 2023*
10 commences and ending 12 months after that day; and
11 (b) each subsequent 12 month period.
- 12 (2) The persons undertaking the review must give the Minister a
13 written report of the review within 3 months of the commencement
14 of the review.
- 15 (3) The Minister must cause a copy of the report to be tabled in each
16 House of the Parliament within 15 sitting days of that House after
17 the report is given to the Minister.

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Schedule 2 Housing Australia functions
Part 2 Consequential amendments

1 **Part 2—Consequential amendments**

2 *Housing Australia Act 2018*

3 **10 Subsection 47C(2A)**

4 Omit “functions mentioned in paragraphs 8(1)(a) and (2)(a)”, substitute
5 “financing function”.

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Extension of Commonwealth guarantee **Schedule 3**

1 **Schedule 3—Extension of Commonwealth**
2 **guarantee**
3

4 *Housing Australia Act 2018*

5 **1 Subsection 51(2)**

6 Omit “1 July 2023”, substitute “1 July 2028”.

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Schedule 4 Consequential matters arising from the Housing Australia Future Fund Act 2023

Schedule 4—Consequential matters arising from the Housing Australia Future Fund Act 2023

Aboriginal and Torres Strait Islander Land and Sea Future Fund Act 2018

1 After subparagraph 16(a)(ia)

Insert:

(iaa) paragraph 13(e) of the *Housing Australia Future Fund Act 2023*; or

2 After subparagraph 16(b)(ia)

Insert:

(iaa) paragraph 13(f) of the *Housing Australia Future Fund Act 2023*; or

3 After subparagraph 16(c)(ia)

Insert:

(iaa) a paragraph of section 13 of the *Housing Australia Future Fund Act 2023*; or

COAG Reform Fund Act 2008

4 Subsection 5(2) (before note 3)

Insert:

Note 2AD: An amount originating in the Housing Australia Future Fund may be transferred to the COAG Reform Fund—see the *Housing Australia Future Fund Act 2023*.

5 Before paragraph 7(1)(d)

Insert:

(bad) the grant is not covered by section 30 of the *Housing Australia Future Fund Act 2023*; and

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Consequential matters arising from the Housing Australia Future Fund Act 2023
Schedule 4

6 Subsection 7(3) (before note 3)

Insert:

Note 1AD: The provision referred to in paragraph (1)(bad) deals with the channelling, through the COAG Reform Fund, of State/Territory grants payments from the Housing Australia Future Fund established by the *Housing Australia Future Fund Act 2023*. For terms and conditions of those grants, see the *Housing Australia Future Fund Act 2023*.

DisabilityCare Australia Fund Act 2013

7 After subparagraph 16(a)(ia)

Insert:

(ib) paragraph 13(e) of the *Housing Australia Future Fund Act 2023*; or

8 After subparagraph 16(b)(ia)

Insert:

(ib) paragraph 13(f) of the *Housing Australia Future Fund Act 2023*; or

9 After subparagraph 16(c)(ia)

Insert:

(ib) a paragraph of section 13 of the *Housing Australia Future Fund Act 2023*; or

Disaster Ready Fund Act 2019

10 After subparagraph 16(a)(i)

Insert:

(ia) paragraph 13(e) of the *Housing Australia Future Fund Act 2023*; or

11 After subparagraph 16(b)(i)

Insert:

(ia) paragraph 13(f) of the *Housing Australia Future Fund Act 2023*; or

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Schedule 4 Consequential matters arising from the Housing Australia Future Fund Act 2023

1 **12 After subparagraph 16(c)(i)**

2 Insert:

3 (ia) a paragraph of section 13 of the *Housing Australia*
4 *Future Fund Act 2023*; or

5 ***Future Drought Fund Act 2019***

6 **13 After subparagraph 17(a)(ia)**

7 Insert:

8 (iib) paragraph 13(e) of the *Housing Australia Future Fund*
9 *Act 2023*; or

10 **14 After subparagraph 17(b)(ia)**

11 Insert:

12 (iib) paragraph 13(f) of the *Housing Australia Future Fund*
13 *Act 2023*; or

14 **15 After subparagraph 17(c)(ia)**

15 Insert:

16 (iib) a paragraph of section 13 of the *Housing Australia*
17 *Future Fund Act 2023*; or

18 ***Future Fund Act 2006***

19 **16 Section 4 (note)**

20 Before “the *Medical Research Future Fund Act 2015*”, insert “the
21 *Housing Australia Future Fund Act 2023*”.

22 **17 Section 5**

23 Insert:

24 ***Housing Australia Future Fund*** means the *Housing Australia*
25 *Future Fund* established by section 9 of the *Housing Australia*
26 *Future Fund Act 2023*.

27 ***Housing Australia Future Fund Special Account*** means the
28 Housing Australia Future Fund Special Account established by
29 section 10 of the *Housing Australia Future Fund Act 2023*.

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Consequential matters arising from the Housing Australia Future Fund Act 2023
Schedule 4

1 *Housing Minister* has the same meaning as in the *Housing*
2 *Australia Future Fund Act 2023*.

3 *Social Services Minister* has the same meaning as in the *Housing*
4 *Australia Future Fund Act 2023*.

5 *Veterans' Affairs Minister* has the same meaning as in the
6 *Housing Australia Future Fund Act 2023*.

7 **18 Section 13 (note 2A)**

8 Before “the Medical Research Future Fund”, insert “the Housing
9 Australia Future Fund”.

10 **19 Before paragraph 28(5)(bb)**

11 Insert:
12 (bac) the *Housing Australia Future Fund Act 2023*;

13 **20 After paragraph 28(5)(ga)**

14 Insert:
15 (gb) subsection 52(1) of the *Housing Australia Future Fund Act*
16 *2023*;

17 **21 Section 33 (note)**

18 Before “the *Medical Research Future Fund Act 2015*”, insert “the
19 *Housing Australia Future Fund Act 2023*”.

20 **22 After subparagraph 35(b)(iiia)**

21 Insert:
22 (iiib) the *Housing Australia Future Fund Act 2023*; or

23 **23 After paragraph 55(3)(ba)**

24 Insert:
25 (bb) the *Housing Australia Future Fund Act 2023*; and

26 **24 After paragraph 63(1)(ca)**

27 Insert:
28 (cb) the *Housing Australia Future Fund Act 2023*; or

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Schedule 4 Consequential matters arising from the Housing Australia Future Fund Act 2023

1 **25 After paragraph 63(2)(aba)**

2 Insert:

3 (abb) the *Housing Australia Future Fund Act 2023*; or

4 **26 After subsection 81(1DA)**

5 Insert:

6 *Housing Australia Future Fund*

7 (1DB) A report under subsection (1) for a period must include a report of
8 the following during the period:

9 (a) the performance of the investments of the Housing Australia
10 Future Fund;

11 (b) the total amount debited from the Housing Australia Future
12 Fund Special Account for the purpose mentioned in
13 paragraph 13(d) of the *Housing Australia Future Fund Act*
14 *2023*;

15 (c) the total amount debited from the Housing Australia Future
16 Fund Special Account for the purpose mentioned in
17 paragraph 14(d) of the *Housing Australia Future Fund Act*
18 *2023*;

19 (d) the total amount debited from the Housing Australia Future
20 Fund Special Account for the purpose mentioned in
21 paragraph 14(e) of the *Housing Australia Future Fund Act*
22 *2023*;

23 (e) the total amount debited from the Housing Australia Future
24 Fund Special Account for the purpose mentioned in
25 paragraph 14(f) of the *Housing Australia Future Fund Act*
26 *2023*.

27 **27 After subsection 81(2DA)**

28 Insert:

29 (2DB) A report under this section must include a benchmark in relation to
30 the amounts referred to in paragraphs (1DB)(b) to (e).

31 **28 After paragraph 81(4)(daa)**

32 Insert:

33 (dab) the Housing Minister;

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Consequential matters arising from the Housing Australia Future Fund Act 2023
Schedule 4

1 (dac) the Social Services Minister;
2 (dad) the Veterans' Affairs Minister;

3 **29 After paragraph 83B(1)(daa)**

4 Insert:
5 (dab) subsection 52(1) of the *Housing Australia Future Fund Act*
6 *2023*; or

7 **30 After subparagraph 84(1)(b)(iiaa)**

8 Insert:
9 (iiab) a provision of the *Housing Australia Future Fund Act*
10 *2023*;

11 **31 After subparagraph 84(1)(b)(viiia)**

12 Insert:
13 (viib) the Housing Australia Future Fund Special Account; or

14 **32 After subsection 84(4AA)**

15 Insert:
16 *Transfer of amounts to the Housing Australia Future Fund Special*
17 *Account*
18 (4AB) If an amount is credited to the Fund Account under subsection (1),
19 the nominated Minister may, by writing, direct that a specified
20 amount is to be:
21 (a) debited from the Fund Account; and
22 (b) credited to the Housing Australia Future Fund Special
23 Account;
24 on a specified day.

25 **33 Paragraph 84(5)(b)**

26 After "(4AA),", insert "(4AB),".

27 **34 Subsection 84(6)**

28 After "(4AA),", insert "(4AB),".

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Schedule 4 Consequential matters arising from the Housing Australia Future Fund Act 2023

1 **35 After subparagraph 2(2)(a)(via) of Schedule 2**

2 Insert:

3 (vib) paragraph 13(e) of the *Housing Australia Future Fund*
4 *Act 2023*; or

5 **36 After subparagraph 2(2)(b)(via) of Schedule 2**

6 Insert:

7 (vib) paragraph 13(f) of the *Housing Australia Future Fund*
8 *Act 2023*; or

9 **37 After subparagraph 2(2)(c)(via) of Schedule 2**

10 Insert:

11 (vib) a paragraph of section 13 of the *Housing Australia*
12 *Future Fund Act 2023*; or

13 **38 Clause 1 of Schedule 2A**

14 Before “the Medical Research Future Fund”, insert “the Housing
15 Australia Future Fund,”.

16 **39 After clause 5A of Schedule 2A**

17 Insert:

18 **5B Transfers from the Future Fund to the Housing Australia Future**
19 **Fund**

20 (1) If an amount is debited from the Housing Australia Future Fund
21 Special Account for a purpose mentioned in section 14 of the
22 *Housing Australia Future Fund Act 2023*, the nominated Minister
23 may, by writing, direct that a specified amount is to be:

- 24 (a) debited from the Fund Account; and
25 (b) credited to the Housing Australia Future Fund Special
26 Account;
27 on a specified day.

28 (2) The specified amount must not exceed the amount debited from the
29 Housing Australia Future Fund Special Account as mentioned in
30 subclause (1).

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Consequential matters arising from the Housing Australia Future Fund Act 2023
Schedule 4

1 (3) A direction under subclause (1) is not a legislative instrument.

2 *Housing Australia Act 2018*

3 **40 Section 47C (heading)**

4 Omit “**Purpose**”, substitute “**Purposes**”.

5 **41 Subsection 47C(1)**

6 Repeal the subsection, substitute:

7 (1) Each of the following is a purpose of the Account:

8 (a) to make loans to Housing Australia for Housing Australia to
9 later apply in accordance with subsection (2);

10 (b) to make payments to Housing Australia for Housing
11 Australia to later apply in accordance with subsection (2A).

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

14 **42 After subsection 47C(2)**

15 Insert:

16 (2A) Housing Australia may apply such paragraph (1)(b) payments in
17 making grants, in the performance of its functions mentioned in
18 paragraphs 8(1)(a) and (2)(a), in relation to any of the following:

19 (a) acute housing needs;

20 (b) social housing;

21 (c) affordable housing.

22 Note: This subsection confers a function on Housing Australia to apply the
23 payments from the Commonwealth mentioned in paragraph (1)(b).
24 This means the Investment Mandate may include directions about how
25 Housing Australia applies those payments.

26 (2B) A payment under paragraph (1)(b) must not be made before 1 July
27 2023.

28 **43 Subsection 47C(3)**

29 Omit “Subsection (2) does”, substitute “Subsections (2) and (2A) do”.

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Schedule 4 Consequential matters arising from the Housing Australia Future Fund Act 2023

1 ***Medical Research Future Fund Act 2015***

2 **44 After subparagraph 19(a)(ib)**

3 Insert:

4 (ic) paragraph 13(e) of the *Housing Australia Future Fund*
5 *Act 2023*; or

6 **45 After subparagraph 19(b)(ib)**

7 Insert:

8 (ic) paragraph 13(f) of the *Housing Australia Future Fund*
9 *Act 2023*; or

10 **46 After subparagraph 19(c)(ib)**

11 Insert:

12 (ic) a paragraph of section 13 of the *Housing Australia*
13 *Future Fund Act 2023*; or