

WAR SERVICE HOMES.

No. 73 of 1961.

An Act to amend the *War Service Homes Act*
1918-1956.

[Assented to 27th October, 1961.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *War Service Homes Act* 1961.

(2.) The *War Service Homes Act* 1918-1956* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *War Service Homes Act* 1918-1961.

Short title
and citation.

* Act No. 43, 1918, as amended by No. 28, 1919; No. 35, 1920; No. 18, 1923; No. 26, 1925; No. 47, 1926; No. 17, 1927; No. 13, 1929; Nos. 6 and 68, 1932; No. 63, 1934; No. 54, 1935; No. 25, 1937; No. 1, 1941; No. 8, 1946; Nos. 1, 38 and 71, 1947; No. 67, 1948; No. 24, 1949; No. 74, 1951; No. 69, 1954; No. 69, 1955; and No. 100, 1956.

2. Section three of the Principal Act is repealed and the following section inserted in its stead:—

“ 3. This Act is divided into Parts, as follows:—

Parts.

Part I.—Preliminary (Sections 1–4B).

Part II.—Administration (Sections 5–14A).

Part III.—Acquisition of Land and Erection of Dwelling-houses (Sections 16–18A).

Part IV.—Sale of Homes on Rent-Purchase System (Sections 19–19B).

Part V.—Advances on Mortgage for Purposes of Homes (Sections 20–27).

Part VI.—Conditions of Contracts of Sale and Advances (Sections 28–38).

Part VII.—Funds (Sections 39–42).

Part VIII.—Miscellaneous (Sections 43–51).”.

3. Section twenty-nine of the Principal Act is amended by inserting after sub-section (3.) the following sub-sections:—

Payment of purchase money and repayment of advance, &c.

“ (3A.) Where—

(a) a purchaser or borrower with respect to land or land and a dwelling-house requests the Director to make available out of deposits and interest accumulated to the credit of the purchaser or borrower under this section an amount specified in the request for the discharge of the whole or a part of a liability incurred or to be incurred by the purchaser or borrower for or in connexion with—

- (i) rates, taxes or charges on or in respect of the land;
- (ii) the erection of any building or other structure on the land;
- (iii) the carrying out of improvements on, to or in relation to the land, the dwelling-house or any other building or structure on the land;
- (iv) the repair, maintenance, alteration or extension of the dwelling-house or any other building or structure on the land; or
- (v) the installation of fixtures upon or in the land, the dwelling-house or any other building or structure on the land;

(b) the Director is satisfied that the purchaser or borrower has incurred or will incur the liability; and

- (c) the amount of the deposits and interest accumulated to the credit of the purchaser or borrower under this section less the amount of any instalments, or arrears of instalments, due to the Director by the purchaser or borrower is not less than the amount specified in the request,

the Director shall, subject to the next succeeding sub-section, comply with the request.

“(3B.) The Director may refuse to comply with the request if—

- (a) the deposits and interest accumulated to the credit of the purchaser or borrower under this section amount to a sum that is not less than the capitalized value of the whole of the existing and future liability of the purchaser or borrower in connexion with a contract of sale or an advance; and
- (b) the Director proposes to apply that sum under sub-section (4.) of this section in discharge of the liability of the purchaser or borrower.

“(3C.) Where, by virtue of sub-section (3A.) of this section, the Director is required to make an amount available out of the deposits and interest accumulated to the credit of a purchaser or borrower under this section, the Director may, in his discretion, make the amount available in one of the following ways or partly in one of those ways and partly in the other:—

- (a) by applying an amount in or towards the discharge of the liability to which the request relates;
- (b) by paying an amount to the purchaser or borrower for the purpose of enabling the purchaser or borrower to apply the amount in or towards the discharge of that liability.”.

4.—(1.) Section thirty A of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “in that event” and inserting in their stead the words “whether or not he occupies or continues to occupy the dwelling-house and land”;
- (b) by inserting after sub-section (2.) the following sub-section:—

“(2A.) Where the Director—

- (a) in the case of a purchaser—becomes empowered to cancel the contract of sale;
- or

- (b) in the case of a borrower—becomes empowered to sell the estate and interest of the borrower in the land and dwelling-house,

the Director may determine the tenancy.”; and

Purchaser or
borrower may
occupy
dwelling-hous-
as tenant of
Director.

- (c) by omitting from sub-section (3.) the words “ the last preceding sub-section ” and inserting in their stead the words “ either of the last two preceding sub-sections ”.

(2.) Where, before the commencement of this Act, a purchaser or borrower became the tenant of the Director in relation to a dwelling-house and land by virtue of sub-section (1.) of section thirty A of the *War Service Homes Act 1918-1919*, or of that Act as amended, the tenancy shall not be deemed to have ceased or to cease by reason only that the purchaser or borrower, before the commencement of this Act, ceased to occupy the dwelling-house and land or, after the commencement of this Act, ceases to occupy the dwelling-house and land.

5. Section thirty-five of the Principal Act is amended by omitting sub-section (4.) and inserting in its stead the following sub-sections:—

Lands, &c.,
not to be
transferred, &c.,
while subject to
mortgage, &c.

“ (4.) Where a transfer of land, of land and a dwelling-house or of an estate or interest therein, being a transfer that, by virtue of sub-section (1.) of this section, has no force or effect, is entered into or executed, the Director may enter upon and take possession of the land or land and dwelling-house and exercise, in respect of the land or land and dwelling-house, such powers as he could have exercised if he had entered upon and taken possession of the land or land and dwelling-house in pursuance of section thirty-six of this Act.

“ (5.) For the purposes of this section, a transaction or instrument by which a person (in this section called ‘ the transferor ’)—

- (a) transfers, conveys, assigns, grants, disposes of or surrenders, or grants an option to acquire, land or land and a dwelling-house that is subject to a contract of sale, mortgage or other security in accordance with this Act, or an estate or interest therein, or purports to transfer, convey, assign, grant, dispose of or surrender, or to grant an option to acquire, any such land or land and a dwelling-house or an estate or interest therein; or
- (b) agrees or arranges to transfer, convey, assign, grant, dispose of or surrender, or to grant an option to acquire, any such land or land and a dwelling-house or an estate or interest therein,

to another person (in this section called ‘ the transferee ’) shall be deemed to be a transfer, made by the transferor to the transferee, of the land, of the land and dwelling-house or of the estate or interest, but a transaction or instrument shall not be deemed to be a transfer of land, of land and a dwelling-house or of an

estate or interest therein by reason only that, by the transaction or instrument, a person mortgages, lets or sub-lets, or agrees or arranges to mortgage, let or sub-let, the land, the land and dwelling-house or the estate or interest to another person.

“(6.) A reference in this section to an estate or interest in land or land and a dwelling-house shall be read as not including a reference to an estate or interest of a person, other than the purchaser or borrower, as mortgagee, lessee or sub-lessee.”.

Action on
instalments
being overdue,
&c.

6. Section thirty-six of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(4.) When the Director becomes empowered to sell the estate and interest of a borrower in land or land and a dwelling-house, the Director may, by notice in writing to the borrower, call up the whole of the moneys secured under the mortgage or other security held by the Director in respect of the land or the land and dwelling-house.”.
