

# War Service Homes

No. 99 of 1968

An Act to amend the *War Service Homes Act 1918-1966*.

[Assented to 25 November 1968]

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

Short title and citation.

- 1.—(1.) This Act may be cited as the *War Service Homes Act 1968*.  
(2.) The *War Service Homes Act 1918-1966\** 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 1918-1968*.

Commencement.

- 2.—(1.) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.  
(2.) Sections 3, 14, 16 and 19 of this Act shall come into operation on the first day of July, One thousand nine hundred and sixty-nine.

Parts.

3. Section 3 of the Principal Act is amended by omitting the words—  
“ Part VII.—Funds (Sections 39-42).”  
and inserting in their stead the words—  
“ Part VII.—Finance (Sections 39-42A).”

Definitions.

4. Section 4 of the Principal Act is amended—  
(a) by inserting after the definition of “ Female dependant ” in sub-section (1.) the following definition:—  
“ ‘ Government authority ’ means a public authority (including a local governing body) established by or under a law of the Commonwealth, of a State or of a Territory of the Commonwealth;” ; and  
(b) by adding at the end thereof the following sub-section:—  
“ (4.) Where—  
(a) an applicant is the lessee of land under a lease for a term of years from the Commonwealth, the Administration of a Territory of the Commonwealth or a State, being a lease under which he is entitled, on the fulfilment of the terms, conditions and covenants of the lease, to a grant in fee simple of the land; and

\* 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; No. 100, 1956; No. 73, 1961; Nos. 2 and 93, 1962; No. 65, 1966; and No. 93, 1966 (as amended by No. 3, 1967).

(b) the applicant satisfies the Director that the applicant has a reasonable prospect of carrying out the terms, conditions and covenants of the lease,  
the land shall be deemed to be a holding for the purposes of this Act in relation to the applicant.”.

5. Section 4A of the Principal Act is amended—

(a) by omitting sub-section (4.); and

(b) by adding at the end thereof the following sub-section:—

“ (6.) The application of this section in relation to land or land and a dwelling house does not, except as provided by this section, affect the application of the other provisions of this Act in relation to the land or land and dwelling house.”.

Eligible person and spouse may be treated together as eligible person.

6. Section 5 of the Principal Act is amended by omitting from sub-section (3.) the words “ and to borrow money ” and inserting in their stead the words “ and, with the consent of the Treasurer, to borrow money ”.

Incorporation of Director.

7. Section 19 of the Principal Act is amended by omitting from sub-section (4.) the words “ Seven thousand dollars ” (wherever occurring) and inserting in their stead the words “ Eight thousand dollars ”.

Sale of dwelling houses.

8. Section 21 of the Principal Act is amended by omitting the words “ Seven thousand dollars ” (wherever occurring) and inserting in their stead the words “ Eight thousand dollars ”.

Maximum advance.

9. Section 26 of the Principal Act is repealed and the following section inserted in its stead:—

“ 26.—(1.) Subject to the next succeeding sub-section, no advance shall be made on any property that is encumbered by a previous mortgage or charge unless—

No advance on encumbered property.

(a) the previous mortgage or charge—

(i) is a mortgage or charge under this Act; or

(ii) is to be postponed in its entirety to the mortgage to the Director upon the security of which the advance is made; or

(b) the advance is to be applied for the purpose of discharging the previous mortgage or charge.

“ (2.) The Director may, if he considers it reasonable to do so, make an advance on a property, notwithstanding that it is encumbered by a charge, if the charge arises under a law of a State or Territory of the Commonwealth and is for the benefit of the Commonwealth, a State or a Government authority.”.

10. Section 29AA of the Principal Act is repealed and the following section inserted in its stead:—

Relief for  
widows, &c.

“ 29AA.—(1.) A purchaser or borrower in relation to land or land and a dwelling house is eligible for relief under this section in respect of the land or land and dwelling house if—

- (a) she is the widow or widowed mother of an eligible person; or
- (b) her husband is an eligible person who is temporarily or permanently insane.

“ (2.) Where a purchaser or borrower who is eligible for relief under this section in respect of land or land and a dwelling house satisfies the Minister that it would cause hardship to the purchaser or borrower if the purchaser or borrower were to pay in full the amounts of the instalments required to be paid under the contract of sale or mortgage or other security with respect to the land or land and dwelling house, the Minister may, from time to time, reduce the amounts of those instalments.

“ (3.) A reduction under the last preceding sub-section in the amount of an instalment does not relieve a purchaser or borrower from liability to pay the full amount of the purchase money under the contract of sale or to repay the full amount of the advance secured by the mortgage or other security, as the case may be, together with interest thereon.

“ (4.) Where a purchaser or borrower who is eligible for relief under this section in respect of land or land and a dwelling house satisfies the Minister that it would cause hardship to the person if the person were to bear the cost of keeping in good order and repair the buildings, fences, fixtures and other improvements on the land, the Minister may authorize the Director to keep in good order and repair all the buildings, fences, fixtures and other improvements on the land until such time as the Director is satisfied that, because of a change in circumstances, this sub-section should no longer apply in relation to the purchaser or borrower.

“ (5.) Where a purchaser or borrower who is eligible for relief under this section in respect of land or land and a dwelling house satisfies the Minister that it would cause hardship to the purchaser or borrower if the purchaser or borrower were to pay rates, taxes, charges or other outgoings in relation to the land or the land and dwelling house, the Minister may authorize the Director to pay any outgoings, or any outgoings specified in the authorization, in relation to the land or the land and dwelling house until such time as the Director is satisfied that, because of a change in circumstances, this sub-section should no longer apply in relation to the purchaser or borrower.

“ (6.) An amount equal to the cost of any work done, or to the amount of any payments made, in accordance with an authorization given under sub-section (4.) or sub-section (5.) of this section, together with interest on that amount or the unpaid balance of that amount at the same rate as was payable under the contract of sale or mortgage or other security in respect of the land or land and dwelling house when the authorization was given, is, subject to sub-section (8.) of this section, payable to the Director

by the person who was the purchaser or borrower in respect of the land or the land and dwelling house when the authorization was given.

“(7.) An amount payable under the last preceding sub-section in respect of land or land and a dwelling house that is the subject of a mortgage or other security shall, until paid, be deemed to be moneys due in respect of the land or land and dwelling house for the purposes of sub-section (2.) of section thirty-six of this Act.

“(8.) An amount payable by a person under sub-section (6.) of this section is not required to be paid except in accordance with a direction given by the Director from time to time but, before giving a direction under this sub-section, the Director shall satisfy himself that the direction is not likely to cause hardship to the person.”.

**11.** Section 30A of the Principal Act is amended by adding at the end thereof the following sub-section:—

Purchaser or borrower may occupy dwelling house as tenant of Director.

“(4.) In this section—

‘borrower’, in relation to land or land and a dwelling house, includes a transferee under section thirty-five of this Act of an estate or interest in the land or land and dwelling house that was formerly the estate or interest of a borrower in relation to the land or land and dwelling house;

‘purchaser’, in relation to land or land and a dwelling house, includes a transferee under section thirty-five of this Act of an estate or interest in the land or land and dwelling house that was formerly the estate or interest of a purchaser in relation to the land or land and dwelling house.”.

**12.** Section 35 of the Principal Act is amended—

(a) by omitting sub-section (2.) and inserting in its stead the following sub-sections:—

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

“(2.) The Director—

(a) shall not give his consent under paragraph (c) of sub-section (1.) of this section unless he is satisfied that, in all the circumstances of the case, it is reasonable to do so; and

(b) may, before giving his consent, require a person to take such action (including, in the case of the proposed transferee, the giving of an undertaking by the proposed transferee) as the Director considers desirable in all the circumstances of the case.

“(2A.) Where a transferee who has given an undertaking required by the Director under paragraph (b) of the last preceding sub-section in respect of land or land and a dwelling house fails to carry out the undertaking, the Director may, by notice in writing to the transferee, call up the whole of the moneys secured

under the contract of sale or the mortgage or other security in respect of the land or land and dwelling house, and thereupon those moneys become due and payable.”; and

(b) by omitting from sub-section (3.) the words “ to which paragraph (b) of the last preceding sub-section applies ”.

Action on instalments being overdue.

13. Section 36 of the Principal Act is amended by adding at the end thereof the following sub-section:—

“ (5.) In this section—

‘ borrower ’, in relation to land or land and a dwelling house, includes a transferee under the last preceding section of an estate or interest in the land or land and dwelling house that was formerly the estate or interest of a borrower in relation to the land or land and dwelling house;

‘ purchaser ’, in relation to land or land and a dwelling house, includes a transferee under the last preceding section of an estate or interest in the land or land and dwelling house that was formerly the estate or interest of a purchaser in relation to the land or land and dwelling house.”.

14.—(1.) The heading to Part VII., and sections 39 and 39A, of the Principal Act are repealed and the following heading and sections inserted in their stead:—

“ PART VII.—FINANCE.

Moneys to be paid into Consolidated Revenue Fund.

“ 39. Subject to section forty of this Act, all moneys received by the Director under this Act shall be paid into the Consolidated Revenue Fund.

Appropriation of moneys for the purposes of this Act.

“ 39A.—(1.) Subject to this Act, payments made for the purposes of this Act are payable out of moneys appropriated by the Parliament from time to time for those purposes.

“ (2.) Payments by the Director under sub-section (3A.) of section twenty-nine, under sub-section (2.) of section thirty-six or under sub-section (2.) of section forty-eight AA, of this Act are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

Audit Act to apply subject to this Act.

“ 39B. The application of the *Audit Act* 1901–1966 in relation to the collection and payment of moneys by the Director is subject to this Act.

National Debt Sinking Fund Act not to apply to certain moneys.

“ 39C. Paragraph (c) of sub-section (1.) of section nine of the *National Debt Sinking Fund Act* 1966–1967 does not apply to any moneys received by the Director by way of purchase money or repayments of advances and paid by him into the Consolidated Revenue Fund.”.

(2.) The moneys standing to the credit of the War Services Homes Trust Account or the War Service Homes Relief Trust Account immediately before the commencement of this section shall be paid into the Consolidated Revenue Fund.

15. After section 40 of the Principal Act the following section is inserted:—

“ 40A.—(1.) Subject to this section, there shall be paid to the War Service Homes Insurance Trust Account, in respect of each financial year ending after the commencement of this section, an amount, calculated in such manner as the Treasurer determines, by way of interest on the moneys standing to the credit of that Account during that year, whether those moneys have been invested by the Treasurer or not.

Interest on moneys invested from the War Service Homes Insurance Trust Account.

“ (2.) Where moneys standing to the credit of the War Service Homes Insurance Trust Account have been invested by the Treasurer, whether before or after the commencement of this section, the Treasurer, or a person authorized by the Treasurer for the purpose, may, by instrument in writing, direct that an amount equal to the interest earned, on and after a date (which may be a date earlier than the date of commencement of this section) specified in the direction, on the moneys so invested shall be paid to that Account.

“ (3.) Moneys to which a direction under the last preceding sub-section relates shall, for the purpose of calculating an amount to be paid under sub-section (1.) of this section, be deemed not to have been standing to the credit of the War Service Homes Insurance Trust Account during any period in respect of which interest earned on the moneys is payable to that Account by virtue of the direction.”

16. Section 42 of the Principal Act is repealed and the following sections are inserted in its stead:—

“ 42. The Director shall keep proper accounts and financial records in relation to his operations under this Act in accordance with generally accepted accounting principles and shall do all things necessary to ensure that all payments out of the moneys of the Commonwealth are properly authorized and correctly made and that adequate control is maintained over the moneys and other property of the Commonwealth and the Director and the incurring of liabilities by the Director.

Proper accounts to be kept.

“ 42A.—(1.) The Auditor-General shall—

Audit.

- (a) at least once in each year inspect and audit the accounts and financial records kept in accordance with the last preceding section;
- (b) at least once in each year inspect other records of the Director so far as they relate to the acquisition, receipt, custody or disposal of moneys or other property of the Commonwealth or the Director; and
- (c) forthwith draw the attention of the Minister to any irregularity revealed by any audit or inspection under this sub-section that, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

“(2.) The Auditor-General, shall, at least once in each year, report to the Minister the result of any inspection or audit carried out under the last preceding sub-section.

“(3.) The Auditor-General or a person authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Director relating directly or indirectly to the receipt or payment of moneys by the Director or the acquisition, receipt, custody or disposal of other property of the Commonwealth or the Director.

“(4.) The Auditor-General or a person authorized by him may make copies of, or take extracts from, any such accounts, records, documents or papers.

“(5.) The Auditor-General or a person authorized by him may require the Director or an officer or employee of the Public Service of the Commonwealth to furnish him with such information in the possession of the Director or the officer or employee, or to which the Director or the officer or employee has access, as the Auditor-General or the person so authorized considers necessary for the purposes of inspection or audit under this section, and the Director or the officer or employee shall comply with the requirement.”.

17. After section 48A of the Principal Act the following sections are inserted:—

Charge for amounts owing to the Commonwealth, &c.

“48AA.—(1.) Where—

- (a) an amount payable to the Commonwealth, a State or a Government authority is, by virtue of a law of a State or Territory of the Commonwealth, a charge on property that is subject to a mortgage to the Director in accordance with this Act; and
- (b) the charge took effect (whether before or after the commencement of this section) after the property had become subject to the mortgage to the Director,

the charge is subject to the rights of the Director as mortgagee to the intent that, if the property is sold by the Director in pursuance of a power of sale, the purchaser takes the property free of the charge.

“(2.) Where property referred to in the last preceding sub-section is sold by the Director in pursuance of a power of sale—

- (a) the purchaser or any other person is not, by reason only of his occupation of or interest in the property after the sale of the property by the Director, liable to pay the amount payable to the Commonwealth, the State or the Government authority; and
- (b) the Director may, notwithstanding sub-section (2.) of section thirty-six of this Act, apply the proceeds of the sale of the property towards the payment of that amount.

“ 48AB.—(1.) The Minister may, either generally or with respect to a particular case or a particular class of cases, give directions to the Director with respect to the payment by the Director of rates, taxes, charges or other outgoings in respect of land or land and a dwelling house that are payable to the Commonwealth, a State or a Government authority by a person who was, when the outgoings became payable, the purchaser or borrower in relation to the land or land and dwelling house.

Payment of rates, &c., payable by purchaser or borrower.

“(2.) Where a payment of outgoings has been made by the Director in accordance with a direction under the last preceding sub-section, there is payable to the Director by the person by whom the outgoings were payable—

- (a) an amount equal to the amount so paid by the Director; and
- (b) if the amount so payable is not paid to the Director within one month, interest on that amount or on the unpaid balance of that amount at the same rate as was, when the outgoings became payable, payable under the contract of sale or mortgage or other security in respect of the land or land and dwelling house.

“(3.) An amount payable under the last preceding sub-section in respect of land or land and a dwelling house that is subject to a mortgage or other security shall, until paid, be deemed to be moneys due in respect of the land or land and dwelling house for the purposes of sub-section (2.) of section thirty-six of this Act.”.

18.—(1.) Section 50 of the Principal Act is amended—

(a) by inserting after sub-section (1.) the following sub-sections:—

“(1A.) An arrangement entered into by the Director under the last preceding sub-section may provide that the other party to the arrangement shall, in providing homes or making advances in accordance with the arrangement, act as an agent of the Director.

“(1B.) Where an arrangement referred to in the last preceding sub-section is entered into by the Director, the *Audit Act* 1901–1966 does not apply in relation to the collection and payment of moneys in accordance with the arrangement by the other party to the arrangement.”; and

(b) by omitting from sub-section (2.) the words “ every such arrangement ” and inserting in their stead the words “ an arrangement made under this section ”.

Arrangements with Savings Banks and financial institutions.

(2.) It is hereby declared to have been a valid and proper exercise of the power conferred by section 50 of the *War Service Homes Act* 1918, or of that Act as amended, for the War Service Homes Commissioner or the Director of War Service Homes to have entered, at any time before the commencement of this section, into an arrangement under which the other party to the arrangement was, as agent of the Commissioner or of the Director, as the case may be, to provide homes for, or make advances to, eligible persons.



**19.** Section 50B of the Principal Act is repealed and the following section inserted in its stead:—

Annual report.

“ 50B.—(1.) The Director shall, as soon as practicable after each thirtieth day of June, prepare and furnish to the Minister a report of the operations of the Director under this Act during the year ended on that date, together with financial statements in respect of that year in such form as the Treasurer approves.

“ (2.) Before furnishing the financial statements to the Minister, the Director shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on accounts and financial records kept in accordance with this Act;
- (b) whether the statements are in agreement with the accounts and financial records and show fairly the financial operations of the Director; and
- (c) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

“ (3.) The Minister shall cause the report and financial statements referred to in sub-section (1.) of this section, together with the report of the Auditor-General, to be laid before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.”

---