



Western Australia

Commonwealth and State Housing Agreement Act 1961

Compare between:

[28 Nov 1961, 00-a0-02] and [30 Apr 1998, 00-b0-05]

Commonwealth and State Housing Agreement Act 1961

**An Act relating to Financial Assistance from the Commonwealth to
the State for the purpose of Housing.**

~~[Assented to 28th November, 1961]~~

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows: —

1. Short title and citation

This Act may be cited as the *Commonwealth and State Housing Agreement Act 1961*.

2. Interpretation

“Scheduled agreement” means the agreement a copy of which is contained in the Schedule to this Act.

**3. Execution of agreement between Commonwealth and State
authorized or executed agreement authorized and approved**

In order that the agreement between the Commonwealth and the State may come into force as provided by sub-clause (1) of clause one of the scheduled agreement —

- (a) the execution by or on behalf of the State of an agreement substantially in accordance with the form of the scheduled agreement is authorized; or

s. 4

- (b) if the agreement has been executed by or on behalf of the State, before the coming into operation of this Act, the execution of the agreement by or on behalf of the State shall be deemed to have been authorized, and the agreement as so executed is approved.

4. Act No. 6 of 1956 to apply to certain agreement as amended

Subject to the agreement executed under the authority of this Act, the Commonwealth and *State Housing Agreement Act 1956*, shall be construed as though the agreement executed under the authority of that Act on the thirteenth day of February, one thousand nine hundred and fifty-seven, were amended as provided in the first-mentioned agreement.

Schedule

[Section 2]

AN AGREEMENT made the _____ day of _____ One thousand nine hundred and sixty-one BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this agreement called “the Commonwealth”), THE STATE OF NEW SOUTH WALES, THE STATE OF VICTORIA, THE STATE OF QUEENSLAND, THE STATE OF SOUTH AUSTRALIA, THE STATE OF WESTERN AUSTRALIA and THE STATE OF TASMANIA and intended to be supplemental to the agreement referred to in this agreement as the 1945 Agreement and to the agreement referred to in this agreement as the 1956 Agreement.

WHEREAS —

- (a) by an agreement made the nineteenth day of November, 1945, between the Commonwealth and the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania and authorized or approved by the Parliaments of the Commonwealth and of the States provision was made for the carrying out by the States with the assistance of the commonwealth of rental housing projects;
- (b) that agreement, as varied in pursuance of its terms by agreements dated respectively the twenty-sixth day of November, 1948, the thirtieth day of December, 1949, the twenty-fourth day of November, 1952, and the fifth day of March, 1954, entered into between the Treasurer of the Commonwealth and the Treasurers of certain States, as amended between the Commonwealth and the States then parties thereto by an agreement made the sixteenth day of April, 1955, and authorized or approved by the Parliament of the Commonwealth and those States and as extended by the agreement referred to in this agreement as the 1956 Agreement, (which agreement as so varied, amended and extended is in this agreement called “the 1945 Agreement”) applies with respect to moneys advanced and dwellings erected thereunder to or by the States other than the State of Tasmania which is no longer regarded as a party thereto;

- (c) by an agreement (in this agreement called “the 1956 Agreement”) dated the thirteenth day of February, 1957, between the Commonwealth and the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania and authorized or approved by the Parliaments of the Commonwealth and of the States provision was made for the grant by the Commonwealth of financial assistance to the States for housing upon the terms and conditions set out in that agreement;
- (d) the Commonwealth has proposed to the States that the Commonwealth will grant further financial assistance to the States upon the terms and conditions set out in the 1956 Agreement amended in the manner set out in this Agreement;
- (e) the Commonwealth and the States have agreed that the 1945 Agreement should be amended as provided in this agreement to provide for the sale of dwellings to which the 1945 Agreement applies; and
- (f) the Parliament of the Commonwealth has authorized the execution by or on behalf of the Commonwealth of this agreement:

NOW IT IS HEREBY AGREED as follows: —

Operation of agreement

1. — (1.) This agreement shall come into force in respect of a State upon its execution by or on behalf of the Commonwealth and —

- (a) if the execution by or on behalf of the State is authorized by the Parliament of the State—its execution by and on behalf of the State;
or

- (b) if it is executed by or on behalf of the State without the authority of the Parliament of the State—its approval by the Parliament of the State.

(2.) Notwithstanding that all of the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania are named as parties to this agreement, this agreement shall operate as an agreement between the Commonwealth and a State or the States in respect of which it has come into force as fully and effectually as if the State or States were the only State or States named as parties to the agreement.

(3.) Where in the 1945 Agreement or in the 1956 Agreement the word “State” or the expression “the States” means a State or the States in respect of which the 1945 Agreement or the 1956 Agreement, as the case may be, is in force, that word and that expression shall, for the purposes of the operation of the 1945 Agreement or the 1956 Agreement, as the case may be, as amended by this Agreement, mean respectively a State or the States in respect of which this agreement has come into force.

Amendments of 1956 Agreement

2. — (1.) Clause 5 of the 1956 Agreement is amended by inserting in sub-clause (1.), after the word “respectively,”, the words and figures “and during the financial years commencing on the first day of July in the years 1961, 1962, 1963, 1964 and 1965, respectively,”.

(2.) Clause 6 of the 1956 Agreement is amended by adding at the end thereof the following sub-clause: —

“(4.) During each of the financial years commencing on the first day of July in the years 1961, 1962, 1963, 1964 and 1965, respectively, each State shall allocate for the provision of finance for home builders not less than thirty per centum of the total advances made to the State under clause 5 of this agreement in that financial year.”.

(3.) In respect of the financial years commencing on the first day of July in the years 1961, 1962, 1963, 1964 and 1965 the following clause shall be substituted for and shall apply in lieu of clause 7 of the 1956 Agreement: —

“7. — (1.) Of the advances made to a State in a financial year which pursuant to clause 6 of this agreement are to be used for the erection of dwellings by the State, the State shall set aside for the purposes of clause 13 of this agreement such portion not exceeding five per centum as may be specified by the Minister from time to time or such portion greater than five per centum as may be agreed from time to time between the Minister and the appropriate Minister of the State.

“(2.) During each of the financial years referred to in clause 5 of this agreement, the Commonwealth shall, in addition to the advances made under clause 5 of this agreement, advance to the State for the purposes of clause 13 of this agreement an amount equal to the amount set aside in that financial year by the State under the last preceding sub-clause and such additional amounts as may be agreed from time to time between the Minister and the appropriate Minister of the State.”.

(4.) Clause 9 of the 1956 Agreement is amended —

- (a) by omitting from sub-clause (1.) the words “sub-clauses (2.), (3.) and (4.) of”;
- (b) by inserting after sub-clause (3.) the following sub-clause: —

“(3A.) In respect of advances made during the financial years commencing on the first day of July in the years 1961, 1962, 1963, 1964 and 1965, respectively, the rate per annum shall be the long term bond rate less one per centum per annum.”; and

- (c) by inserting after sub-clause (4.) the following sub-clause: —

“(4A.) For the purposes of sub-clause (3A.) of this clause the long term bond rate shall be the interest rate per annum

payable in respect of the Commonwealth securities having a currency of not less than five years being offered in Australia for public subscription at the date the advance is made or, if none is being offered at that date, the interest rate per annum payable in respect of Commonwealth securities having such a currency and last so offered prior to that date, and where the securities are or were being offered simultaneously for various currencies, each of not less than five years, the long term bond rate shall be the interest rate per annum payable in respect of those securities having the longest currency.”.

- (5.) Clause 11 of the 1956 Agreement is amended —
- (a) by inserting in sub-clause (2.), after the words “Minister of the State”, the words “or except in such areas as the Minister and the appropriate Minister of the State agree constitute inner metropolitan areas”; and
 - (b) by inserting in sub-paragraph (i) of paragraph (b) of sub-clause (3.) after the word “kerbing”, the word “, developing”.

(6.) On and from such date after the thirtieth day of June, 1961, as is determined by the Minister of State for the Commonwealth who is the Minister for the purposes of the 1956 Agreement, the following sub-clauses shall, with respect to moneys available on and after that date in the Home Builders’ Account established under clause 16 of the 1956 Agreement by a State in respect of which this agreement comes into force, be, and be deemed to have been, substituted for sub-clauses (3.) and (4.) of that clause: —

“(3.) All moneys at any time available in the Home Builders’ Account (after allowing for amounts with which the Account is to be debited under the last preceding sub-clause) shall, except as provided in the next succeeding sub-clause, be used by the State for the provision of finance for home builders in that State by means of loans by the State to building societies subject to and in accordance with terms and conditions to be agreed from time to time between the Minister and the appropriate Minister of the State.

“(3A.) If in any financial year the Minister, at the request of the appropriate Minister of the State, approves the allocation of a portion of the moneys available in the Home Builders’ Account to an institution approved by the Minister not being a building society, the State may in that financial year use that portion for the provision of finance for home builders in that State by loans to the approved institution subject to and in accordance with terms and conditions to be agreed between the Minister and the appropriate Minister of the State.

“(3B.) When deciding whether to give his approval under the last preceding sub-clause, the Minister shall pay due regard to —

- (a) the promotion of the maximum development of building societies in the State;
- (b) the extent to which building societies in the State are able to use the moneys available in the Home Builders’ Account for the purposes of this agreement;
- (c) the amounts which building societies in the State have raised and are able to raise from private sources; and
- (d) any other matters considered relevant by the Minister.

“(4) A State shall not use moneys from the Home Builders’ Account except subject to and in accordance with such applicable terms and conditions as are agreed under this clause.”.

Advances made before coming into force of agreement

3. Where, before this agreement has come into force in respect of a State, the Commonwealth has, in pursuance of section 5 of the *Housing Agreement Act 1961*, made an advance to the State, the advance shall be deemed to have been made under the 1956 Agreement as amended by this agreement, and the 1956 Agreement as so amended shall apply, and shall be deemed at all times to have applied, to and with respect to the advance.

Sale of dwellings under 1945 Agreement

4. — (1.) As between the Commonwealth and a State in respect of which this agreement comes into force, other than the State of Tasmania, clause 14 of the 1945 Agreement, being the clause inserted therein by clause 4 of the said agreement dated the sixteenth day of April, 1955, shall, except as provided in the next succeeding sub-clause, cease to apply to the sale by the State of dwellings to which the 1945 Agreement applies and the following clause shall be substituted for and shall apply in lieu of that clause: —

“14. — (1.) Each State may, if it so desires and at such price and on such terms as it thinks fit, sell any dwellings, but sales pursuant to this sub-clause shall not affect the obligation of the State under clause 6 of this agreement to repay and to pay interest on advances made under this agreement.

“(2.) Where a person to whom a dwelling could be sold is an eligible person who desires to purchase the dwelling from the Director in pursuance of the *War Service Homes Act 1918-1956* as amended from time to time, or to obtain an advance under that Act to enable him to purchase the dwelling, the State may, if requested so to do by the Director, sell the dwelling to the Director or that eligible person, in which event no amount of money shall be payable to the State by the Director or the eligible person, as the case may be, but the State shall transfer to the Director or to the eligible person, as the case may be, an estate in fee simple in the land on which the dwelling is erected, if the dwelling is erected on freehold land, or issue a Crown lease in perpetuity to the Director or to the eligible person, as the case may be, if the dwelling is erected on Crown land, subject in either case to the reservations, exceptions and conditions (if any) contained in the Crown Grant or Crown lease, as the case may be, and to such encumbrances, reservations, exceptions, covenants or conditions subject to which the sale is expressly made, and the amount of the State's indebtedness to the Commonwealth under sub-clause (2.) of clause 6 of this agreement shall as from the date of sale be reduced by the amount of the purchase price of the dwelling less the amount, if any, credited to the purchaser.”.

Commonwealth and State Housing Agreement Act 1961
Schedule

(2.) The provisions of this clause shall not affect the operation of clause 14 of the 1945 Agreement in relation to sales of dwellings to which that agreement applies made by the State before the coming into force of this agreement in respect of the State.

IN WITNESS WHEREOF the Prime Minister of the Commonwealth of Australia and the Premiers of each of the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania have executed this agreement for and on behalf of the Commonwealth of Australia and of the said States respectively.

SIGNED by the Prime Minister of
the Commonwealth of Australia
for and on behalf of the Com-
monwealth in the presence of —

}
}

SIGNED by the Premier of the
State of New South Wales for and
on behalf of that State in the
presence of —

}
}

SIGNED by the Premier of the
State of Victoria for and on
behalf of that State in the
presence of —

}
}

SIGNED by the Premier of the
State of Queensland for and on
behalf of that State in the
presence of —

}
}

SIGNED by the Premier of the
State of South Australia for and
on behalf of that State in the
presence of — }

SIGNED by the Premier of the
State of Western Australia for
and on behalf of that State in
the presence of — }

SIGNED by the Premier of the
State of Tasmania for and on
behalf of that State in the
presence of — }

Notes

¹⁻ This is a compilation of the *Commonwealth and State Housing Agreement Act 1961* and includes all amendments effected by the other Acts referred to in the following Table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Commonwealth and State Housing Agreement Act 1961</i>	58 of 1961	28 Nov 1961	28 Nov 1961
<u>This Act was repealed by the Statutes (Repeals and Minor Amendments) Act (No. 2) 1998 s. 6 (No. 10 of 1998) as at 30 Apr 1998 (see s. 2)</u>			