

GOVERNMENT EMPLOYEES' HOUSING.

13th Elizabeth II., No. XCV.

No. 95 of 1964.

AN ACT to make provision for adequate and suitable Housing Accommodation for persons employed by or under the Government of the State; to provide for the Establishment of a Government Employees' Housing Authority; and for incidental and other purposes.

[Assented to 14th December, 1964.]

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. This Act may be cited as the *Government Employees' Housing Act, 1964.* Short title.

2. This Act shall come into operation on a date to be fixed by proclamation. Commencement.

Arrange-
ment.

3. The arrangement of this Act is as follows:

PART I.—PRELIMINARY, ss. 4-7.

PART II.—GOVERNMENT EMPLOYEES' HOUSING
AUTHORITY, ss. 8-15.

PART III.—ADMINISTRATION, ss. 16-21.

PART IV.—FINANCE, ss. 22-24.

PART V.—MISCELLANEOUS, ss. 25-29.

PART I.—PRELIMINARY.

Objects.

4. The objects of this Act are—

- (a) the provision of adequate and suitable housing accommodation for Government employees;
- (b) the improvement of existing housing conditions with respect to Government employees; and
- (c) the establishment of a body corporate constituted as provided by this Act having the name of the Government Employees' Housing Authority and having the powers and functions prescribed by this Act.

Interpre-
tation.

5. In this Act unless the context requires otherwise—

“Authority” means the Government Employees' Housing Authority established under this Act;

“Department” means any department under the administration of a Minister of the Crown in the Government of the State pursuant to the provisions of the Public Service Act, 1904, or the Education Act, 1928; and includes any other department or any Crown instrumentality, hospital, board, body corporate or other body of whatever description that the Governor declares by proclamation to be a Department for the purposes of this Act;

“Fund” means the Government Employees’ Housing Authority Fund established under this Act;

“Government employee” means a person employed under the State in any capacity in any Department to which this Act applies;

“house” means any building, including any single, attached or multi-storey dwelling unit, edifice, structure or erection, or any part thereof which, or any part of which, has been used or is used or is intended to be used as a dwelling; and includes out-buildings, fences, walls and permanent provision for lighting, heating, water supply, drainage and sewerage and other appurtenances of a house;

“member” means a person occupying any of the offices of the Authority, including that of chairman;

“officer” means any officer of the Authority, or of the agent of the Authority, authorised by the Authority or the agent, in respect of or whose duty it is to deal with or to act in regard to any acts, matters or things in connection with which the term is used;

“permanent head”, in relation to a Department, means the officer of the Department immediately responsible for the management of the Department to a Minister of the Crown;

“tenant” includes any person deriving title under the original tenant.

6. Subject to the Minister and the provisions of this Act, the Authority is responsible for the administration of this Act. Adminis-
tration.

7. (1) The Governor may at any time declare, by proclamation, any department under the administration of a Minister of the Crown in the Governor
may by
proclamation
declare
Departments.

Government of the State or any Crown instrumentality, hospital, board, body corporate or other body of whatever description to be a Department for the purposes of this Act, and thereupon the provisions of this Act shall apply to that Department.

(2) A proclamation made under this section may be varied or cancelled by a subsequent proclamation.

PART II.—GOVERNMENT EMPLOYEES' HOUSING
AUTHORITY.

Establish-
ment of
Authority.

8. (1) For the purposes of this Act an Authority having the name of the Government Employees' Housing Authority is hereby established in accordance with the provisions of this Act.

(2) The Authority shall consist of four members appointed by the Governor and such members shall be—

- (a) the person for the time being the Public Service Commissioner appointed under the Public Service Act, 1904, or an officer employed in the office of the Public Service Commissioner nominated in writing by him;
- (b) the person for the time being holding the office of Under Treasurer of the State, or an officer of the Treasury nominated in writing by the Under Treasurer;
- (c) the person for the time being the Director-General of Education appointed under the Education Act, 1928, or an officer of the Education Department nominated in writing by him; and
- (d) the person for the time being holding the office of General Manager of the State Housing Commission established under the State Housing Act, 1946, or an officer of that Commission nominated in writing by the General Manager.

(3) The Public Service Commissioner, or the officer nominated by him pursuant to paragraph (a) of subsection (2) of this section, if one be so nominated, shall be the chairman of the Authority.

9. (1) The Minister may, in respect of any member of the Authority, appoint a person to be the deputy of that member to act in his office during his absence. Deputies of members.

(2) Any person so appointed is entitled, in the absence from a meeting of the Authority of the member for whom he is the deputy, to attend that meeting, and while so attending shall be deemed to be a member and is authorised to carry out any function that the member of whom he is the deputy could, if present, perform under this Act.

(3) The appointment of a deputy member may be terminated at any time by the Minister.

10. Each member of the Authority, and each deputy while acting in the place of a member, shall be paid such travelling allowances while engaged on official business of the Authority, other than attendance at meetings thereof, at the rates and in accordance with the scale and conditions applicable from time to time in respect of senior officers of the Public Service of the State. Allowances to members.

11. (1) The Governor may grant leave of absence to a member upon such terms and conditions as the Minister determines. Leave of absence, etc., of members.

(2) A member may resign his office of member by writing under his hand addressed to the Minister.

(3) The Governor may terminate the appointment of a member if through mental or physical infirmity he is unable satisfactorily to carry out the duties of his office.

12. (1) The Authority shall hold such meetings as are necessary for the performance of its functions under this Act. Meetings of Authority.

(2) The chairman may at any time convene a meeting of the Authority, and shall convene the first meeting thereof as soon as practicable after the commencement of this Act.

(3) The chairman, or in his absence the person appointed to be his deputy, shall preside at all meetings of the Authority, but if both the chairman and his deputy are absent from any meeting, the members present at that meeting shall appoint one of their number to preside thereat.

(4) At any meeting of the Authority—

- (a) three members form a quorum;
- (b) all questions arising at the meeting shall be decided by a majority of the valid votes of the members present at the meeting;
- (c) each member, including the chairman, shall be entitled to one vote only on the determination of any question; and
- (d) in the event of an equality of votes, the question shall be deemed to be determined in the negative.

(5) Subject to this Act, the Authority may regulate its procedure in such manner as it thinks fit, and shall cause to be kept minutes of its proceedings.

Authority
a body
corporate.

13. (1) When established the Authority—

- (a) is a body corporate with perpetual succession and a common seal; and
- (b) is capable in law in its corporate name of suing and being sued, and of acquiring, holding, maintaining, improving, exchanging, leasing and disposing of real and personal property, and of doing and suffering all things that bodies corporate may do and suffer.

(2) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Authority affixed to any document and shall presume that it was duly affixed.

Delegation
by Authority
of its powers.

14. (1) The Authority may, in relation to any particular matter or class of matters, or to any particular place, delegate to any person all or any of its powers under this Act (except this power of

delegation), so that the delegated powers may be exercised by the delegate with respect to the matter or class of matters, or the place, specified in the delegation, and in the same manner and with the same effect as if they had been directly conferred on the delegate by this Act and not by delegation.

(2) Any delegation pursuant to this section may at any time be revoked by the Authority, in whole or in part, but such revocation shall not affect in any way anything lawfully done under the delegated authority.

(3) A delegation under this section does not prevent the exercise by the Authority itself of any of the powers and functions conferred on it by or under this Act.

15. (1) For the purposes of enabling the Authority to carry out its powers, functions, duties and liabilities under this Act, there may be appointed from time to time in accordance with the provisions of the Public Service Act, 1904, a person to be secretary of the Authority and such other officers as may be necessary for those purposes.

Appointment
of officers,
etc.

(2) Subject to the provisions of any current relevant industrial award or agreement made under the Industrial Arbitration Act, 1912, the Authority may from time to time appoint and dismiss such temporary and casual employees as it thinks fit on such terms and conditions as it may determine.

(3) By agreement with the Public Service Commissioner, the Authority may for the purposes of this Act co-opt the services of any officer within the meaning of the Public Service Act, 1904, as secretary or as an officer of the Authority.

(4) The appointment under section eight of this Act or subsection (1) of this section, of a person who is an officer within the meaning of the Public Service Act, 1904, or the co-opting under subsection (3) of this section of the services of such a person—

- (a) is without prejudice to the provisions of that Act and all other Acts applying to that person as such an officer; and

- (b) does not prejudice his existing and accruing rights as such under any of those Acts,

and for the purposes of determining those rights, the service of that person with the Authority under this Act shall be taken into account as if it were service in the Public Service of the State.

PART III.—ADMINISTRATION.

Function of Authority.

16. Subject to the provisions of this Act, the function of the Authority is to provide adequate and suitable housing accommodation within the State for Government employees, and for the purpose of carrying out that function, the powers of the Authority include—

- (a) purchasing, contracting for the use of, or otherwise acquiring (other than by compulsory acquisition) any land or houses;
- (b) the erection of houses on land acquired by the Authority;
- (c) letting or disposing of houses or land owned by or under the control of the Authority; and
- (d) doing such other things as under this Act are required or permitted to be done by the Authority.

Transfer to Authority of land and houses.

17. (1) Forthwith upon the coming into operation of this Act, and upon the date of proclamation in the case of a Department proclaimed pursuant to section seven of this Act, all land, houses and improvements vested in or under the management or control of any Department for providing housing accommodation of Government employees, and all powers, authorities, rights, title, interest and obligation in the same or with respect thereto, shall by virtue of this Act and without any transfer or assignment whatever pass to and become vested in and imposed upon the Authority and be divested and discharged from that Department.

(2) Notwithstanding the provisions of subsection (1) of this section, the Authority may refuse to take over, accept or have vested in it any land or house referred to in that subsection in any case where such taking over, acceptance or vesting of that land or house would in the opinion of the Authority impose or be likely to impose upon it an obligation or duty, whether financial or otherwise, which the Authority considers it should not undertake or accept.

18. (1) The permanent head may in any case where he is of opinion that houses are required for Government employees apply to the Authority for the allocation to his Department of houses owned or controlled by the Authority.

Application
may be made
for houses for
Department.

(2) The Authority shall have regard to the submissions of the permanent head set forth in his application under this section and if satisfied that his Department requires houses for Government employees may allocate such houses as it thinks fit for occupation by those employees.

(3) For the purpose of exercising its duties under this section the Authority has power and authority—

- (a) to inquire into and consider applications under this section;
- (b) to require any further or other information in respect of any application;
- (c) to approve of any application, either wholly or in part;
- (d) to refuse any application.

(4) Except in so far as the Authority is required under this Act, or under the terms of any agreement relating to any house taken over by the Authority under this Act, to provide a house for any Government employee, the Authority is not required to provide a house for any Government employee and may let any house to a person other than such an employee at such rent and upon such terms and conditions as it thinks fit.

Powers of
Authority.

19. Subject to this Act, the Authority has and may exercise the following powers, in addition to any other powers conferred on the Authority by this Act—

- (a) subject to the provisions of the Town Planning and Development Act, 1928, to plan and subdivide any land acquired by the Authority under this Act;
- (b) to lay out and construct as streets any land so acquired by the Authority or any part of that land, and to expend moneys on works and operations necessary or deemed necessary for the purpose of rendering that land suitable for housing;
- (c) to let or lease or dispose of any land, whether improved or unimproved, for any one or more of the purposes of this Act, or if satisfied that any land vested in it under this Act is not immediately required for the purposes of this Act, to lease or dispose of that land at such price and on such terms and conditions as the Authority thinks fit;
- (d) to erect, or cause to be erected, on lands vested in the Authority houses for letting to Government Employees in accordance with the provisions of this Act, or to convert any buildings or erections into houses;
- (e) to maintain, alter, enlarge, repair and carry out any improvements to, and generally to control and manage, houses and other buildings and the land upon which they are situated;
- (f) to exchange, upon such terms and conditions and subject to such restrictions, exceptions and reservations as the Authority thinks fit, any unimproved land of the Authority for any other land, and to give or receive consideration for equality of exchange;
- (g) to enter into arrangements and agreements with any Department or any Crown instrumentality in regard to the building, maintenance, management, letting or

renting of houses; or to any service or thing available from any Department and make such recoup of cost of services as may be arranged;

- (h) subject to the provisions of paragraph (j) of subsection (3) of section thirty-seven AE of the Education Act, 1928, but otherwise notwithstanding the provisions of any Act or any regulations made under any Act, to determine and fix, upon such basis or formula as may be prescribed, rents payable and conditions of tenancy in respect of houses let to tenants pursuant to this Act, and to assess and re-assess such rents at periods not exceeding three years or whenever any house becomes vacant, regard being had to the age, type of construction, design, condition and available amenities, or any other matter that the Authority may deem relevant;
- (i) to make or cause to be made any inquiry, investigation or report required by this Act or that the Authority thinks necessary or expedient to make;
- (j) to undertake and carry out all other matters connected with this Act generally.

20. (1) For the purposes of this Act, the Authority may—

Power
to accept
gifts.

- (a) accept any absolute gift, devise or bequest of real or personal property; or
- (b) with the consent of the Minister, accept any gift, devise or bequest of real or personal property subject to any trust the objects of which are not substantially different from those for which the Authority is established, and carry out and give effect to the objects of any such trust.

(2) If the Authority receives any gift, devise or bequest for the purpose of assisting it to provide houses for Government employees and that gift, devise or bequest is subject to any trust, condition

or stipulation which cannot by reason of any other provision of this Act be given effect to, the Authority may, notwithstanding that provision, give effect to the trust, condition or stipulation if it is otherwise in accordance with law.

(3) No stamp duty, probate or estate or succession duty shall be payable on any property given, devised or bequeathed to the Authority.

Power
to appoint
agent.

21. The Authority is empowered to enter into an arrangement or agreement with the State Housing Commission constituted by the State Housing Act, 1946, whereby that Commission shall be and act as the agent of the Authority for the purposes of this Act upon such terms and subject to such conditions as may be mutually agreed upon by the Authority and the State Housing Commission.

PART IV.—FINANCE.

Power
to borrow
money.

22. (1) The Authority has power to borrow money upon the guarantee of the Treasurer of the State for the purposes of carrying out its functions and powers under this Act.

(2) The Authority is authorised with the prior approval in writing of the Treasurer to borrow money upon such terms and conditions only as the Treasurer approves.

(3) The Treasurer is hereby authorised to so approve and to give the guarantee referred to in subsection (1) of this section, including the guarantee of interest, for and on behalf of the Crown in right of the State.

(4) Before a guarantee is given by the Treasurer under this section, the Authority shall give to the Treasurer such security as the Treasurer may require, and shall execute all such instruments as may be necessary for that purpose.

(5) The Authority shall apply and use all moneys borrowed under the power conferred by this section for the purposes of carrying this Act into effect.

23. The funds available for the purpose of enabling the Authority to carry out its functions and powers under this Act consist of—

Funds of
Authority.

- (a) moneys from time to time appropriated by Parliament for the purposes of this Act;
- (b) moneys borrowed by the Authority under the powers conferred by this Act;
- (c) moneys from time to time received by the Authority from rents derived from letting houses and from the disposal of houses and land pursuant to the provisions of this Act;
- (d) moneys received by way of gifts or legacies for the general purposes of this Act; and
- (e) moneys received by the Authority in any manner and from any source as part of its general revenue, including short term borrowings and temporary advances.

24. (1) For the purposes of administering this Act there shall be established and kept at the Treasury an account to be called the "Government Employees' Housing Authority Fund" into which shall be paid all moneys received by or for the Authority and to which shall be charged all costs of operation and administration of this Act.

Establish-
ment of
Government
Employees'
Housing
Authority
Fund.

(2) The Fund shall be controlled by the Authority and may be operated upon for the purposes in such manner as the Treasurer approves from time to time.

(3) The expenses incurred by the Authority in carrying out its functions and exercising its powers under this Act and generally in administering this Act shall be paid out of the Fund, and such expenses shall include interest on and contributions to the sinking fund for the redemption of moneys appropriated by Parliament to the purposes of this Act and moneys borrowed by the Authority under the provisions of this Act.

(4) The Authority shall keep such records relating to operations on the Fund in such manner as the Treasurer approves or directs.

(5) Any moneys standing to the credit of the Fund may, until required for the purposes of this Act, be temporarily invested at the request of the Authority by the Treasurer in any securities approved by the Treasurer, and all interest derived from the investment shall be paid to the credit of the Fund.

PART V.—MISCELLANEOUS.

Annual
accounts.

25. The Authority shall as soon as reasonably practicable after the thirtieth day of June in each year cause to be prepared for the year ending on that date, a revenue account and a balance sheet for that year, and shall send copies thereof to the Minister within seven days after the preparation thereof, together with a report of the operations of the Authority during that year, which account, balance sheet and report, shall be laid by the Minister upon the Table of each House of Parliament as soon as reasonably practicable.

Inspection
of books.

26. (1) The accounts kept by or on behalf of the Authority shall be open to the inspection of the Auditor General and any person authorised by him to inspect them, and the Auditor General or any person so authorised may make copies thereof or take extracts therefrom.

(2) The Auditor General has and shall exercise in respect of the accounts of the Authority the powers conferred on him by the Audit Act, 1904, but shall arrange for a periodical or continuous audit of those accounts.

Exemption
from
personal
liability.

27. A person who is or has been a member of the Authority, or an officer or agent of the Authority, or who otherwise carries out or exercises or has carried out or exercised any function or power conferred or any duty imposed by this Act, is not personally liable for anything done or omitted in good faith in or in connection with the exercise or purported exercise of any function or power conferred, or the carrying out of any duty imposed, by this Act.

28. (1) The Authority may determine the tenancy of any premises let pursuant to the provisions of this Act in any case where the tenant—

Determina-
tion of
tenancy.

- (a) makes default in payment of any instalment of rent for fourteen days after the day upon which that instalment became due; or
- (b) fails or neglects to comply with any of his covenants or conditions under the tenancy agreement and such default continues for fourteen days; or
- (c) ceases to be an employee in a Department.

(2) Where the Authority determines a tenancy pursuant to this section, it may give notice in writing to the tenant requiring him to vacate the premises on or before a date specified in the notice, and if the tenant fails to vacate the premises on or before the date so specified, any court of summary jurisdiction may upon application made by the Authority or its agent issue a warrant in the prescribed form directed to such person as the court thinks fit requiring that person, within a period to be specified in the warrant, to enter (if need be by force) upon the premises the subject of the tenancy and give possession thereof to the Authority.

(3) A warrant to a person to give possession of premises under this section shall justify the person named in the warrant in entering upon the premises with such assistance as he thinks necessary, and in giving possession accordingly.

29. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are contemplated, required or permitted to be prescribed or that may in his opinion be necessary or expedient to be prescribed for enabling the functions of the Authority to be carried out, or for carrying out or giving effect to the objects and purposes of this Act.

(2) Regulations made under this Act may impose a fine of twenty pounds for the breach of any regulation.