



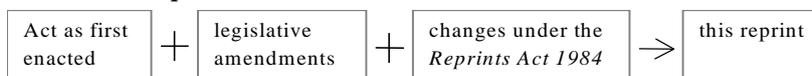
Western Australia

Housing Loan Guarantee Act 1957

Reprint 4: The Act as at 16 June 2006

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Reprint numbering and date

1. The reprint number (in the footer of each page of the document) shows how many times the Act has been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3rd reprint since the Act was passed. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the Act is reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Western Australia

Housing Loan Guarantee Act 1957

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Western Australia

Reprinted under the
Reprints Act 1984 as
at 16 June 2006

Housing Loan Guarantee Act 1957

An Act to authorise the Treasurer to give guarantees and indemnities to encourage the building and purchase of houses and for other and incidental purposes.

[Long title amended by No. 43 of 1961 s. 3; No. 15 of 1986 s. 3.]

1. Short title

This Act may be cited as the *Housing Loan Guarantee Act 1957*¹.

2. Commencement

This Act shall come into operation on a day to be fixed by proclamation¹.

3. Definitions

In this Act unless the context requires otherwise —

“approved housing scheme” means an approved housing scheme under section 7C;

“approved institution” means an institution, body, or person, approved under this Act by the Minister for the purpose of lending money to borrowers to enable them to build or purchase houses for themselves and their dependants;

“approved lending authority” means an institution, body or person approved under this Act by the Minister for the purpose of making loans to an approved institution to be used by the approved institution for the purposes of this Act;

“borrower” includes, without prejudice to section 26 of the *Interpretation Act 1918*², joint tenants, and tenants in common;

“guarantee” means a guarantee given, pursuant to this Act, by the Treasurer to an approved lending authority;

“indemnity” means an indemnity given, pursuant to this Act, by the Treasurer to an approved institution;

“instrument of constitution” means the Act or other instrument, if any, by which an approved institution or an approved lending authority is constituted and by authority of, or subject to, which, the approved institution or an approved lending authority carries on its business, and includes rules, local laws, by-laws, regulations, and other subordinate authorisations effective under the Act or other instrument;

“loan” includes part of a loan;

“Minister” means the Minister of the Crown to whom the administration of the *State Housing Act 1946*³, is for the time being committed by the Governor, and includes any Minister of the Crown for the time being discharging the duties of the office of the Minister;

“new house” means a dwelling-house which is in the course of erection or a dwelling-house which, since its completion, has not been occupied at all, or which, since its completion, has been occupied but for a period not exceeding 6 months or in relation to any particular dwelling-house such longer period as the Minister determines pursuant to section 8A and then only by the borrower and his dependants, if any, or by the purchaser and his dependants, if any, and includes the land on which a dwelling-house is erected and all

appurtenances of the dwelling-house, including outbuildings, fences, and permanent provision for lighting, water supply, drainage, and sewerage;

“**purchase money**” includes part of purchase money;

“**purchaser**” includes, without prejudice to section 26 of the *Interpretation Act 1918*², persons purchasing as joint tenants or as tenants in common;

“**Treasurer**” means the Minister of the Crown who is Treasurer of the State for the time being and includes any Minister of the Crown for the time being discharging the duties of the office of the Treasurer.

[Section 3 amended by No. 37 of 1958 s. 2; No. 43 of 1961 s. 4; No. 52 of 1962 s. 2; No. 15 of 1986 s. 7; No. 85 of 1987 s. 4; No. 14 of 1996 s. 4.]

4. **Objects**

The purposes of this Act are to encourage, through provisions for guarantees and indemnities, the building and the purchasing of houses —

- (a) by enabling institutions concerned with advancing loans for the purposes of building houses or with making financial assistance available for the purposes of purchasing houses, or with both, to increase amounts of advances and financial assistance for those purposes; and
- (b) by enabling institutions mentioned in paragraph (a) to borrow money to be applied in the building and purchasing of houses.

[Section 4 amended by No. 37 of 1958 s. 3; No. 43 of 1961 s. 5; No. 15 of 1986 s. 7; No. 26 of 1999 s. 88(2).]

5. Power to approve institutions

- (1) Any institution, body, or person, which is, or desires to be, concerned with advancing loans for the purposes of building houses, or with making financial assistance available for purchasing houses, or with both, including any institution —
- (a) being a society registered under the *Housing Societies Act 1976* or *Co-operative and Provident Societies Act 1903*; or
 - (b) being an ADI (authorised deposit-taking institution) as defined in the section 5 of the *Banking Act 1959* of the Commonwealth; or
 - (ba) being a corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth; or
 - (c) being an assurance company or an insurance company; or
 - (d) the Government Employees Superannuation Board under the *State Superannuation Act 2000*;
 - (e) being any other institution which is, or desires to be, so concerned,

may make written application to the Minister to become and be an approved institution or an approved lending authority for the purposes of this Act.

- (2) If it appears to the Minister that an applicant is suitable to be an approved institution or an approved lending authority for the purposes of this Act he may, on such terms and conditions as the Minister imposes and is hereby authorised to impose from time to time, appoint the applicant to be an approved institution or an approved lending authority.
- (3) If it appears to the Minister that an approved institution or an approved lending authority has ceased to be suitable to continue to be an approved institution or an approved lending authority, as the case may be, he may by written notice served on that

institution or that authority cancel the appointment of the institution or authority as an approved institution or approved lending authority and thereupon —

- (a) any guarantee given to the authority and any indemnity given to the institution shall cease to apply to or in respect of repayment of any loan and payment of interest on any loan made by the authority or institution after service of the notice, and to or in respect of payment of any purchase money and interest payable under any contract for sale and purchase entered into by the institution after service of the notice; and
- (b) the authority or institution shall not be at liberty to and shall not because of service of the notice of cancellation, call up or take any action to enforce repayment or accelerated repayment of any loan or payment of interest on any loan to which the guarantee or indemnity relates made by the authority or the institution prior to the notice being served, or payment or acceleration of payment of any purchase money, or interest payable under any contract for sale and purchase entered into by the institution prior to the service of the notice and to which contract the indemnity relates.

[Section 5 amended by No. 43 of 1961 s. 6; No. 15 of 1986 s. 7; No. 45 of 1996 s. 38; No. 2 of 1999 s. 21; No. 26 of 1999 s. 88(3); No. 43 of 2000 s. 49; No. 12 of 2001 s. 51.]

6. Delegation

- (1) The Treasurer may, by writing signed by him, delegate to the chief executive officer⁴ or any other officer of the Treasury Department⁵ of the Public Service of the State the power to execute on behalf of the Crown in right of the State an instrument of guarantee or an instrument for indemnity under this Act where the giving of the guarantee or indemnity, as the case may be, has been first approved by the Treasurer.

s. 7

- (2) An instrument executed by a delegate of the Treasurer in accordance with this section shall be deemed to have been executed by the Treasurer.
- (3) An instrument mentioned in subsection (1) that purports to have been executed by a person as a delegate of the Treasurer shall be presumed, unless the contrary is established, to have been executed pursuant to a delegation under this section and the approval of the Treasurer that was necessary for the person to lawfully execute the instrument shall be presumed, unless the contrary is established, to have been first given.

[Section 6 inserted by No. 15 of 1986 s. 4.]

7. Treasurer empowered to give guarantee to approved lending authority

- (1) Subject to the provisions of this section authority is hereby conferred on the Treasurer to execute on behalf of the Crown in right of the State an instrument of guarantee by which the Treasurer, in that behalf in that right, guarantees to an approved lending authority repayment to the authority of any loans made by it under and for the purposes of this Act to an approved institution, on the institution executing such securities as the Treasurer thinks fit in accordance with section 7A.
- (2) The instrument of guarantee shall contain such provisions as, subject to the provisions of this Act, are agreed between the Minister and the approved lending authority.

[Section 7 inserted by No. 43 of 1961 s. 8.]

7A. Provisions related to State guarantee

- (1) Where an approved lending authority proposes to make a loan under this Act to an approved institution to be used for the purposes of this Act, and requires the Treasurer to guarantee that the institution will repay the loan and interest payable in respect thereof, the approved lending authority shall cause

particulars of the proposal to be submitted in writing to the Treasurer.

- (2) The Treasurer, if he approves the proposal, may agree to give the guarantee on behalf of the Crown in right of the State, on such conditions as he thinks fit including conditions for —
- (a) the execution by the approved institution of such undertaking as the Treasurer thinks fit that the amount of the loan will be used by the institution under this Act for advancing loans for the purposes of building new houses, or for making financial assistance available for the purposes of purchasing new houses;
 - (b) the execution by the approved institution of such securities as the Treasurer thinks fit to secure compliance with the undertaking referred to in paragraph (a), and to secure the Treasurer against any liability he incurs under the guarantee;
 - (c) the advancing of the amount of a loan by progress payments at specified stages of erection if the loan is made by the approved institution in respect of a new house that is a dwelling-house in the course of erection, and the furnishing in accordance with the provisions of subsection (2a) of certificates by valuers.
- (2a) Where, out of a loan guaranteed under this Act, an approved institution makes a loan in respect of a new house to be advanced by progress payments during the course of erection, it shall furnish to the Treasurer at each stage of erection for which a progress payment is payable a certificate of a valuer appointed under this Act certifying that the amount of the loan then advanced (inclusive of the progress payment in respect of which the certificate is furnished) does not exceed, if the new house is uncompleted, 90% of the value of work done thereon.
- (3) If the approved lending authority complies with this section and the approved institution complies with the conditions imposed by the Treasurer under subsection (2), the Treasurer may give the guarantee.

s. 7B

- (4) Subject to subsection (5), securities executed under subsection (2) create, by virtue of this section, a floating charge (having, subject to this section, priority to any other charge created thereafter) on the undertaking, all the property and assets both real and personal whatsoever and wheresoever both present and future including all book debts of the approved institution, —
- (a) notwithstanding the provisions of any other Act; and
 - (b) notwithstanding the existence on that undertaking, property or assets, of any other charge or encumbrance.
- (5) Notwithstanding the provisions of subsection (4), the Treasurer may, on the recommendation of the Minister, require an approved institution to execute under subsection (2) such securities over so much of its property and assets both real and personal as creates a charge thereon and which in the opinion of the Treasurer sufficiently secures the Treasurer against any liability he incurs under the guarantee given by him.
- (6) Any securities referred to in subsection (5) shall be, notwithstanding the provisions of any other Act and notwithstanding the existence on the property and assets of any other charge or encumbrance, by virtue of this subsection, a first charge on so much of the property and assets of the approved institution as is specified in any such securities.

[Section 7A inserted by No. 43 of 1961 s. 9; amended by No. 52 of 1962 s. 3; No. 15 of 1986 s. 5; No. 10 of 1998 s. 5(2).]

7B. Treasurer empowered to give indemnity to approved institution

- (1) Where —
- (a) an approved institution proposes to make a loan to a borrower, whether from its own moneys or from the moneys loaned to it by an approved lending authority, or otherwise under and for the purposes of this Act, or

proposes to enter into a contract for the sale and purchase of a house; and

- (b) the amount of the proposed loan, or the amount of the balance of the purchase price which will remain to be paid under the contract on the execution thereof exceeds the maximum amount which the Treasurer has declared under section 7F to be the maximum amount which the approved institution shall advance to a borrower on the security of a first mortgage on a house, or shall permit to remain payable under a contract for sale and purchase of a house,

but does not exceed the appropriate amount for the time being specified under subsection (1a) for the area of the State in which the house is or will be, situated, the Treasurer may, if he is satisfied with the terms and conditions of the mortgage or contract for sale and purchase, enter into an agreement with the approved institution proposing to make the loan or proposing to enter into the contract.

- (1a) The Minister may, in relation to an approved housing scheme, from time to time by notice published in the *Government Gazette*, fix the appropriate amounts for the purposes of subsection (1) in relation to houses erected or to be erected in the following areas of the State, namely —
 - (a) within the metropolitan region as defined in the *Planning and Development Act 2005*;
 - (b) south of the 26th parallel of latitude but not within the metropolitan region as so defined;
 - (c) north of the 26th parallel of latitude and within the North-West Division, or the Eastern Division, as respectively described in Schedule 1 to the *Land Administration Act 1997*;
 - (d) within the Kimberley Division, as described in Schedule 1 to the *Land Administration Act 1997*.

s. 7C

- (2) Under the agreement the Treasurer shall undertake to indemnify the institution against the amount of any loss sustained by the institution in respect of the loan or contract, and the institution shall be indemnified accordingly.
- (3) The agreement shall contain such provisions as, subject to this Act, are agreed between the Minister and the approved institution.
- (4) Where the Treasurer has entered into an agreement for indemnity under this section in respect of a loan or contract in relation to a house that is subsequently sold or transferred subject to the liability owing under that loan or contract, the agreement for indemnity shall continue to operate and have effect.

[Section 7B inserted by No. 43 of 1961 s. 10; amended by No. 27 of 1965 s. 2; No. 17 of 1968 s. 2; No. 8 of 1972 s. 2; No. 51 of 1973 s. 3; No. 15 of 1986 s. 6 and 7; No. 85 of 1987 s. 5; No. 31 of 1997 s. 36; No. 38 of 2005 s. 15.]

7C. Approved housing schemes

The Treasurer shall not execute an agreement for indemnity under this Act unless the loan or contract is a loan or contract within an approved housing scheme specified in —

- (a) the Schedule; or
- (b) an Order made by the Governor and published in the *Government Gazette* or an Order made by the Governor amending or in substitution for such an Order and published in the *Government Gazette*.

[Section 7C inserted by No. 85 of 1987 s. 6.]

7D. Aggregate of liabilities under guarantees and indemnities to amounts declared by Treasurer

- (1) The Treasurer shall not execute any guarantee under this Act where the guarantee would involve the State in a liability which when added to the total liabilities, contingent or otherwise,

subsisting in respect of other guarantees so executed would in the aggregate exceed the amount declared by the Treasurer under section 7F.

- (2) The Treasurer shall not enter into any agreement for indemnity under this Act where the agreement would involve the State in a liability, contingent or otherwise, which when added to the total of such liabilities subsisting in respect of other agreements so entered into would in the aggregate exceed the amount declared by the Treasurer under section 7F.
- (3) The failure of the Treasurer to comply with —
 - (a) the provisions of section 7D or 7F or both; or
 - (b) any matter or thing required by or under this Act to be complied with by him in respect of a guarantee or indemnity,

does not affect the validity of any guarantee or indemnity.

[Section 7D inserted by No. 43 of 1961 s. 12.]

7E. Amounts payable by Treasurer under guarantee or indemnity guaranteed by State

- (1) The due payment of money payable by the Treasurer under a guarantee or agreement for indemnity given or entered into by him under the authority of this Act —
 - (a) is hereby guaranteed by the State;
 - (b) shall be charged to the Consolidated Fund.
- (2) This section without any other appropriation is sufficient authority for making any payment referred to in subsection (1).

[Section 7E inserted by No. 43 of 1961 s. 13; amended by No. 98 of 1985 s. 3; No. 6 of 1993 s. 11; No. 49 of 1996 s. 64.]

s. 7F

7F. Treasurer empowered to declare aggregate amounts of guarantees and indemnities, rate of interest and advances, etc.

- (1) Treasurer shall, whenever requested by the Minister to do so, from time to time declare by notice published once in the *Government Gazette* —
- (a) the maximum amounts which the Treasurer may guarantee under this Act during any specified period;
 - (b) the maximum amounts in respect of which agreements for indemnity may be entered into by the Treasurer during any specified period;
 - (c) the maximum rate of interest which an approved institution may charge on a loan to a borrower or on the purchase money to a purchaser in respect of any period whilst an agreement for indemnity is in force in respect of the loan or purchase money;
 - (d) for the purposes of section 7B, the maximum amount which an approved institution shall advance to a borrower under an approved housing scheme on the giving of a first mortgage of a house in any part of the State or in a specified part of the State or the maximum amount of the purchase moneys which an approved lending institution shall permit to remain payable under a contract for sale and purchase of a house in any part of the State or a specified part of the State before an indemnity is given by the Treasurer under this Act.
- (2) In subsection (1)(d) “**specified**” means specified in a notice published under section 7B(1a).

[Section 7F inserted by No. 43 of 1961 s. 14; amended by No. 27 of 1965 s. 3; No. 15 of 1986 s. 7; No. 85 of 1987 s. 7.]

[7G. *Repealed by No. 85 of 1987 s. 8.]*

8. Minister empowered to appoint valuers

- (1) The Minister may appoint such persons as he considers suitable to be valuers for the purposes of this Act.
- (2)(a) Where an approved institution proposes that an agreement for indemnity be entered into by the Treasurer under the authority of this Act the Minister may require that the value of the house which is to be subject to a first mortgage or contract for sale and purchase and in relation to which the indemnity is proposed, be determined by a valuer so appointed.
- (b) The Minister may require the approved institution or the proposed borrower or both to pay to him such reasonable fees or a valuation made under this section as the Minister may from time to time determine and where both the institution and the borrower are required to so pay, the Minister may determine the proportion of the total amount of the fees to be paid by each.

[Section 8 inserted by No. 43 of 1961 s. 15; amended by No. 15 of 1986 s. 7.]

[8A. Repealed by No. 85 of 1987 s. 9.]

9. Approved institutions and approved lending authorities to submit returns to Minister and to permit inspection of documents, etc.

- (1) Each approved institution and approved lending authority shall submit or cause to be submitted to the Minister, before 31 May in each year, a return in respect of the 12 months ending on the preceding 30 April, showing as at that date —
 - (a) the amount which remains unpaid of any loan that has been made by the approved lending authority to an approved institution under a guarantee given by the Treasurer;

- (b) the amount that remains unpaid of any loan made by the approved institution to a borrower, or the amount that remains unpaid under a contract for the sale and purchase of a house, where in respect of either of those amounts the Treasurer has given an indemnity.
- (2) The manager, secretary, accountant or other executive or administrative officer of an approved institution or an approved lending authority or any bank at which any account, record or document of the institution or authority is kept shall, whenever requested by the Minister to do so, make available to the Minister, or a person appointed in writing by the Minister, all documents and records, including records of accounts, which relate to or are connected with any loan, repayment of which was guaranteed to the approved lending authority under a guarantee, or which relate to or are connected with any loan, or any purchase money, in respect of which an indemnity has been given, and which are in the custody or under the control of the person so requested, and permit the Minister or person so appointed to examine and take copies or extracts from them.
Penalty: \$100.
- (3) Where, immediately prior to the date of the coming into operation of the *Housing Loan Guarantee Act Amendment Act 1961*¹, an approved institution is, pursuant to the provisions of section 9(2)(b) of this Act as those provisions existed immediately prior to that date —
 - (a) paying into the Fund Account an amount in respect of a loan payment or purchase money as provided in the paragraph; or
 - (b) is obliged on that date to pay into the Fund Account an amount in respect of a loan payment or purchase money as so provided,

the rate of interest on so much of that loan payment or purchase money as from time to time remains owing, and the repayment of which remains guaranteed under this Act, as from that date, by force of this subsection be reduced by the rate of a quarter

per centum per annum and the rate of interest payable by the borrower concerned to the approved institution shall be reduced accordingly.

[Section 9 inserted by No. 43 of 1961 s. 17; amended by No. 113 of 1965 s. 8; No. 15 of 1986 s. 7.]

10. Power for approved institutions to accept guarantees

Power to advance loans and to enter into contracts of sale and purchase in respect of houses to the extent provided in this Act, and to accept guarantees or indemnities under this Act, and to do or suffer anything ancillary or incidental thereto, and to do or suffer anything for the purposes of section 7A or 7B of this Act, is conferred by this Act on any society registered under the *Housing Societies Act 1976* or *Co-operative and Provident Societies Act 1903*, notwithstanding that the power is not conferred by the society's instrument of constitution, and notwithstanding any provision of that instrument to the contrary.

[Section 10 amended by No. 37 of 1958 s. 5; No. 43 of 1961 s. 18; No. 15 of 1986 s. 7; No. 26 of 1999 s. 88(4); No. 12 of 2001 s. 51.]

11. Regulations

- (1) The Governor may make such regulations as he considers necessary or desirable for giving effect to the purpose of this Act, and may by the regulations prescribe a penalty of not more than \$100 for a breach of any regulation so made.
- (2) Without prejudice to the generality of subsection (1), regulations may be so made prescribing or relating to the form of application by an institution, body or person to be appointed an approved institution or an approved lending authority, prescribing the fees to be paid on the application and providing for a refund of the fees to be made where an application is refused.

[Section 11 amended by No. 43 of 1961 s. 19; No. 113 of 1965 s. 8.]

Schedule

[Heading inserted by No. 85 of 1987 s. 10.]

Approved housing schemes

[Heading inserted by No. 85 of 1987 s. 10.]

1. General loan scheme

- (1) To be eligible under this Scheme —
 - (a) the applicant shall declare in a manner satisfactory to the Minister that the applicant intends to use the house the subject of the application for the applicant and spouse, or de facto partner, and dependants of the applicant; and
 - (b) the applicant, unless exempted by the Minister, shall not be the owner jointly or as tenant in common with any person in any other dwelling house.
- (2) The interest charged on the loan or balance of purchase moneys during the period of the indemnity shall not exceed the maximum rate of interest declared by the Treasurer under section 7F as the maximum rate of interest which an approved lending institution may charge a borrower or purchaser on the amount of the loan or purchase money.
- (3) The mortgage or contract for sale shall provide for repayment of the loan or payment of the purchase money, as the case may be, together in either case with interest adjusted quarterly on the balance of the loan or purchase money then outstanding, by fixed weekly, monthly, or 3 monthly instalments of such amounts as will be sufficient to repay the loan, or to pay the purchase price, in full before the expiration of 45 years from the date of the mortgage, or of the contract for sale and purchase.

[Clause 1 inserted by No. 85 of 1987 s. 10; amended by No. 28 of 2003 s. 87.]

2. Deferred repayment loan scheme

- (1) To be eligible under this scheme —
 - (a) the applicant shall declare in a manner satisfactory to the Minister that the applicant intends to use the house the subject

- of the application for the applicant and spouse, or de facto partner, and dependants of the applicant; and
- (b) the applicant shall not be the owner either as joint tenant or tenant in common, of any residential property other than the land the subject of the application.
- (2) Moneys advanced shall not be used for the purpose of discharging an existing security except where the land is vacant land.
- (3) The maximum value of the land and house to be erected or purchased by the person shall not exceed \$55 000 or such other amount as is fixed in relation to the area in which the house is situate or proposed to be situated under section 7B.
- (4) The minimum deposit to be paid by the applicant in respect of the property shall be 10% of the lending institution valuation subject to a reduction in respect of dependent children of an amount to 5% of that valuation at the discretion of the lending institution.
- (5) The maximum value of the loan shall not exceed \$45 000 or such other amount as is fixed in relation to the area in which the house is situate or is proposed to be situated under section 7F.
- (6) Provision is made for repayment of the loan including provisions for —
- (a) deferring of interest payable under the loan with capitalisation of interest so deferred;
- (b) repayment of the loan if and when income of the applicant or the spouse, or de facto partner, of the applicant or both exceeds an amount specified by the Minister by direction given by the Minister for the purposes of this scheme and for instalments of the interest and principal to be on *credit foncier* terms approved by the Minister;
- (c) reductions in the instalments payable in a case where the gross family income of the applicant (which in this context means the combined gross income of the applicant and the spouse, or de facto partner, of the applicant) are reduced for any reason but so that the instalments as so reduced are not less than 25% of the gross family income of the applicant.
- (7) The lending institution will require of any moneys received by the applicant by way of financial assistance and payable to the applicant

cl. 3

under any law of the State or the Commonwealth in relation to subsidising the purchase of houses by persons eligible under that law are paid to the lending institution into the account of the applicant with the lending institution in reduction of the loan to the applicant.

[Clause 2 inserted by No. 85 of 1987 s. 10; amended by No. 28 of 2003 s. 87.]

3. Mortgage support scheme

(1) Where —

- (a) the repayments fixed under a mortgage (whether or not the mortgagee under the mortgage is an approved lending institution) exceed 27.5% or such other percentage fixed by the Minister by notice published in the *Government Gazette* of the gross family income of the mortgagor (which in this context means the combined gross income of the mortgagor and the spouse, or de facto partner, of the mortgagor); and
- (b) the mortgagor would otherwise be eligible for assistance under an approved housing scheme in clause 1 or 2,

the repayments under the mortgage may be rescheduled under the terms of a new mortgage.

- (2) Notwithstanding subclause (1), a mortgagor is not eligible for mortgage support unless the ratio of the repayments fixed under the mortgage to the gross family income of the mortgagor at the time of the application exceeds the ratio of those repayments to the gross family income of the mortgagor at the time when the mortgage was executed.
- (3) No new moneys shall be advanced to the applicant.
- (4) The maximum value of the land and house under the mortgage shall not exceed \$55 000 or such other value as is fixed in relation to the area in which the house is situated under section 7B.
- (5) The maximum value of the loan that may be renegotiated is \$45 000 or such other amount as is fixed in relation to the area in which the house is situate under section 7F.
- (6) Provision is made for repayment of the loan by deferring any interest then unpaid or accruing under the original mortgage together with interest in terms approved by the Minister.

- (7) Provision is made for resumption of repayments of the loan under the terms and conditions approved by the Minister if and when the gross family income of the mortgagor equal or exceed the amount fixed by the Minister.

[Clause 3 inserted by No. 85 of 1987 s. 10; amended by No. 28 of 2003 s. 87.]



Notes

- ¹ This reprint is a compilation as at 16 June 2006 of the *Housing Loan Guarantee Act 1957* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Housing Loan Guarantee Act 1957</i>	75 of 1957	16 Dec 1957	19 May 1958 (see s. 2 and <i>Gazette</i> 9 May 1958 p. 846)
<i>Housing Loan Guarantee Act Amendment Act 1958</i>	3 of 1958	19 Sep 1958	19 Sep 1958
<i>Housing Loan Guarantee Act Amendment (No. 2) 1958</i>	37 of 1958	11 Dec 1958	11 Dec 1958
<i>Housing Loan Guarantee Act Amendment Act 1959</i>	55 of 1959	25 Nov 1959	25 Nov 1959
<i>Housing Loan Guarantee Act Amendment Act 1961</i>	43 of 1961	16 Nov 1961	1 Jan 1962 (see s. 2 and <i>Gazette</i> 29 Dec 1961 p. 3964)
Reprint of the <i>Housing Loan Guarantee Act 1957</i> approved 20 Jun 1962 in Volume 17 of Reprinted Acts (includes amendments listed above)			
<i>Housing Loan Guarantee Act Amendment Act 1962</i>	52 of 1962	20 Nov 1962	20 Nov 1962
<i>Housing Loan Guarantee Act Amendment Act 1965</i>	27 of 1965	1 Oct 1965	1 Oct 1965
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
<i>Housing Loan Guarantee Act Amendment Act 1968</i>	17 of 1968	8 Oct 1968	8 Oct 1968
<i>Housing Loan Guarantee Act Amendment Act 1972</i>	8 of 1972	25 May 1972	25 May 1972
<i>Housing Loan Guarantee Act Amendment Act 1973</i>	51 of 1973	6 Nov 1973	18 Jan 1974 (see s. 2 and <i>Gazette</i> 18 Jan 1974 p. 124)
Reprint of the <i>Housing Loan Guarantee Act 1957</i> approved 20 May 1974 (includes amendments listed above)			
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)

Short title	Number and year	Assent	Commencement
<i>Housing Loan Guarantee Amendment Act 1986</i>	15 of 1986	25 Jul 1986	22 Aug 1986
<i>Housing Loan Guarantee Amendment Act 1987</i> ⁶	85 of 1987	9 Dec 1987	9 Dec 1987 (see s. 2)
<i>Financial Administration Legislation Amendment Act 1993</i> s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Acts Amendment (ICWA) Act 1996</i> s. 38	45 of 1996	25 Oct 1996	1 Oct 1997 (see s. 2 and <i>Gazette</i> 23 Sep 1997 p. 5357)
<i>Financial Legislation Amendment Act 1996</i> s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Acts Amendment (Land Administration) Act 1997</i> Pt. 34	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2(1) and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998</i> s. 5(2)	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
<i>Friendly Societies (Western Australia) Act 1999</i> s. 21	2 of 1999	25 Mar 1999	24 May 1999 (see s. 2 and <i>Gazette</i> 21 May 1999 p. 1999)
<i>Acts Amendment and Repeal (Financial Sector Reform) Act 1999</i> s. 88	26 of 1999	29 Jun 1999	1 Jul 1999 (see s. 2(1) and <i>Gazette</i> 30 Jun 1999 p. 2905)
Reprint of the <i>Housing Loan Guarantee Act 1957</i> as at 4 Jan 2000 (includes amendments listed above)			
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 49	43 of 2000	2 Nov 2000	17 Feb 2001 (see s. 2(1) and <i>Gazette</i> 16 Feb 2001 p. 903)
<i>Building Societies Amendment Act 2001</i> s. 51	12 of 2001	13 Jul 2001	13 Jul 2001 (see s. 2)
<i>Acts Amendment (Equality of Status) Act 2003</i> Pt. 30	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)

Short title	Number and year	Assent	Commencement
<i>Planning and Development (Consequential and Transitional Provisions) Act 2005 s. 15</i>	38 of 2005	12 Dec 2005	9 Apr 2006 (see s. 2 and <i>Gazette</i> 21 Mar 2006 p. 1078)
Reprint 4: The Housing Loan Guarantee Act 1957 as at 16 Jun 2006 (includes amendments listed above)			

^{1a} On the date as at which this reprint was prepared, provisions referred to in the following table had not come into operation and were therefore not included in compiling the reprint. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Housing Societies Repeal Act 2005 s. 19</i> ⁷	17 of 2005	5 Oct 2005	To be proclaimed (see s. 2(3) and (4))

² Before it was repealed by the *Interpretation Act 1984*, the *Interpretation Act 1918*, section 26 read as follows:

“

26. Words importing masculine gender and singular number to include feminine gender and plural number

In every Act —

- (a) every word of the masculine gender shall be construed as including the feminine gender;
- (b) every word in the singular number shall be construed as including the plural number;
- (c) every word in the plural number shall be construed as including the singular number;
- (d) every word in either of the said genders or numbers shall be construed as including a body corporate as well as an individual.

”

³ Repealed by the *Housing Act 1980*.

⁴ Under the *Acts Amendment (Public Service) Act 1987* s. 31(1)(f) a reference in a written law to the Permanent Head is, unless the contrary intention appears, to be

construed as if it had been amended to be a reference to the chief executive officer. This reference was amended under the *Reprints Act 1984* s. 7(5)(a).

⁵ Under the *Alteration of Statutory Designations Order (No. 3) 2001* a reference in any law to the Treasury Department is read and construed as a reference to the Department of Treasury and Finance.

⁶ The *Housing Loan Guarantee Act Amendment Act 1987* s. 11 reads as follows:

“

11. Validation

Any indemnity, guarantee or agreement given or entered into by the Treasurer under or purportedly under the principal Act before the coming into operation of sections 6 and 10 of this Act and which would have been valid had those sections been in operation at that time is hereby declared to be valid.

”

⁷ On the date as at which this reprint was prepared, the *Housing Societies Repeal Act 2005* s. 19 had not come into operation. It reads as follows:

“

19. *Housing Loan Guarantee Act 1957* repealed

The *Housing Loan Guarantee Act 1957* is repealed.

”

Defined Terms

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
approved housing scheme	3
approved institution	3
approved lending authority	3
borrower	3
guarantee	3
indemnity	3
instrument of constitution	3
loan	3
Minister	3
new house	3
purchase money	3
purchaser	3
specified	7F(2)
Treasurer	3