

WESTERN AUSTRALIA.

STATE HOUSING.

10° and 11° Geo. VI., No. LI.

No. 51 of 1946.¹

[As amended by Acts:

No. 27 of 1947 assented to 15/11/47;
No. 19 of 1948 assented to 18/11/48;
No. 15 of 1950² assented to 17/11/50;
No. 27 of 1950 assented to 29/12/50;
No. 52 of 1951 assented to 2/1/52;
No. 23 of 1952 assented to 19/11/52;
No. 77 of 1953 assented to 9/1/54;
No. 12 of 1954 assented to 14/9/54;
No. 73 of 1954³ assented to 14/1/55;
No. 32 of 1956 assented to 7/12/56;
No. 16 of 1958 assented to 6/10/58;
No. 45 of 1959 assented to 10/11/59;
No. 19 of 1960 assented to 6/10/60;

and reprinted pursuant to the Amendments Incorporation Act, 1938].

AN ACT relating to Housing; to make better provision for housing and improving the housing standards and conditions in the State; to constitute and regulate and provide for the administration of a State Housing Commission to take the place of the Workers' Homes Board; to repeal the Workers' Homes Act, 1911-1945; to provide for the transfer of certain assets, liabilities and powers from the said Workers' Homes Board to the said State Housing Commission; to provide for the erection, dealings with and the disposal of Houses and for advances for Housing; and for other purposes.

[Assented to 24th January, 1947.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western

¹ Came into operation 31st January, 1947. See *Gazette* 31/1/47, p. 200.

² Came into operation 1st June, 1951. See *Gazette* of 1/6/51, p. 1508.

³ Came into operation 1st March, 1955. See *Gazette* of 18/2/55, p. 343.

Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title and commencement.
Amended by No. 19 of 1960, s. 1.
Cf. Qld., s. 1,¹
W.A. s. 1.

1. This Act may be cited as the *State Housing Act, 1946-1960*, and shall come into operation on a date to be fixed by proclamation.¹

Construction.

2. This Act shall be read and construed so as not to exceed the legislative powers of the State, to the intent that, where any enactment thereof would, but for the provisions of this section, have been construed as being in excess of those powers, it shall nevertheless be a valid enactment to the extent to which it is not in excess of those powers.

Act divided into Parts.
Amended by No. 27 of 1947, s. 3; No. 15 of 1950, s. 3; No. 12 of 1954, s. 2.
Qld., s. 2.
W.A., s. 2.

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

PART I., ss. 4 to 7—PRELIMINARY.

PART II., ss. 8 to 14—STATE HOUSING COMMISSION.

PART III., ss. 15 to 23—TRANSFER OF ASSETS, LIABILITIES AND POWERS.

PART IV., ss. 24 to 25—FINANCE.

PART V., ss. 26 to 39—WORKERS' DWELLINGS.

PART VI., ss. 40 to 60—ADVANCES FOR HOMES.

PART VIA. s. 60A—SPECIAL FINANCIAL ASSISTANCE TO WORKERS FOR BUILDING HOMES.

PART VII., ss. 61 to 65—WEEKLY TENANCIES AND ADVANCES TO HOUSEHOLDERS.

PART VIII., ss. 66 to 67—ARRANGEMENTS WITH COMMONWEALTH.

PART IX., sec. 68—SLUM CLEARANCE.

PART X., ss. 69 to 70—HOSTELS AND COMMUNITY FACILITIES.

PART XA [*Inserted by No. 27 of 1947, s.3. Deleted by No. 15 of 1950, S.3.*]

PART XI., ss. 71 to 78—MISCELLANEOUS.

¹ See footnote 1 on page 1.

² The abbreviations used in the marginal references to other Acts in the margin of this Act have the following meanings:—

Cmth 1—Commonwealth War Service Homes Act, 1918-1941.

N.S.W.—New South Wales Housing Act, 1941 (No. 65 of 1941).

Vic. 1—Victoria Housing Act, 1937 (No. 4531).

Vic. 2—Victoria Slum Reclamation and Housing Act, 1938 (No. 4568), as amended by Act No. 4652 of 1939.

Vic. 3—Victoria Housing Act, 1943 (No. 4996).

S.A. 1—South Australia, Advances for Homes Act, 1928-1944.

S.A. 2—South Australia Housing Improvement Act, 1940-1943.

S.A. 3—South Australia, South Australian Housing Trust Act, 1936-1942.

Qld.—Queensland, State Housing Act, 1945 (No. 24 of 1945).

W.A.—Western Australia, Workers' Homes Act, 1911-1945.

Tas.—Tasmania, Homes Acts, 1935-1943.

PART I.—PRELIMINARY.

Acts
repealed.
First
Schedule.

4. Subject to Part III. of this Act, the Workers' Homes Act, 1911-1945, as set forth in the first Schedule to this Act is hereby repealed.

5. The objects of the Act are:—

Objects...
Vic. 1, s. 4.

- (a) the improvement of existing housing conditions;
- (b) the provision of adequate and suitable housing accommodation for persons of limited means and certain other persons not otherwise adequately housed.

6. In this Act, unless a contrary intention appears—

Interpreta-
tion.
Amended by
No. 19 of
1948, s. 3;
No. 27 of
1950, s. 3;
No. 52 of
1951, s. 3.
No. 19 of
1960, s. 2.
Cmth. 1.
Vic. 1, s. 2.
Vic. 2, s. 3.
Vic. 3, s. 3.
(1).
S.A. 1.
S.A. 2.
Qld., s. 4.
W.A., s. 3.

“advance” means an advance made under this Act;

“applicant” means an applicant for a worker's dwelling, or for a house, or for an advance under this Act;

“authorised” means authorised whether generally or in any particular case;

“borrower” means a person who has obtained an advance under this Act;

“capital value” means, in relation to a house, or to a worker's dwelling, the capital value fixed by the Commission with the approval of the Minister after appraisalment, and includes the unimproved capital value of the land, the value (if any) of the improvements on the land, a proportionate part (to be fixed by the Commission) of the cost of survey and subdivision of the estate of which the land forms part, and of the cost of all road making, sewerage and drainage and water, gas and electrical power and lighting systems, and other works and operations done on such estate, together with a proper proportion (fixed by the Commission) of the value of so much of the

State Housing.

estate as is absorbed by roads or streets (but not including any portion set aside for parks, recreation areas, and other public purposes), and also a due proportion (fixed as aforesaid) of the estimated cost of administration;

“chairman” means the chairman of the Commission;

“Commission” means the State Housing Commission constituted by this Act and includes where necessary the Chairman or a member of the Commission;

“contract of sale” means a contract for the sale by the Commission of land;

“estate” means any land dedicated to or set apart for the purpose of this Act under the provisions hereof which shall be declared by proclamation to form one residential estate;

“family” includes the wife or husband and the children of, and the parents or other relations dependant upon, the applicant or borrower;

“Fund” means the State Housing Commission Fund established under this Act;

“holding” means land of which an applicant or borrower is the beneficial owner in possession and includes—

(a) Crown land (in which term is included any land vested in the Commission) or endowment lands of the University of Western Australia or of the trustees of the Public Education Endowment or of any municipal corporation of which the subdivision allotments are not less than a quarter of an acre in area, held by an applicant or borrower for his own benefit under a lease or agreement; and

(b) Residential Leases, Miners' Homestead Leases and Residence Areas;

“hostel” means a building containing a number of separate houses or residential units suitable for the housing of persons including students and aged and infirm persons, which houses or residential units are designed so as to provide living amenities and facilities available for use in common by persons residing in the building;

“house” means any building (including any single, attached or multi-storey dwelling unit, tent, edifice, structure or erection (whether temporary or permanent) 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 but does not include any land. The term includes any shop, or business premises being a portion of or attached to a house;

“local authority” includes a municipal council within the meaning and for the purposes of the Municipal Corporations Act, 1906-1943¹, a road board within the meaning and for the purposes of the Road Districts Act, 1919-1943², and a local authority within the meaning and for the purposes of the Health Act, 1911-1944³;

“Minister” means the Treasurer of the State or such other Minister of the Crown as is charged for the time being or from time to time with the administration of this Act;

“mortgage” means any deed, memorandum of mortgage instrument or agreement whereby security for payment of advances and moneys is made in favour of the Commission over real or personal property or any interest thereon. The term includes a

¹ Now Municipal Corporations Act, 1906-1959.

² Now Road Districts Act, 1919-1959.

³ Now Health Act, 1911-1959.

contract of sale where payment to the Commission of the unpaid purchase money is secured in whole or in part on the property the subject of the contract of sale;

“mortgagor” means the person liable to payments of money secured by a mortgage and includes a purchaser under a contract of sale;

“owner” in relation to land means the person for the time being entitled to receive the rent of the land or premises in connection with which the word is used (whether on his own account or as the agent of or trustee for any other person) or who would be entitled to receive the rent if the land or premises were let at a rent and includes the person who is purchasing land on terms or deferred payments;

“proclamation” means a proclamation by the Governor published in the *Government Gazette*;

“proper officer” means any officer of the Commission authorised by it 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 expression is used;

“registered mortgagee” means mortgagee under a mortgage registered in or in respect of which a caveat is lodged in the office of the Registrar of Titles;

“regulations” means regulations made under this Act;

“rent” in relation to any house includes any taxes and rates (other than excess water rates) payable by the tenant in respect of the house, and any amount payable by the tenant to the landlord for the purpose of the repair, renovation or improvement of the house; and “rental” has a corresponding meaning;

“repealed Acts” means the Acts repealed by this Act;

“street” includes any street, road, footway, square, court, alley or right of way whether a thoroughfare or not;

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

“weekly tenancy” means a weekly tenancy under Part VII. of this Act;

“worker” means any person, male or female, who—

(a) is employed in work of any kind; and

(b) subject to paragraph (b) of section sixty and to Part VIII. of this Act, is not in receipt of salary, wages or income exceeding one thousand one hundred and ninety-six pounds per annum at the time of his application under this Act;

Provided that, where any person aforesaid is the parent of any child or children under sixteen years of age, the limit of one thousand one hundred and ninety-six pounds aforesaid shall, for the purposes of this definition, be increased by twenty-five pounds in respect of such child or in respect of each of such children;

Provided further that such salary, wages or income shall not include overtime.

Provided further that the sum of one thousand one hundred and ninety-six pounds referred to in this paragraph shall be ascertained without taking into account any variation of the basic wage made after the second day of May, one thousand nine hundred and sixty, pursuant to the provisions of the Industrial Arbitration Act, 1912.¹

or

(c) is ordinarily resident north of the twenty-sixth parallel of latitude and, on the recommendation of the Com-

¹ Now Industrial Arbitration Act, 1912-1952.

mission and for reasons given by it in writing, is approved by the Minister as a worker under and for the purposes of this Act.

“worker’s dwelling” means any dwelling-house erected for the benefit of a worker on land dedicated under this Act, or acquired by the Commission for the purposes of this Act; and includes the land on which the same is erected, or held therewith; and also includes all out-buildings and sanitary and drainage arrangements on such land necessary for such dwelling; and includes a dwelling-house on land the subject of a converted weekly tenancy under Part VII. of this Act.

Commission may treat and enter into transactions with a worker and his or her wife or husband as joint tenants S.6A inserted by No. 12 of 1954, s. 3. Cf. No. 38 of 1947, s. 5 of the O’th. Parliament.

6A. (1) The Commission may treat a worker and his wife or her husband together as a worker for the purposes of this Act, and references in this Act to a worker, include a reference to a husband and wife with whom the Commission proposes to enter, or has entered, into a transaction in accordance with this section.

(2) Where the Commission so treats and has entered, or enters, into a transaction with a husband and wife, the husband and wife are jointly and severally liable to fulfil the obligations of a worker in respect of the transaction.

(3) The Commission shall not apply this section in relation to property unless it is owned or proposed to be owned by the worker and his wife or her husband as joint tenants.

Administration of this Act. Qld., s. 8.

7. This Act shall be administered by the Minister, and under the Minister, the Commission is hereby authorised to carry out the provisions of this Act.

PART II.—STATE HOUSING COMMISSION.

8. (1) For the purposes of this Act there shall be a housing authority called "The State Housing Commission" which subject to any directions of the Minister —

Commission constituted.
Cmth. 1, s. 5
(2).
N.S.W., s. 5.
Vic. 1, s. 3.
Vic. 2, s. 4.
Vic. 3, s. 33.
S.A. 3, s. 7.
Qld., s. 9.
W.A., s. 4.

- (a) shall be charged with the administration of this Act; and
- (b) shall have and may exercise the rights, powers and authorities conferred and shall discharge the duties imposed on it by this Act or any other Act.

N.S.W., s. 8.

(2) The Commission under the name of "The State Housing Commission" shall be a body corporate with perpetual succession and a common seal, and shall be capable in law of suing and being sued, in contract or in tort, and, subject to this Act, have power to acquire, purchase, sell, lease, hold and dispose of lands, tenements, hereditaments, goods, chattels and any other property for the purposes of this Act, and to borrow moneys for the purposes of this Act.

9. (1) The Commission shall consist of seven members to be appointed by the Governor.

Constitution of Commission.
Amended by No. 27 of 1947, s. 4.
W.A., s. 4 (2).
N.S.W., s. 5.
Vic. 1, s. 5.

(2) Of the said seven members—

- (a) three shall be officers employed in the Public Service of the State;
- (b) one shall be a person to represent the industrial unions of workers registered in connection with the various building trades within the State;
- (c) one shall be a person with a wide knowledge of and experience in the building industry who is registered or qualified to be registered as a builder under the Builders Registration Act, 1939-1945.¹

¹ Now Builders' Registration Act, 1939-1959.

(d) one shall be a woman, and

(e) one shall be a discharged member of the Forces as defined in section four of the Re-establishment and Employment Act, 1945 (No. 11 of 1945 Commonwealth).

Quorum.

(3) Three members shall form a quorum.

(4) One of such members shall be appointed by the Governor as chairman of the Commission.

Tenure of office.
W.A., s. 4 (3).

10. The members of the Commission shall hold office during the Governor's pleasure.

Casual vacancies.
W.A., s. 4 (5).

11. In the case of the illness, inability, or absence of any member of the Commission, the Governor may appoint some other public officer or person (other than a public officer) as the case may require to act as the deputy of such member during such illness, inability, or absence; and every such person shall, while he acts as such deputy, have all the powers and perform all the duties of a member of the Commission.

Remuneration of members of the Commission.
W.A., s. 4A.

12. The members of the Commission other than the three members who are officers in the Public Service may be paid and receive such fees and allowances in respect of their services as such members as may be prescribed by regulation.

Officers.
W.A., s. 5.

13. The Governor may, from time to time, appoint such inspectors, valuers, and other officers as may be necessary for the effectual execution of this Act.

Crown Agency.
Qld., s. 9 (4).

14. (1) For all the purposes of this Act—

(a) the Commission shall have and may exercise all the powers, privileges, rights and remedies of the Crown;

(b) the Commission shall have and may exercise all such powers, authorities and discretions, and may do all such acts and things, as a private person in the State has or may exercise or do, and the Commission generally may do whatever it deems necessary in connection with or incidental to any business carried on by it.

(2) The powers conferred by this section shall be in addition to any other powers conferred upon the Commission by this Act.

PART III.—TRANSFER OF ASSETS, LIABILITIES AND POWERS.

15. (1) Upon the commencement of this Act, the members of the Workers' Homes Board as constituted under the repealed Acts shall cease to constitute the corporation referred to therein, and shall hold office as members of and shall constitute the Commission under and subject to the provisions of Part II. of this Act. Such corporation in this Part of this Act is referred to as "the dissolved corporation."

Alteration
of constitution
of corporation.
N.S.W., s. 8.
Qld., s. 5.

(2) The name of the dissolved corporation shall upon the commencement of this Act be the State Housing Commission.

(3) Nothing in this Act shall prejudice or affect in any way the continuity of the dissolved corporation but the same shall continue notwithstanding the provisions of this Act.

(4) The alteration of name effected by subsection (2) of this section and the provisions of subsection (1) of this section shall not affect any property, powers, rights, title, interest, authorities, duties, functions, liabilities or obligations of the dissolved corporation, or render defective any legal or other proceedings instituted or to be instituted by or against the dissolved corporation; and any legal or

other proceedings may be continued or commenced by or against the dissolved corporation by the name of the State Housing Commission that might have been continued or commenced by or against the dissolved corporation by the name of the Workers' Homes Board.

Vesting of assets and liabilities in the Commission.
Qid., s. 7.

16. (1) Forthwith upon the commencement of this Act—

- (a) all moneys, debentures, and Treasury Bills, and securities for money, and all interest thereon and all books, documents, and other property held by or on behalf of the dissolved corporation; and
- (b) all the assets and liabilities of the dissolved corporation; and
- (c) all powers, authorities, rights, title, interest and obligation in or with respect to such assets and liabilities or any of them,

under or pursuant to the repealed Acts or any other Act shall forthwith by virtue of this Act, and without any transfer or assignment whatever pass to and become vested in and imposed upon the Commission constituted under this Act and be divested and discharged from the dissolved corporation.

Rights of action and under contracts.

(2) Any right or other remedy accrued to or against and any power or authority vested in or exercisable by and any agreement, undertaking, mortgage, debenture, bond, lease, deed, guarantee, covenant, or obligation made, given, or entered into by, to or with the dissolved corporation may be prosecuted and enforced by or against the Commission as if the right of action or remedy had originally accrued to or against or the power or authority had originally been vested in or exercisable by or the agreement, undertaking, mortgage, debenture, bond, lease, deed, guarantee, covenant or obligation had been made, given, or entered into by, to, or with the Commission.

(3) The following provisions shall apply in respect of advances made or purporting to be made under or pursuant to the repealed Acts or any other Act or law before the commencement of this Act by the dissolved corporation, and whether made by the dissolved corporation as principal or as attorney or as agent or on behalf of any Minister of the Crown, any part of which advance and/or the interest thereon remains unpaid at the commencement of this Act—

Existing advances.

- (a) such advances shall be repaid, and interest thereon shall be paid to the Commission at the times and in the amounts prescribed by the Act under or pursuant to which the advance was made or by any regulation or instrument thereunder;
- (b) the Commission may take any proceeding or exercise any right or remedy which under such Act might have been taken or exercised by the dissolved corporation;
- (c) the land and other property mortgaged as security for the advances aforesaid shall continue to be charged with the repayment of such advances with interest thereon.

(4) All mortgages and other securities executed by way of security for any advance (including, if it be so, any further advances) under or pursuant to any of the repealed Acts or any other Act or law, as the case may require, shall for all purposes, including any further advances that may be made under this Act, be construed as if the Commission were party thereto instead of the dissolved corporation, and this Act shall apply to all such advances and/or further advances.

Operation of securities for advances and further advances.

(5) All accounts, documents, books, and papers relating to any such advance shall be transferred to and be kept by the Commission; and such adjustments of account shall be made in the books of the dissolved corporation as may be necessary to give effect to this section.

Adjustments.

Agreements
for manage-
ment of cer-
tain
advances.

(6) Where under the provisions of any Act any Minister of the Crown or body corporate is empowered to enter into any arrangement or agreement with the dissolved corporation whereby the dissolved corporation is to manage on behalf of such Minister or body corporate the whole or any part of his or its business so far as consists of the making and regulation of advances under such Act, such Minister or body corporate may enter into a like arrangement or agreement with the Commission for the like purposes, and the same shall be given effect to; or where such Minister or body corporate has already entered into such arrangement or agreement as aforesaid with the dissolved corporation and the same is subsisting at the commencement of this Act, then by virtue of this Act the Commission shall as and from the commencement of this Act be deemed to be the party to every such arrangement or agreement in lieu of the dissolved corporation, and every such arrangement or agreement shall be read and construed and have effect accordingly.

Pending
applications.

(7) Applications by any person to the dissolved corporation for any advances pending at the commencement of this Act, and whether or not any advance or instalment has been made, may be dealt with and completed by the Commission as if such applications were respectively made for advances under this Act.

Closure of
the Workers'
Homes Fund.

(8) All moneys to the credit at the Treasury of the Workers' Homes Fund and The Workers' Homes (Weekly Tenancy) Account, both constituted under the repealed Acts, shall by virtue of this Act be transferred to the State Housing Commission Fund and the State Housing Commission (Weekly Tenancy) Account respectively as constituted under this Act.

Proceedings.

(9) All actions and proceedings and things lawfully had and done by the dissolved corporation shall be and continue to be in full force and effect to all intents and purposes as if the same had been had and done by the Commission constituted under

this Act, and if the same are not completed may be continued and completed by the Commission constituted under this Act; and no such action or proceeding shall abate or be discontinued or prejudicially affected by anything in this Act contained.

(10) All penalties, fees, fines, and forfeitures which at the commencement of this Act may be enforceable or recoverable by the dissolved corporation shall and may be enforced and recovered by the Commission constituted under this Act. Penalties.

(11) All officers and servants of the dissolved corporation holding office or being employed at the commencement of this Act shall be deemed to have been appointed and engaged under this Act, but shall otherwise be subject to this Act as officers and servants of the Commission constituted under this Act. Officers.

(12) All Proclamations, Orders in Council and regulations made under the repealed Acts and in force at the commencement of this Act shall continue in force until the same or any of them are amended or superseded by Proclamations, Orders in Council, or regulations under this Act; and in the construction of such Proclamations, Orders in Council, or regulations references to the expression "Workers' Homes Board" shall be deemed to be references to the Commission constituted under this Act; and references to any officer of the dissolved corporation shall be deemed to be references to the officers of the Commission constituted under this Act authorised or appointed in like behalf. Proclamations, Orders in Council, regulations, etc., continued.

(13) All instruments, documents, records, plans, correspondence, and all books and writings the property of the dissolved corporation shall be and are by virtue of this Act hereby handed over to the Commission constituted under this Act, and shall and hereby become the property of such last-mentioned Commission. Records.

References
in other
Acts.

(14) Where in any Act or in any regulation, Proclamation, Order in Council or other instrument a reference is made to the dissolved corporation, such reference shall, on and after the commencement of this Act, and subject as may be otherwise provided in this Act, be deemed to be a reference to the Commission constituted under this Act.

Validation
of certain
action.
Qld., s. 14.

17. (1) All acts, matters and things done or executed by the Workers' Homes Board in aid of State housing prior to the passing of this Act or subsequent to its passing prior to its commencement, which if done or executed by the Commission subsequent to such commencement would be valid and lawful, are and shall always have been lawful, and are hereby authorised, approved, ratified, confirmed and validated accordingly.

(2) This section shall take effect on the passing of this Act.

Power to
vest other
lands.
Qld., s. 1E.
W.A., s. 8.

18. (1) From time to time by notice in the *Government Gazette* the Governor may—

- (a) vest in fee simple, or place under the permanent or temporary control of the Commission, any Crown land to be used for the purposes of the business of the Commission;
- (b) set apart or dedicate any Crown land to the purposes of this Act, and thereupon such land shall become and be available for the purposes of this Act.

General
powers and
duties.
Qld. s. 10 (7),
s. 20 (2).

19. (1) The Commission shall—

- (a) advise the Minister on matters connected with this Act generally;
- (b) make or cause to be made any inquiry, investigation or report required by this Act, or any inquiry, investigation or report which the Minister may think necessary or expedient so to make.

(2) For the purposes of this Act, the Commission may carry out all such surveys, investigations and valuations as may be necessary or expedient for the purposes of this Act, or for the purpose of ascertaining the housing conditions in any locality.

20. (1) The Commission shall, in addition to the duties as above prescribed, be entrusted with the duty of dealing with applications made under—

Functions
of the
Commission.
Qld., s. 21.

- (a) this Act; or
- (b) any other Act or law in relation to housing, the administration whereof is or may be entrusted to the Commission.

(2) For the purpose of exercising such duties as aforesaid, the Commission shall have power and authority—

- (i) to inquire into and consider applications as in this Act provided;
- (ii) to require any further or other information in respect of any such application;
- (iii) to approve of any such application (either wholly or in part);
- (iv) to refuse any such application.

(3) The Commission shall also have such advisory powers as may from time to time be prescribed, and such other powers as may be imposed by the Minister on the Commission.

21. (1) Subject to this Act, the Commission may from time to time exercise the following powers:—

Special
powers of
the Com-
mission.

- (a) With the consent of the Minister to purchase, contract for the use of, or otherwise acquire any land;
- (b) subject to subsection (2) of this section with the consent of the Minister, to take and compulsorily acquire any land under the powers contained in and in accordance with the procedure prescribed by the Public Works Act, 1902-1933;¹

Power to
acquire land
and erect
houses, etc.
Amended by
No. 45 of
1959, s. 2.
Qld., s. 22.
Vic. 3, s. 4
Tas. 1, s. 37.

¹ Now Public Works Act, 1902-1956.

- (c) to purchase or acquire from a local authority any land (not being land set apart or reserved under the Land Act, 1933-1939¹) vested in the local authority, and notwithstanding anything in any Act, the local authority may sell or dispose of any such land to the Commission;
- (d) subject to the consent of the Town Planning Board as constituted under the Town Planning and Development Act, 1928,² to re-plan and re-subdivide any area in which the Commission has purchased or acquired land, and subject to this Act and with the consent of the Minister for Lands, to secure the closing of any street or the extinguishment of any easement or restrictive covenant;
- (e) with the consent of the Minister, to erect houses on, or lay out and construct as streets—
 - (i) any land so purchased or acquired or any part of that land; or
 - (ii) any other land acquired by the Commission or any part of that land,

and to expend moneys from the fund on works and operations for the purpose of making such lands suitable for the purposes of this Act;

- (f) with the approval of the Minister, to set apart any land, or portion or portions of any land, purchased or acquired by, or dedicated to the Commission, for gardens, parks, recreation grounds, community and social facilities such as public halls, infant health centres or other public utilities or public open spaces or requirements, as sites for shops, theatres and other business premises, and for the erection of schools or religious buildings; and to expend thereon moneys from the fund for the erection or

Areas set
apart for
parks, etc.

¹ Now Land Act, 1933-1956.

² Now Town Planning and Development Act, 1928-1959.

conversion of buildings or other improvements, and from time to time to revoke or vary any such setting apart;

- (g) to sell, let or lease any such land for any one or more of the purposes aforesaid;
- (h) to maintain, repair, carry out any improvements to and generally to control and manage any such houses and buildings and the land on which they are situate so long as they are vested in or subject to any mortgage or security in favour of the Commission;
- (i) to surrender to His Majesty for the purpose of a garden, park, open space or place of recreation, or for business or social purposes, any land set apart for that purpose in pursuance of this subsection;
- (j) if it is satisfied that any land vested in it under this Act is not immediately required for the purposes of this Act, to lease the land at such price and on such terms and conditions as it thinks fit;
- (k) (without limiting or affecting the power of the Commission to sell houses and land as otherwise provided in this Act), with the consent of the Minister, on such terms and conditions and subject to such restrictions, exceptions and reservations as the Commission thinks fit, to sell any land (other than land granted to the Commission by the Crown or land on which the Commission has erected any house) purchased or acquired by the Commission pursuant to this subsection or any part of the land—
 - (i) to His Majesty in right of the Commonwealth or of the State, or to any State instrumentality or local authority; or
 - (ii) by public auction or by private contract;

- (l) with the consent of the Minister, upon such terms and conditions and subject to such restrictions exceptions and reservations as the Commission thinks fit, to exchange any land of the Commission (other than land granted to the Commission by the Crown or land on which the Commission has erected any house) for any other land and to give or receive consideration for equality of exchange.
- (m) with the approval of the Minister, to enter into an arrangement with the appropriate Crown or other instrumentality or other authority or person—
 - (i) for the making of roads or other facilities affording access to dwelling-houses acquired, erected or to be erected in pursuance of this Act;
 - (ii) for connecting any such dwelling-houses with sewerage, drainage, water, gas and electric power and lighting systems; and
 - (iii) for establishing or extending those systems to connect with any such dwelling-houses;

and to allot to each dwelling-house having the benefit of the arrangement such proportion of the cost incurred by the Commission under the arrangement as the Commission deems just;
- (n) to purchase building materials, equipment, fittings or appliances, and to supply the same or any of them to any person or body of persons, corporate or unincorporate for the purposes of this Act upon such terms and conditions as the Commission determines; and
- (o) to dispose of, set apart, utilise and deal with any land purchased, acquired or held by the Commission under this Act for the purposes

of housing projects under or pursuant to the agreement ratified by the Commonwealth and State Housing Agreement Act, 1945, a copy of which agreement is contained in the Schedule to that Act and under or pursuant to the agreement entered into between The Commonwealth and the State, the execution of which by the State was authorised and the agreement as so executed confirmed by the Commonwealth and State Housing Agreement Act, 1956;

- (p) with the consent of the Minister to delegate to any local authority approved by the Minister all or any of the powers, duties, functions and authorities of the Commission (except this power of delegation) upon and subject to such terms and conditions as the Commission thinks fit, and to advance moneys to any such local authority to which a delegation is made under this paragraph: provided that every delegation under this paragraph shall be revocable at will and no delegation shall prevent the exercise of any power, function or authority by the Commission under this Act;
- (q) to do all matters and things incidental to any of the abovementioned matters.

(2) (a) Subject to paragraph (d) of this subsection, any owner, at law or in equity, of land sought to be compulsorily acquired by the Commission under the provisions of this section may, within the time and in the manner prescribed, appeal to the Minister against such acquisition on the ground that the land so compulsorily acquired—

- (i) is being used by the appellant as his principal place of residence; or
- (ii) is intended by the appellant to be used as the principal place of residence and that he owns no other land suitable for such purpose; or

- (iii) is intended by the appellant to be used as the principal place of residence of his child or of a near relative mainly dependent on him, and that neither the appellant nor the child or near dependant relative, as the case may be, owns any other land suitable for such purpose, or
 - (iv) is being used for commercial, manufacturing or primary producing purposes, and its acquisition would impose great hardship on the owner. For the purposes of this subparagraph, any person using the land for any of the purposes aforesaid shall have and may exercise, subject to the provisions of this subsection, the owner's right of appeal under this subsection.
- (b) The Minister may in his discretion allow or dismiss such appeal either wholly or in part and subject to such terms and conditions (if any) as he thinks fit, and, subject to the next succeeding paragraph, effect shall be given to his decision according to its tenor.
- (c) Within the time and in the manner prescribed by rules of court, any appellant who feels aggrieved by the decision of the Minister may appeal to a Judge of the Supreme Court against such decision, and the Judge, after hearing the case for the appellant and the case for the Commission, and after considering public and community interests, may allow or dismiss such appeal either wholly or in part, and may impose such terms and conditions (if any) as the Judge thinks fit, and the decision of the Judge shall be final and conclusive.
- (d) Where—
- (i) the Commission has prepared plans for the subdivision of the land within any area,
 - (ii) such plans have been approved by the Town Planning Board constituted under the Town Planning and Development Act, 1928,¹ and
 - (iii) the Commission has compulsorily acquired such land for the purposes of this Act,

¹ Now Town Planning and Development Act, 1928-1959.

then no owner of land within such area shall have any right of appeal against such acquisition, but the Commission shall make available to any such owner who, within the time and in the manner prescribed, applies for a house within such area, a suitable block under and subject to the provisions of this Act.

(3) For the purposes of this Act, the Commission may—

- (a) accept any absolute donation, gift, devise or bequest of real or personal property; or
- (b) with the consent of the Governor, accept any donation, 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 Commission is constituted, and carry out and give effect to the objects of any such trust.

Power to Commission to accept donations, etc.
Vic. 3, s. 4 (2).

(4) If the Commission receives any gift, devise or bequest for the purpose of assisting it to provide houses for persons of limited means, 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 Commission may, notwithstanding that provision, give effect to the trust, condition or stipulation, if it is otherwise in accordance with law.

Power to carry out conditions of gift.
S.A. 2, s. 22.

(5) No stamp duty, probate or estate or succession duty shall be payable upon any property given, devised or bequeathed to the Commission.

Exemption of gifts from succession duty.
Cf. S.A. 2, s. 17.

(6) Notwithstanding anything to the contrary in any Act relating to local government, any local authority shall be empowered to purchase or compulsorily acquire any land in the manner provided in the Road Districts Act, 1919-1943,¹ or other Acts relating to local government (as the case may require) in order to give or dispose of the land to the Commission for the purposes of this Act.

Power to local authorities to purchase or acquire land to give to Commission.
Vic. 3, s. 4 (3).

¹ Now Road Districts Act, 1919-1959.

Buildings and structures to be "public works."

(7) Any building or structure of whatsoever kind which, in the opinion of the Minister on the recommendation of the Commission, is necessary for the purposes of this Act shall be deemed to be a "public work" within the meaning of the Public Works Act, 1902-1933.¹

(8) The foregoing powers shall be in addition to any other powers conferred on the Commission by this Act.

Power to pay rates of local authority. Section 22 substituted by No. 27 of 1950, s. 4; amended by No. 32 of 1956, s. 2.

22. (1) Notwithstanding any provision to the contrary in any Act, the Commission in respect of vacant rateable land acquired within the district of a local authority, shall pay rates thereon out of the Fund to such local authority, and the land shall be deemed to continue to be rateable land; provided that in the case of vacant unsubdivided land no payment shall be made by the Commission until such land has been held vacant by the Commission for a period of at least two years and in the case of subdivided vacant land no payment shall be made by the Commission until such land has been held vacant by the Commission for a period of at least one year.

(2) In this section—

Cf. T.L. Act, 1893, Part VIII generally; and ss. 154, 160, and 163 particularly.

"subdivided land" means an allotment of land, shown on an approved lodged map of subdivision kept at the Office of the Titles under the Transfer of Land Act, 1893² to be of an area not exceeding one-quarter of an acre, or, if no such map is so kept, an allotment of land determined under that Act to be of an area not exceeding one-quarter of an acre.

Amended by No. 52 of 1951, s. 4, No. 77 of 1953, s. 2.

23. Private land may be compulsorily acquired under this part of this Act only within a period of nine years after the commencement of this Act.

¹ Now Public Works Act, 1902-1956.

² Now Transfer of Land Act, 1893-1959.

PART IV.—FINANCE.

24. (1) The funds necessary for the effectual execution of this Act shall be such moneys as are from time to time appropriated by Parliament for that purpose and such moneys as the Commission may borrow or lawfully receive under and subject to the provisions of this Act. Funds.
W.A., s. 6.

(2) All such moneys (except funds of the Commission under subsection (3) of this section) shall be placed to the credit of an account at the Treasury to be called The State Housing Commission Fund and applied to the purposes of this Act; and such account may be operated upon in the prescribed manner.

(3) All funds to the credit of the Commission from time to time for the purpose of Part VII of this Act, shall be placed to the credit of a separate account at the Treasury, to be called "The State Housing Commission (Weekly Tenancy) Account," and shall be made available by the Treasurer to the Commission from time to time at his discretion and operated on in the prescribed manner.

(4) The interest on and contributions, at a rate to be prescribed by the Treasurer, to the sinking fund for the redemption of moneys appropriated by Parliament to the purposes of this Act shall be paid by the Commission to the Treasurer half-yearly and shall be applied by the Treasurer to recoup the Consolidated Revenue Fund in respect of such interest and contributions.

(5) The interest on and contributions, at a rate to be prescribed by the Governor, to the sinking fund for the redemption of moneys borrowed by the Commission when a sinking fund is created for such purpose, or the moneys for the payment of periodical instalments of principal and interest when the moneys borrowed by the Commission are repayable by instalments, shall be paid by the Commission to the Treasurer and shall be applied by the Treasurer in the manner hereinafter provided in the Schedule to this Act in relation to debentures issued by the Commission under the authority of this Act.

(6) Moneys to the credit of the State Housing Commission Fund or The State Housing Commission (Weekly Tenancy) Account not immediately required for the purposes of this Act may be invested by the Treasurer on behalf of the Commission in such securities as he may think fit.

Power to
raise money
by debentures.
W.A., s. 7.

25. (1) The Commission may from time to time on the recommendation of the Minister and with the approval of the Governor—

- (a) borrow money by the issue and sale of debentures for the purpose of raising the funds of the Commission for the effectual execution of this Act;
- (b) create and issue debentures in exchange for the debentures issued in respect of moneys previously borrowed by the Commission and not repaid;
- (c) create and issue and sell any such debentures for the purpose of raising money for redeeming any outstanding loans and paying any expenses incurred in the creation of debentures and otherwise carrying out the provisions of this Act.
- (d) effect any conversion authorised by this section either by arrangement with the holders of existing debentures or by the purchase thereof out of moneys raised by the sale of debentures or partly in one way and partly in the other.

(2) Before the raising of any loan by the Commission is approved by the Governor, a proposal showing the term and particulars of the loan, the rate of interest to be paid thereon, the manner in which the loan is to be repaid and the purposes to which the moneys borrowed are to be applied shall be submitted by the Commission to, and be approved by, the Minister.

(3) The repayment of all moneys borrowed by the Commission under the authority of this section shall be and is hereby guaranteed by the State.

(4) The provisions expressed in the Second Schedule to this Act shall apply to all debentures issued by the Commission under this section.

Second Schedule.

PART V.—WORKERS' DWELLINGS.

26. (1) On any land dedicated or leased to, or purchased or acquired by the Commission for the purposes of this Act, the Minister may, upon the recommendation of the Commission, cause dwelling-houses to be erected or may convert any buildings, erections or huts into dwelling-houses, and may from time to time alter, enlarge, repair, rebuild and improve such dwelling-houses.

Erection of workers' dwellings. Amended by No. 27 of 1947, s. 5; No. 19 of 1948, s. 4; No. 27 of 1950, s. 5; No. 23 of 1952, s. 2. Cf. W.A., s. 9.

Provided that the cost of erection or conversion, including sewerage connections, shall not in the case of any dwelling-house exceed the sum of two thousand five hundred pounds unless in the case of dwelling-house situate north of the twenty-sixth parallel of latitude, the Minister, on the recommendation of the Commission and for reasons given by it in writing, approves of a cost exceeding such sum.

(2) The plans and specifications for such dwelling-houses shall be subject to the approval of the Government Architect or some other officer appointed by the Minister.

27. Subject to the provisions of this Act the Commission may, with the approval of the Minister, dispose of workers' dwellings in the following manner:—

Disposal of dwellings by lease. Amended by No. 32 of 1956, s. 3. Cf. W.A., s. 12

(a) The land on which the dwelling-house is erected shall, after appraisalment, be let to the applicant under a perpetual lease, subject, until the coming into operation of the State Housing Act Amendment Act, 1956,

to re-appraisal every twenty years. Such appraisal and re-appraisal shall be based on the capital value less the value of the dwelling-house.

The rent payable shall be such rate per centum per annum on such appraisal, or on the last re-appraisal made before the coming into operation of that Act, as the case may be, as may be prescribed.

- (b) The capital cost of the dwelling-house, with interest thereon at such rate per annum as may be prescribed, shall be paid by the lessee by instalments extending over forty years, or such other period as the Minister may direct; such instalments to be paid by way of an addition to the rent payable as hereinbefore provided, but the interest shall be payable only on the balance outstanding of such capital cost.

Provided that—

- (i) subject to the regulations, a lessee may at any time pay the whole of such capital cost or such portion as may for the time being remain unpaid, or any instalment in excess of the prescribed instalments; and
- (ii) the applicant may at any time pay off the whole of the moneys outstanding in respect of the capital cost of the dwelling, and of the appraised value of the land on which such dwelling-house is erected, or, as the case may be, the appraised value of that land as determined by the last re-appraisal made before the coming into operation of the State Housing Act Amendment Act, 1956, together with all outstanding interest, costs, charges and expenses payable in

respect of the said dwelling or land, and he shall be thereupon entitled to acquire the freehold of the land;

or

- (iii) if not less than ten per centum of the amount representing the capital cost of the dwelling and the appraised value of the land on which the dwelling is erected, or, as the case may be, the appraised value of that land as determined by the last appraisal or re-appraisal made before the coming into operation of the State Housing Act Amendment Act, 1956, has been paid; and if the balance of that amount does not exceed two thousand five hundred pounds; and if all outstanding interest, costs, charges, rent accrued due, and expenses, payable in respect of the dwelling and land have been paid, the applicant shall, on making the prescribed application to the Commission and paying the prescribed fees and the necessary costs and expenses, be entitled to the freehold of the land subject to a mortgage to the Commission as security in respect of that balance as if it were an advance under Part VI. of this Act, the provisions of which Part shall apply *mutatis mutandis* in respect of that balance and the mortgage.

28. (1) The Commission may declare any land open for selection for the purposes of this Part of this Act, and may receive applications for workers' dwellings before or after the erection of dwelling-houses.

Applications
W.A., s. 13.

(2) Every application shall be in the prescribed form and shall contain the prescribed particulars:

(3) Every applicant shall—

(a) satisfy the Commission that he is a worker within the meaning of this Act, and that he is not the owner of any dwelling-house in Western Australia; and

(b) pay to the Commission with his application a fee of five shillings.

(4) If an application is approved, the applicant shall, within a time to be stated in the notice of approval, deposit with the Commission the sum of five pounds, and such deposit shall be placed to the credit of the applicant and applied in part payment of the purchase money for the dwelling-house.

(5) If such deposit is not duly made, the Commission may cancel the application.

(6) If an applicant whose application has been approved shall not, when required by the Commission so to do, accept a lease of the worker's dwelling and execute a counterpart thereof, the Commission may cancel the application and forfeit the deposit.

Where more
than one
application
made.
W.A., s. 14.

29. (1) Where more persons than one apply for the same worker's dwelling, preference may be given to the applicant who has the lesser income, provided he is of good character, and the Commission is satisfied as to his ability to pay the rent and instalments of purchase money:

Provided that, where it appears to the Commission to be desirable, a ballot shall be held, and the procedure in regard to such ballot shall be as prescribed.

(2) Any applicant may appeal to the Minister, who may order such ballot to be held.

30. (1) Any worker may, by an application in the prescribed form, request the Commission—

Application
in respect of
specific
allotments.
W.A., s. 15.

- (a) to purchase or acquire an allotment of land specified in the application;
- (b) to dedicate or set apart such land to the purposes of this Act;
- (c) to erect a worker's dwelling thereon; and
- (d) to grant a lease thereof to the applicant under this Part of this Act.

(2) The applicant shall—

- (a) satisfy the Commission that he is a worker within the meaning of this Act, and that he is not the owner of any dwelling-house in Western Australia;
- (b) deposit with the Commission such sum as the Commission may in each and every case determine: Provided that at no time shall the Commission demand a greater amount as a deposit from the applicant who owns a freehold block than would be required in the case of an application for the same block, as leasehold;
- (c) pay to the Commission a fee of five shillings and the prescribed fee for the valuation of the land.

(3) If the application is approved, the deposit shall be placed to the credit of the applicant and applied in part payment of the cost of the dwelling-house; but if the application is not approved, the deposit shall be repaid to the applicant.

(4) If the applicant shall not, when required by the Commission so to do, accept a lease of the worker's dwelling and execute a counterpart thereof, the Commission may cancel the application and forfeit the deposit and declare the land and dwelling-house open for selection under this Part of this Act.

Conditions
of leases.
Amended by
No. 27 of
1947, s. 5;
No. 27 of
1950, s. 5;
No. 23 of
1952, s. 2.
W.A., s. 16.

31. With respect to every lease under this Part of this Act, the following provisions shall apply:—

(1) The lease shall be granted by the Commission, under the authority of the Minister, and in the prescribed manner.

(2) The lease shall be in the prescribed form, and shall contain—

(a) Covenants by the lessee—

- (i) to pay the annual rent thereby reserved by instalments as prescribed;
- (ii) to pay the capital cost of the dwelling-house, with interest thereon, by weekly, fortnightly, or monthly instalments as stipulated;
- (iii) to pay all rates, taxes, and assessments;
- (iv) to repay to the Commission on demand all premiums paid by the Commission for insuring the dwelling-house from fire;
- (v) to keep and maintain the dwelling-house in good repair, and condition to the satisfaction of the Commission;
- (vi) not to transfer, sublet, mortgage, charge, or otherwise dispose of the worker's dwelling otherwise than in accordance with this Act;
- (vii) to continuously reside in the dwelling-house.

(b) Provisos—

- (i) for the forfeiture of the lease and re-entry on breach of covenant by the lessee, or other sufficient cause specified in the lease;
- (ii) that the Minister, on the advice of the Commission may on application by the lessee, suspend the operation of the covenant to reside in the dwelling-house from time to time, for such period as in his discretion he may think fit;

- (iii) that if the lessee fails to maintain the dwelling-house in good repair and condition, the Commission or any person acting with the authority of the Commission, may at any time after the expiration of two months from notice to the lessee of such default, enter upon the demised premises and effect all repairs which the Commission deems necessary, and the expense thereby incurred, with interest at such rate as shall be approved by the Minister, shall be paid by the lessee to the Commission on demand, and until repayment shall remain a charge on the dwelling-house, notwithstanding that the total amount of capital expenditure in respect of such dwelling-house is thereby increased to more than two thousand five hundred pounds.

(3) The Minister may, by writing under his hand, delegate to the Commission any one or more of his powers under this section, either generally or in any particular case or cases.

32. When a lessee has paid the full amount of the capital cost of the dwelling-house, with interest thereon, as provided by section twenty-seven, and the lease is subsisting and unforfeited, the lessee shall be entitled to receive from the Commission under the authority of the Minister a certificate of purchase of the dwelling-house, in the prescribed form; and thereafter the lease shall be held subject only to the payment by the lessee of the ground rent and all rates, taxes and assessments, and covenants (ii), (iv), (v), (vi) and (vii) of subsection (2) of section thirty-one shall cease to have effect, and section thirty-five shall not apply.

Terms under which lessee shall receive certificate of purchase.
W.A., s. 18.

S. 32A added
by No. 32 of
1956, s. 4.

32A. (1) Where a lessee makes application under paragraph (iii) of the proviso to paragraph (b) of section twenty-seven of this Act for the freehold of land—

(a) if the Commission is satisfied—

- (i) that at least ten per centum of the amount mentioned in paragraph (iii) of that proviso has been paid;
- (ii) that the balance of that amount does not exceed two thousand five hundred pounds; and
- (iii) that all outstanding interest, costs, charges, rent, and expenses mentioned in paragraph (iii) of that proviso have been paid; and

(b) if the lessee—

- (i) pays the prescribed fees mentioned in paragraph (iii) of that proviso;
- (ii) executes in favour of the Commission as mortgagee, a mortgage mentioned in paragraph (iii) of that proviso of the lease of the land; and
- (iii) pays the necessary costs, fees, and expenses, of an incidental to the preparation, stamping, and registration, of the mortgage of the lease, and of the issue of a Crown Grant of the land;

Cr. s. 38
post as to
lease.

the Commission shall cause the mortgage of the lease to be registered, and by authority of the Minister shall issue a certificate authorising the issue in the name of the lessee to the Commission of a Crown Grant subject to the mortgage.

(2) Production of the certificate mentioned in subsection (1) of this section and payment of the required registration and Crown Grant fees is sufficient authority for persons authorised by Act to do so, to cause the Crown Grant subject to the mortgage to issue in the name of the lessee to the

Commission, and to cause appropriate entries to be recorded in registers kept pursuant to Act for the purpose of recording transactions relating to land.

33. The estate and interest of the lessee in a worker's dwelling shall, subject to this Act, continue personal, absolute, indefeasible, and unaffected, notwithstanding any bankruptcy, insolvency, judgment, order, execution, or deed of assignment.

Interest of lessee personal and indefeasible. W.A., s. 19.

34. Subject to the provisions of this Act the rights and obligations of a deceased lessee with respect to any worker's dwellings shall be transmissible by will, or vest in the legal personal representative if the lessee dies intestate; but if any person becoming entitled under any will or intestacy is unable to fulfil the obligations under this Act he shall transfer to the Commission, as provided in the next following section.

Rights transmissible by will, etc. W.A., s. 20.

35. (1) No disposition of any worker's dwelling shall be made by the lessee or any person lawfully claiming under a deceased lessee, prior to the issue of the certificate of purchase, except to the Commission, or, subject to subsection (4) of this section, to another worker with the approval of the Commission.

Conditions of disposal by lessee of his interest. W.A., s. 21. Amended by No. 32 of 1956, s. 5.

(2) If a lessee, or any person lawfully claiming under a deceased lessee, is desirous of selling his interest in the worker's dwelling, the Commission may purchase the same at the value at the date of such purchase.

Provided that no refund shall be made of any moneys paid by way of interest or rent.

(3) If any lessee, or any person lawfully claiming under a deceased lessee, is dissatisfied with the amount he may appeal to the Minister within fourteen days after notice thereof, and the Minister, if he

thinks fit, may appoint a valuer to act jointly with a valuer nominated by the applicant to fix the amount of such purchase money. If such valuers are unable to agree they shall mutually appoint an arbitrator whose decision shall be final. The fees payable to each valuer and the arbitrator shall not exceed ten guineas, and the cost of the proceeding shall be borne equally by the applicant and the Commission.

(4) (a) Approval,

mentioned in subsection (1) of this section,

of the disposal of a worker's dwelling by a worker who is a lessee of the land on which the dwelling is erected, to another worker,

may be given by the Commission

only if the value of the land is re-appraised immediately prior to the disposal,

and then only on the conditions—

- (i) that the firstmentioned worker surrenders his interest in the lease of the land;
- (ii) that the secondmentioned worker executes a lease of the land in accordance with the provisions of section thirty-one of this Act and covenants in the lease to pay the annual rental at the prescribed rate per centum of the value of the land as so re-appraised; and
- (iii) that the secondmentioned worker pays the prescribed fees, and makes and lodges with the Commission, a statutory declaration, in which he deposes to the full amount of the consideration being paid to the first-mentioned worker as the purchase price of the land and dwelling and pays in respect of the declaration duty which shall be assessed under the Stamp Act, 1921,¹ on the declaration as such, and on the full amount

¹ Now Stamp Act, 1921-1959.

of that consideration as in the case of a transfer of land on the sale thereof.

(b) The provisions of subsection (3) of this section do not apply in respect of the value of the land as re-appraised pursuant to paragraph (a) of this subsection.

36. The Commission shall, as soon as possible, dispose of any interest acquired by the Commission under the last preceding section in such a manner as to ensure the continuation of the land and buildings as a worker's dwelling, but the value of any additions and improvements shall be added to the original capital cost.

Commission to dispose of any interest acquired by them.

W. A., s. 22.
Amended by
No. 32 of
1956, s. 6.

37. On forfeiture of a lease and re-entry on the part of the Commission—

Consequence of forfeiture.
W. A., s. 23.

- (a) the lease shall determine and the certificate of purchase (if any) shall become void; and
- (b) such lease and certificate of purchase (if any) shall on demand be delivered up to the Commission for cancellation;

Provided that, with the approval of the Minister, the Commission may, in its discretion, refund to the lessee any portion of the capital cost of the dwelling-house paid by the lessee, or of any improvements made by him on the land with the approval of the Commission; but no refund of any rent, interest, or other moneys shall be made.

38. Every lease granted under this part of this Act shall be deemed to be a Crown lease, and shall be issued in duplicate and be forwarded by the Commission direct to the Registrar of Titles for registration under the Transfer of Land Act, 1893-1944¹.

Lease to be registered.
W. A., s. 24.

¹ Now Transfer of Land Act, 1893-1959.

Holdings
may be
surrendered
and workers'
dwellings
acquired.
W.A., s. 25.

39. (1) Any person being the holder of land for an estate in fee simple may, with the approval of the Minister, upon the recommendation of the Commission, surrender such land to His Majesty at a price to be agreed upon between such person and the Commission, and thereupon such land shall be dedicated in manner aforesaid to the purposes of this Act.

(2) The Minister may, under and subject to this part of this Act, erect a dwelling-house on any such land and dispose of the same as a worker's dwelling:

Provided that the person by whom the land was surrendered shall have the right to apply for the worker's dwelling to be erected thereon in preference to any other person, for a period of one month next following the surrender.

PART VI.—ADVANCES FOR HOMES.

Advances
for homes.
W.A., s. 26.
Amended by
No. 27 of
1947, s. 5;
No. 19 of
1948, s. 5;
No. 27 of
1950, s. 5;
No. 23 of
1952, s. 2.

40. (1) Subject to the provisions of this Act and the regulations, the Commission may, with the approval of the Minister—

- (a) erect and dispose of dwelling-houses to workers; and
- (b) make advances to any worker, on the prescribed security, for the purpose of enabling him—
 - (i) to erect a dwelling-house on his holding as a home for himself and his family (if any); or
 - (ii) after erection or partial erection of a dwelling-house on his holding, to enlarge or complete the same; or
 - (iii) to purchase a dwelling-house and the land enclosed or occupied therewith, as a home for himself and his family (if any); or
 - (iv) to discharge any mortgage or liability already existing on his holding.

Provided that at no time shall the total advance made to any person under paragraph (b) of this subsection and for the time being remaining unpaid, exceed the sum of two thousand five hundred pounds, unless, in the case of a person ordinarily resident north of the twenty-sixth parallel of latitude, the Commission, for reasons stated by it in writing, recommends to the Minister the making of an advance exceeding such sum.

(2) Any advance under subsection (1) hereof may, subject to the regulations, be made by instalments, and in such case the total of the amounts advanced up to any given time shall not exceed the value of the progress theretofore made with the building as certified in writing by a valuer to the satisfaction of the Commission.

(3) No provision in this section shall be applied to or affect or govern or alter the provisions of Part V of this Act.

41. (1) Every application for an advance shall—

Application
for advance
and evidence
thereunder.
W.A., s. 27.

- (i) be made to the Commission and in the prescribed form, and shall contain such particulars as are prescribed, and a fee of five shillings shall be paid therewith;
- (ii) be accompanied by a statutory declaration by the applicant in the prescribed form that he is a worker within the meaning of this Act;
- (iii) be supported by such evidence (if any) as is prescribed, or as the Commission requires.

(2) The Commission shall in no case make an advance for the purpose of erecting a dwelling-house unless it is shown to their satisfaction that the proposed buildings will be substantial and durable, nor unless the plans and specifications thereof have been approved by the Commission and comply with the regulations made in that behalf.

(3) Whenever any question arises whether any applicant is the owner or lessee of the land in respect of which his application is made, or is a worker within the meaning of this Act, the decision of the Commission on such question shall be final and conclusive for all purposes of this Act.

Advances by instalments.
W.A., s. 28.

42. If at any time, in the opinion of the Commission, any money advanced under this Act has not been applied for the purpose for which it was advanced, or has not been carefully and economically expended, the Commission may refuse to pay any further instalment of the proposed advance, and may at once call in the whole amount already advanced, whereupon the borrower shall forthwith repay the same, and in default the Commission shall have the same remedies for the recovery of the same as are provided by this Act for the recovery of sums payable to the borrower.

Advance only to be secured by mortgage.
W.A., s. 29.

43. No advance shall be made except upon the security of a mortgage or mortgages in the prescribed form to the Commission of the borrower's estate and interest in his holding, as well as of the improvements already thereon, and the improvements (if any) with respect to which such advance is made, with or without such additional security as to the Commission may seem fit. The borrower may, notwithstanding anything to the contrary in any enactment or law, or in the lease, agreement or occupation certificate under which he holds, lawfully execute such mortgage or other security.

Advances only to be made on first mortgages.
W.A., s. 30.

44. No advance shall be made on any property which is encumbered by any previous mortgage or charge, other than a mortgage or charge under this Act, or a charge in favour of the Crown; but a second mortgage may be taken as collateral security.

Provisions relating to mortgages.
Amended by No. 52 of 1951, s. 5; No. 32 of 1956, s. 7.
W.A., s. 31.

45. With respect to every mortgage under this Act the following provisions shall apply—

- (a) the loan shall be for a term to be agreed between the Commission and the mortgagor;

- (b) The term of the loan, if made in one sum, shall date as from the first day of the next month following that in which it is made, and if made by instalments, shall date as from the first day of the next month following that in which the final instalment is made or occupation of the dwelling-house is entered into by the mortgagor whichever occurs first;
- (c) interest at the prescribed rate per annum shall be paid on the loan or each instalment thereof, computed from the date when the loan or instalment is made and interest at the same rate shall be paid on such of the said payments of interest as shall from time to time be in arrear and unpaid from the due date thereof until payment thereof respectively;
- (d) if the loan is made in one sum, interest computed from the date when the same is made to the first day of the next following month, shall be paid to, or may be deducted by, the Commission at the time when the loan is made;
- (e) if the loan is made by instalments, then, until and including the first day of the next month following that in which the final instalment is made, or occupation of the dwelling-house is entered into by the mortgagor whichever occurs first, interest shall be paid to the Commission on the first day of each month on all instalments theretofore made, computed from the dates of making the same respectively; or such interest may be deducted by the Commission from any instalment of the loan;
- (f) after the first day of the next month following that in which the loan or the final instalment thereof is made, or occupation of the dwelling-house is entered into by the mortgagor whichever occurs first, the principal, with interest thereon as provided by paragraph (c) hereof, shall be repaid

to the Commission by equal instalments, which shall be quarterly or monthly, as agreed between the Commission and the mortgagor;

- (g) Every such instalment shall consist partly of principal and partly of interest, and shall be of the amount fixed by the table of repayments applicable to the case prescribed by the regulations, with adjustments in respect of capitalised interest when applicable;
- (h) irrespective of the prescribed instalments, the mortgagor may from time to time pay to the Commission any sum in excess of the prescribed instalments in respect of repayment of the principal moneys owing by him to the Commission to be paid by the Commission to the credit of the mortgagor into the Advance Instalments Deposit Fund established by the Commission under section seventy-one of this Act and to be applied and dealt with in accordance with the provisions of that section: Provided that, subject to section seventy-two of this Act, no such payment shall in any way relieve the mortgagor of his obligation to pay the prescribed instalments or reduce the amount of the interest payable by the mortgagor under his mortgage;
- (i) notwithstanding anything in this section, where it has been agreed to repay by quarterly instalments, the loan, or any part thereof, may be repaid by the prescribed monthly instalments.

Commission
to hold title.
W.A., s. 33.

46. (1) The Commission shall, during the subsistence of any mortgage under this Act over any land, be entitled to hold the borrower's documents of title to such land.

Provision in
case of issue
of fresh
lease.

(2) When an advance has been made upon the security of a mortgage of a lease over a holding, no fresh lease of the holding shall be issued while

such mortgage is in existence unless it bears an indorsement showing that it is subject to the mortgage.

(3) When a fresh lease has been indorsed, as mentioned in this section, such lease shall be subject to the mortgage as if it were expressly charged thereby; and notwithstanding the provisions of the Transfer of Land Act, 1893-1944,¹ or the Land Act, 1933-1939,² the Registrar of Titles or the Under Secretary for Lands, as the case may be, shall make any entry in the Register Book which may be necessary for the purpose of showing that the fresh lease is subject to the mortgage.

47. (1) Where an advance has been made upon the security of a mortgage of a holding the freehold whereof may under any Act be acquired from the Crown, the Commission may, at any time and notwithstanding the provisions of any Act, acquire the freehold of the holding on behalf of the mortgagor or his successor in interest, and for that purpose may make all such payments to the Crown and otherwise as are necessary.

Power for Commission to acquire freehold.
Amended by
No. 27 of 1947, s. 5;
No. 27 of 1950, s. 5;
No. 23 of 1952, s. 2.
W.A., s. 34.

(2) All payments so made by the Commission shall be added to and become part of the mortgage debt, notwithstanding that the amount of the advance is thereby increased to more than two thousand five hundred pounds, as if the mortgage had originally provided for the making of such payments as a further advance on the security thereof, subject as hereinafter provided.

(3) The provisions of section forty-five shall be applicable to any amount paid by the Board hereunder, but so that the term for repayment shall not extend beyond the term originally fixed in respect of the rest of the mortgage debt and the instalments (fixed on the basis of the appropriate table) shall be payable monthly or quarterly according to the agreement between the Commission and the mortgagor with regard to the original advance.

¹ Now Transfer of Land Act, 1893-1959.

² Now Land Act, 1933-1956.

Remedies for
recovery of
loan.
W.A., s. 35.

48. (1) If at any time—

- (a) default is made by a borrower in the due payment of any instalment by way of repayment of the loan with interest as aforesaid, and such default continues for three calendar months, although no legal demand may have been made for the payment thereof; or
- (b) the borrower commits any breach of any covenant or condition to be performed or observed by him under the mortgage or this Act;
 - (i) the whole of the loan then remaining unrepaid, with interest thereon as aforesaid, shall forthwith become due and payable by the borrower to the Commission, and may be sued for and shall be recoverable by the Commission accordingly; and
 - (ii) the Commission may enter upon and take possession of the holding with respect to which the loan has been made, and may sell the estate and interest of the mortgagor therein, either by private sale or public tender or auction, and subject to any conditions of sale the Commission may think expedient, and after such notice of the time, place, terms and conditions of sale as the Commission thinks just and expedient, and may transfer such holding to the purchaser and give a good and valid title thereto.

Application
of proceeds
of sale.

(2) The Commission shall apply the proceeds derived from such sale in payment, in the first instance, of all moneys due in respect of such holding, and in redemption of any amount charged thereon in favour of the Commission, or of so much thereof as remains unpaid, and of all expenses incurred by the Commission in relation to such sale or otherwise with respect to such holding, and

shall pay the balance (if any) to the persons appearing to the Commission to be entitled to receive the same.

49. (1) The borrower over whose holding a mortgage or other security has been given under the provisions of this Act shall, during the continuance of the same, to the satisfaction of the Commission, keep in good and tenantable repair all buildings, fences, fixtures, and improvements upon the holding comprised in such mortgage or other security.

Mortgagor to effect necessary repairs. Amended by No. 27 of 1947, s. 5; No. 27 of 1950, s. 5; No. 23 of 1952, s. 2. W.A., s. 36.

(2) If after the expiration of two months' notice in writing by or on behalf of the Commission any borrower has not complied with the requirements of this section—

- (a) the like consequences shall follow as are provided by section forty-eight in case of breach of the terms or conditions of the mortgage or other security, or default made in the payment of any interest or instalment payable under the provisions of this Act; or
- (b) any person acting with the authority of the Commission may enter upon the holding and effect all repairs which the Commission deems necessary; and the expense thereby incurred, with interest at the prescribed rate per annum, shall be repaid to the Commission by the borrower on demand, and, until repayment shall be a charge under the mortgage or other security upon the holding, notwithstanding that the amount of the advance is thereby increased to more than two thousand five hundred pounds.

50. (1) Whenever under this Part of this Act power is conferred on the Commission to cause any land to be sold by reason of any default, or breach

Power to lease in lieu of selling. W.A., s. 37.

of covenant or condition or otherwise, the Commission may, if it thinks fit, in lieu of exercising such power of sale, lease such land, with all improvements thereon, for any term not exceeding thirty years.

(2) Every such lease shall contain a covenant to pay such rent and observe such conditions as the Commission in each case thinks fit.

(3) The rents and profits from time to time derived from any such lease shall be applied—

- (a) in payment of the costs and expenses from time to time incurred in connection with the lease;
- (b) in payment of the instalments and other payments (if any) due under this Act;
- (c) in payment of the balance (if any) to the borrower.

Conditions annexed to land while subject to advances. W.A., s. 38.

51. (1) With respect to any holding on which an advance has been made, the following conditions shall be imposed so long as such holding is subject to any charge in favour of the Commission, namely:—

- (a) Such holding shall not be transferred, let, or sublet, or left unoccupied by such borrower without the consent of the Commission;
- (b) every transfer, lease, sub-lease, mortgage, or agreement contrary to the provisions of this section shall be void and of no effect;
- (c) if such borrower purports to transfer, let, or sublet such holding or any part thereof in contravention of the provisions of this section, or if the borrower's title to the holding as owner or lessee is divested from him under any law relating to bankruptcy or insolvency, the Commission may forthwith exercise the powers conferred by section forty-eight;

- (d) when the borrower's title to the holding as owner or lessee is divested from him under any law relating to bankruptcy or insolvency, the Commission may cause his estate and interest in the holding and in any lease or agreement under which he holds the same to be sold.

(2) The provisions of section forty-eight as to sale and application of proceeds of sale shall apply to every sale made under the provisions of this section.

52. Whilst a holding is subject to a mortgage or other security to secure the repayment of an advance no transfer, conveyance, assignment, or surrender of such holding, or of any estate or interest therein, shall have any force or effect, nor shall it be registered in the Land Titles Office or the Registry of Deeds, or in the Department of Lands and Surveys or the Department of Mines, unless such transfer, conveyance, assignment, or surrender—

Restraint on power of alienation during mortgage.
W.A., s. 39

- (a) arises through the operation of any law relating to bankruptcy or insolvency; or
- (b) is made to a devisee or other beneficiary by a person acting in the capacity of executor or administrator; or
- (c) is made to a worker with the consent in writing of the Commission.

53. The rights, powers, and remedies given to the Commission as mortgagee under this Act shall be in addition to and without prejudice to any rights, powers or remedies given by or under the mortgage instrument or any Act applicable thereto or any rules or regulations made under any such Act.

Rights given to Commission as mortgagee by this Act to be in addition to other rights.
W.A., s. 40.

54. All receipts for instalments, or parts thereof, paid to the Commission in or towards repayment of advances shall be exempt from all stamp duties chargeable upon receipts under the Stamp Act, 1921-1944.¹

Receipts for instalments exempt from stamp duty.
W.A., s. 42.

¹ Now Stamp Act, 1921-1959.

Commission to obtain reports as to expenditure of advances. W.A., s. 43.

55. The Commission from time to time shall obtain reports from the inspectors and valuers of the Commission as to the manner in which advances and instalments of advances have been expended and used by the respective borrowers, and as to the state and condition of the improvements for the purpose of which such advances and instalments have respectively been paid, and generally as to the state and condition of the holdings in respect of which such advances and instalments have been paid.

Register of advances to be kept for inspection. W.A., s. 44.

56. The Commission shall keep a register or list of all advances, with the names of the persons to whom the advances have been made, and also an alphabetical index of the names of such persons. Such register or list and index shall be open to public inspection on the payment of a fee of one shilling.

Judgment of court not to affect security. W.A., s. 45.

57. No judgment, order, or decree of any court of law, and in the case of land leased by the Crown including land held under a residential lease, a miner's homestead lease or as a residence area, no act or default on the part of the borrower or any other person whereby a forfeiture might result, shall in any way affect the security for any advance made under this Act; and until all instalments and interest payable in respect of the advance have been paid, no process of law or declaration of forfeiture shall interfere with the security for the same.

Commission may require repayment forthwith on contravention of Act. W.A., s. 46.

58. If—

- (a) in the opinion of the Commission an advance has been obtained by a borrower contrary to the provisions of this Act; or
- (b) the borrower is or becomes a trustee, agent, partner, or co-owner in respect of a holding on which an advance has been made and remains wholly or in part unrepaid; or

- (c) the borrower, unless he transfers, lets, or sublets his holding with the approval of the Commission, ceases to occupy the holding on which an advance has been made under this Act, and remains wholly or in part unrepaid,

the Commission may require the borrower to repay the amount of the advance forthwith, and in default of repayment may cause the holding to be sold, and the provisions of section forty-eight shall apply.

59. Notwithstanding anything contained in this Part of this Act to the contrary, the interest on any advance may be at such rate per centum per annum as prescribed for the time being.

Rate of interest.
W.A., s. 47.

60. Expenditure by the Commission of moneys advanced to the Commission under the provisions of the Commonwealth Housing Act, 1927-1928, which advances the Commission, as a State authority, is hereby authorised to accept, under and subject to the provisions of that Act, may be made by the Commission under this Part of this Act, and subject to the following provisions, which shall apply:—

Application of Commonwealth Housing Act, 1927-1928.
W.A., s. 48.

- (a) The maximum amount which may be lent by the Commission to any one person shall be one thousand eight hundred pounds, and shall be ninety per centum of the valuation made by or on behalf of the Commission of the property in respect of which the loan is made.
- (b) No provision of this Act which would exclude from the benefits of this Part of this Act a person in receipt of an income (as determined by the Commission) not exceeding twelve pounds per week shall have effect.

- (c) No loan shall be made by the Commission to any person who already owns a house, except for the purpose of discharging a mortgage upon one dwelling-house of which he is the owner, or for the purpose of enlarging a dwelling-house of which he is the owner.
- (d) A loan shall not be made for the purpose of discharging a mortgage unless the conditions of the mortgage, or the conditions of any further loans on the property, are, in the opinion of the Commission, unduly disadvantageous to the mortgagor.
- (e) Except for the purpose of enlarging an existing dwelling-house, a loan shall not be made to any person who, or whose wife or husband, has already received a loan and has not repaid it in full.
- (f) A loan shall not be made in respect of any dwelling-house unless the person making application for the loan satisfies the Commission that—
 - (i) if the loan is for the purpose of the purchase of a dwelling-house he will reside in the dwelling-house immediately on its purchase;
 - (ii) if the loan is for the purpose of the erection of a dwelling-house, he will reside in the dwelling-house immediately on its completion; and
 - (iii) if the loan is for the purpose of the discharge of a mortgage, or for the purpose of enlarging a dwelling-house, he is residing in the dwelling-house;
- (g) for the purposes of this section any reference to an amount lent or to a loan shall be read as including a reference to an amount used by the Commission for the purpose of a rent-purchase agreement.

PART VIA.—SPECIAL FINANCIAL ASSISTANCE
TO WORKERS FOR BUILDING HOMES.

Pt. VI. A
added by
No. 12 of
1954, s. 4.

60A. (1) In this Part the term, "new house" has the same meaning as the interpretation of that term in section three of the Housing Loan Guarantee Act, 1957.

Commission
may grant
special
assistance
in certain
cases.

S. 60A
added by
No. 12 of
1954, s 4,
amended by
No. 16 of
1958, s. 2.

(2) Where a worker—
desires to

- (a) build a dwelling-house at a cost not exceeding three thousand pounds, exclusive of the value of the land on which he proposes to build the dwelling-house;
- (b) complete a partially built dwelling-house, where the cost of the dwelling-house does not exceed three thousand pounds, exclusive of the value of the land on which the partially built dwelling-house has been built; or
- (c) purchase a new house of a value not exceeding three thousand pounds exclusive of the value of the land upon which it is built;

is able without borrowing to pay so much of the cost of building the dwelling-house as the Commission approves; but

is unable to borrow without assistance under this Part from the Commission sufficient money in order to enable him to pay the balance of the cost;

the Commission may, notwithstanding any other provisions of this Act, assist him by guarantee or advance on second mortgage, or both, in order to enable him to do so, but shall not in granting assistance under this Part expend a greater amount in any one year ending on the thirtieth day of June, than represents twenty-five per centum of the amount of money mentioned in subsection (1) of section twenty-four of this Act as that appropriated by Parliament for that year.

PART VII.—WEEKLY TENANCIES AND ADVANCES
TO HOUSEHOLDERS.

Weekly
tenancies.
W. A., s. 48A.

61. (1) The Commission may use any available land dedicated to or purchased or acquired or set apart by the Commission for the purpose of erecting dwelling-houses thereon, to be let out on a weekly tenancy basis to workers.

Use of
Army huts.

(2) The Commission may purchase, acquire or contract for the lease, use or control of huts, buildings or erections of the type hitherto used by the armed forces of the Commonwealth for accommodation or office purposes, and may convert and improve them at the expense of the Fund for use as dwelling-houses for the purposes of this Act, to be let out on a weekly tenancy basis to applicants, whether or not such applicants are workers within the meaning of this Act; and the Commission may purchase, acquire or take on lease or for any tenure the land whereon any such hut, building or erection may be placed or erected, or may be intended to be placed or erected.

(3) Every person desirous of obtaining a dwelling-house on a weekly tenancy under the provisions of this Part shall make application in the prescribed form to the Commission. Every such application shall be supported by such evidence as is prescribed or as the Commission may require.

On granting
of applica-
tion appli-
cant to take
possession of
dwelling-
houses.
W. A., s. 48B.

62. If the application is granted the applicant shall take possession of the dwelling-house and commence to occupy the same within such time as the Commission may require, but before entering into possession the applicant shall be required to sign a tenancy agreement in the prescribed form setting out the terms and conditions of the weekly tenancy.

Commission
to insure
against fire.
W. A., s. 48C.

63. Subject to the preceding provisions, the Commission is hereby authorised out of the account established under subsection three of section twenty-four to effect all insurances necessary to keep any dwelling-house erected under this Part insured against the risk of fire.

64. The Commission may in its discretion at any time, if it is satisfied that a weekly tenant would, if the tenancy of the dwelling-house under this Part were converted to a leasehold interest under Part V. be able to carry out the terms and conditions applicable, in that event grant the tenant a lease of the land subject to the provisions of Part V.

Weekly tenancies may be converted to perpetual leaseholds under Part V. W.A., s. 48D.

65. (1) The Commission may, for the purpose of affording assistance to any person (whether a worker within the meaning of this Act or not) make advances to applicants to enable alterations or additions to be made to the dwelling-house of the applicant so that such dwelling-house may be brought into conformity with the building, health or other by-laws or standards of the local authority of the district in which such dwelling-house is situate, or to improve the standard of comfort or convenience of such dwelling-house.

Advances to householders for the purpose of improvement of the standard of dwelling-houses. W.A., s. 48E.

For the purposes of this section "Local Authority" shall include the Metropolitan Water Supply Department, and "additions" shall include the installation or improvement of water supply, sewerage and drainage systems and all necessary fittings.

(2) No advance shall be made under this section unless the applicant satisfies the Commission that his financial position justifies the assistance applied for.

(3) Advances shall be made to and received by the applicant upon such terms and conditions as to the security for any such advance, the rate of and times for the payment of interest and repayment of principal and other matters as are prescribed by regulations made under this Act. In so far as they can be made applicable all relevant provisions of this Act shall apply to advances made under this Part: Provided that notwithstanding anything contained in this Act the Commission shall be at liberty to make an advance under this section notwithstanding that the dwelling-house is encumbered by a previous mortgage or charge.

PART VIII.—ARRANGEMENTS WITH COMMONWEALTH.

Commission to manage business of Commonwealth-State Housing Scheme.
Amended by No. 45 of 1959, s. 3.
Cf. Qld., s. 27.

66. (1) The Commission with the approval of the Governor and subject to the Minister, shall take over and assume the management and control and the business of any scheme or arrangement made and entered into between the Commonwealth Government and the State Government for the betterment of housing conditions and for the promotion of social welfare in relation to housing within the State as provided for in this Act or in any manner whatsoever pursuant to such arrangement.

(2) (a) Without limiting the generality of the foregoing, and notwithstanding anything to the contrary contained in this Act, the Commission—

- (i) shall, subject to the Minister, administer for and on behalf of the State the agreement approved and ratified by the Commonwealth and State Housing Agreement Act, 1945; and
- (ii) shall so administer and shall be deemed to have and to have always had since the first day of July, one thousand nine hundred and fifty-six, the power to so administer for and on behalf of the State the agreement entered into between The Commonwealth and the State, the execution of which by the State was authorised and the agreement when so executed confirmed by the Commonwealth and State Housing Agreement Act, 1956.

(b) The agreements referred to in this subsection are in this Part called "the Housing Agreements."

(2a) In order to remove any doubts, which but for the enactment of this subsection might arise it is hereby expressly declared, without prejudice to the provisions of subsection (2) of this section, that everything done, permitted or suffered by the Commission or any person and every payment made by the Commission in exercise or purported exercise of any right, power, authority or duty conferred or imposed upon the Commission by this Act or the

Commonwealth and State Housing Agreement Act, 1956, and the agreement authorised and confirmed by that Act in respect of the administration of the agreement by the Commission on behalf of the State, shall be deemed on and after the first day of July, one thousand nine hundred and fifty-six to be valid and effectual as if subsection (2) of section sixty-six of this Act as repealed and re-enacted by the State Housing Commission Act Amendment Act, 1959, had come into operation on that date, and are hereby accordingly ratified, confirmed and validated;

(3) For the purposes of carrying out the objects and purposes of this Part, all the powers, functions, duties, authorities and responsibilities of the Commission as provided in this Act shall apply and extend to the Commission, and all the provisions in this Act contained, so far as they are applicable or can with necessary adaptations and modifications be made applicable, shall apply in all respects and for all purposes in relation to housing projects provided for and mentioned in the Housing Agreements, and undertaken by the State pursuant to the Housing Agreements:

Application
of Act.

Provided that the Commission may extend the application of the Housing Agreements to any applicant under this Act, whether or not he is a worker within the meaning of this Act, whether or not he is employed in any kind of work, and whatever his income or means.

(4) Where any act, matter or thing required or authorised by any provision of the Housing Agreements to be done by or on behalf of the State in relation to housing or housing projects in pursuance of the Housing Agreements cannot conveniently be done under the provisions contained in this Act, the Governor may under this section make regulations for authorising the doing of such act, matter or thing, and such regulations shall be valid and have effect notwithstanding that they are inconsistent with or repugnant to a provision contained elsewhere in this Act.

Regulations.

Provided that no regulation shall be made under the authority of this section so as to be inconsistent with or repugnant to any provision of the Housing Agreements.

Financial arrangements in respect of Commonwealth-State Housing. Amended by No. 45 of 1959, s. 4. Cr. Qld., s. 29.

67. (1) For the purposes of any scheme or arrangement made between the Commonwealth Government and the State Government as referred to in subsection (1) of the immediately preceding section of this Act, and for the purposes of the Housing Agreements, there is hereby created at the Treasury a fund to be called the "Commonwealth and State Housing Agreement Fund" into which fund shall be paid moneys standing at credit to the "Workers' Homes (War Housing) Fund" at the commencement of this Act, and all moneys which the Treasurer may from time to time make available for the purposes of this fund.

Into this fund shall be paid all moneys received by the Commission in respect of repayments, rents and other moneys with respect to the business of the Commission under this Part.

Out of the fund shall be paid all moneys expended in pursuance of this Part in respect of costs of any land and buildings purchased or acquired under this Part, or set aside or appropriated by the Commission for the purposes of this Part, and all other costs, charges and expenses, including the cost of valuations, incurred in the administration of this Part.

(2) Any financial or other adjustment which may be necessary in regard to the State Housing Commission Fund or any other loan or trust or other funds at the Treasury or otherwise may be made and is hereby authorised accordingly.

(3) The Administration of this Fund shall, subject to any directions made from time to time by the Treasurer, be among the duties and functions of the Commission.

PART IX.—SLUM CLEARANCE.

68. (1) In this Part, unless the context otherwise requires— Slum clearance.

- (a) "Commissioner" means the Commissioner of Public Health appointed under the Health Act; "Health Act" means the Health Act, 1911-1944,¹ of the State;
- (b) Wherever in this section expressions are used which are also in the Health Act, such expressions in this Act shall have the same meanings as those given to them in the Health Act.

(2) The Commission may from time to time by notice in writing request the Commissioner to inquire into and report as to whether or not any area, to be defined in the notice, is unfit for human habitation.

(3) Within one month after his receipt of such notice the Commissioner shall make and deliver to the Commission a report on such area, and shall therein define the portion or portions (if any) of such area which in his opinion is or are unfit for human habitation.

(4) At any time after its receipt of the Commissioner's report, the Commission may request any local authority within whose district any area, or any house or houses, is or are considered by the Commissioner in his report to be unfit for human habitation, to take action under Part V. of the Health Act, and may negotiate with and advise such local authority as to any action to be taken, and may stipulate the time within which any action shall be taken.

(5) In the event of the local authority failing within the time or times stipulated by the Commission to take action to the satisfaction of the Commission, the Commission may by notice in writing under the hand of its chairman, request the Commissioner to take action and to exercise his

¹ Now Health Act, 1911-1959.

rights, powers and authorities under the Health Act, and the Commissioner shall thereupon act accordingly.

(6) Nothing in this section shall operate or be deemed to operate so as in any way to prejudice or restrict the exercise by the Commissioner or a local authority of his or its rights, powers and authorities under the Health Act in the ordinary course of his or its administration of the Health Act.

PART X.—HOSTELS AND COMMUNITY FACILITIES.

69. For the purposes of this Act the Commission may—

Erection,
etc., of
hostels.

(a) erect, acquire or lease, and furnish and equip hostels for the purpose of housing persons, including students and aged and infirm persons, whose housing requirements are not, in the opinion of the Commission otherwise adequately provided for under the provisions of this Act;

Lease of
hostels.

(b) let or lease apartments of hostels to persons at such rentals, on such terms for such periods and subject to such covenants and conditions as the Commission considers fit and proper;

Provisions
of amenities,
etc., for
hostels.

(c) provide, in relation to hostels, such amenities and facilities, separate or communal as, in the opinion of the Commission are necessary or desirable for the comfort, health and convenience, or will serve a beneficial purpose in connection with the requirements of the persons to whom apartments of hostels are let or leased;

Conduct of
hostels.

(d) provide for the proper conduct, management, control and supervision of hostels, including the provision of canteens and dining rooms and the employment of caretakers, supervisors and other persons necessary for the proper conduct, management, control and supervision of the hostels;

- (e) enter into arrangements with a local authority or with any person approved by the Governor under which the local authority or person shall undertake the conduct, management, control and supervision of hostels.

Power to enter into arrangements with Council or body or person to conduct hostels.

70. (1) If the Commission is of opinion that—

Community facilities.

- (a) persons living within any built-up area, or
 (b) persons who are to reside in any area proposed to be developed for housing purposes by the Commission or otherwise,

are not or may not be provided adequately or conveniently with community facilities and amenities necessary to meet the health, social, educational and recreational needs of those persons, the Commission may, with the consent of the Minister—

- (a) purchase or compulsorily acquire land or set aside any land of the Commission for the purpose of providing: gardens, parks, open spaces, places of recreation, and sites for shops, religious buildings, infant health and pre-school child centres, meeting halls, schools, kindergartens, day nurseries, club and meeting rooms, libraries, swimming and bathing facilities, health centres, or hospitals and business or social facilities; and provided financial and other arrangements satisfactory to the Commission have been made with the Commonwealth the State or the local authority concerned, erect on that land and furnish and equip, any buildings (other than shops), hospitals, schools and religious buildings, which in the opinion of the Commission will serve a beneficial purpose in connection with the health, social, educational and recreational needs of persons living or to live within the area; and

- (b) enter into arrangements, with any Commonwealth or State authority or with a local authority or with any person approved by the Minister, for the conduct, management, control, maintenance and supervision of the land and the buildings erected on the land and the health, social, educational and recreational activities to be carried on on the land or in the buildings.

(2) (a) Subject to paragraph (d) of this subsection any owner, at law or in equity, of land sought to be compulsorily acquired by the Commission under the provisions of this section may, within the time and in the manner prescribed, appeal to the Minister against such acquisition on the ground that the land so compulsorily acquired—

- (i) is being used by the appellant as his principal place of residence; or
- (ii) is intended by the appellant to be used as his principal place of residence and that he owns no other land suitable for such purpose; or
- (iii) is intended by the appellant to be used as the principal place of residence of his child or of a near relative mainly dependent on him, and that neither the appellant nor the child or near dependent relative, as the case may be, owns any other land suitable for such purpose; or
- (iv) is being used for commercial, manufacturing or primary producing purposes, and its acquisition would impose great hardship on the owner. For the purposes of this subparagraph, any person using the land for any of the purposes aforesaid shall have and may exercise, subject to the provisions of this subsection, the owner's right of appeal under this subsection.

(b) The Minister may in his discretion allow or dismiss such appeal either wholly or in part and subject to such terms and conditions (if any) as he thinks fit and, subject to the next succeeding paragraph, effect shall be given to his decision according to its tenor.

(c) Within the time and in the manner prescribed by rules of court, any appellant who feels aggrieved by the decision of the Minister may appeal to a Judge against such decision, and the Judge, after hearing the case for the appellant and the case for the Commission, and after considering public and community interests, may allow or dismiss such appeal either wholly or in part, and may impose such terms and conditions (if any) as the Judge thinks fit, and the decision of the Judge shall be final and conclusive.

(d) Where—

- (i) the Commission has prepared plans for the subdivision of the land within any area,
- (ii) such plans have been approved by the Town Planning Board constituted under the Town Planning and Development Act, 1928,¹ and
- (iii) the Commission has compulsorily acquired such land for the purposes of this Act—

then no owner of land within such area shall have any right of appeal against such acquisition, but the Commission shall make available to any such owner who, within the time and in the manner prescribed, applies for a house within such area, a suitable block under and subject to the provisions of this Act.

[PART XA.—*Inserted by No. 27 of 1947, S.6. Deleted by No. 15 of 1950, S.3.*]

¹ Now Town Planning and Development Act, 1928-1959.

PART XI.—MISCELLANEOUS.

Appraisal-
ment of
capital
value.
W.A., s. 49.

71. Every appraisalment or re-appraisalment of the capital value of land for the purposes of this Act shall be made by the Commission or some person appointed, with the approval of the Minister, by the Commission:

Provided that any lessee who may think himself aggrieved by a re-appraisalment may, subject to the regulations, require the matter to be submitted to arbitration under the provisions of the Arbitration Act, 1895.

Advance
Instalments
Deposit
Fund.
Amended by
No. 12 of
1954, s. 5.
W.A. s. 50.

72. (1) The Commission shall establish an account to be called "The Advance Instalments Deposit Account."

(2) Wherever, in pursuance of the provisions of this Act, any lessee, purchaser, or mortgagor pays to the Commission in respect of his liability to the Commission under the lease, contract, or mortgage any instalment of principal money in excess of the prescribed instalments payable by him, the Commission shall pay the amount of such excess instalment into the Advance Instalments Deposit Fund to the credit of such lessee, purchaser, or mortgagor.

(3) While any excess instalments shall remain in the said Fund to the credit of the lessee, purchaser, or mortgagor, the same shall be credited with compound interest, calculated yearly at a rate per annum to be prescribed.

(4) Deposits and interest accumulated in the said Fund to the credit of a lessee, purchaser, or mortgagor shall, at his request, be available for the payment of—

- (a) any instalments as they fall due;
- (b) any arrears of instalments;
- (c) expenses incurred for repairs, renovations, or additions to the dwelling occupied by the lessee, purchaser, or mortgagor;

- (d) rates and taxes assessed in respect of the land and dwelling occupied by the lessee, purchaser or mortgagor; and
- (e) any other expenses incurred by the lessee, purchaser or mortgagor, with the approval of the Commission, in connection with the land or dwelling occupied by him.

(5) If at any time the deposits and interest accumulated to the credit of a lessee, purchaser, or mortgagor in the said Fund under this section amount to such sum as is not less than the capitalised value of the whole of the existing and future liability of the lessee, purchaser, or mortgagor in connection with a lease, contract of sale or an advance the Commission may forthwith apply that sum in discharge of the said liability of the lessee, purchaser, or mortgagor, and in the case of a lease, may grant a certificate of purchase, and in the case of a sale of the freehold interest, may grant a transfer of the property in respect of which the contract of sale was entered into, and a discharge of the mortgage on the property in respect of which the advance was made, as the case may be.

Provided that, where the liability of a purchaser or mortgagor is discharged in pursuance of this subsection within five years of the date of the lease or of the contract of sale or of the making of the advance, the Commission may, prior to the expiration of that period of five years, refuse to grant a certificate of purchase or a transfer of the property or a release of the mortgage, as the case may be.

73. The Commission may, in cases of hardship, extend the due date for the payment of any moneys payable by a lessee or mortgagor to the Commission, for such time, and upon such terms and conditions, as the Commission with the approval of the Minister, may think fit.

Power to
extend time.
W.A., s. 5.

74. (1) The accounts of the Commission shall, once at least in every year, and also whenever so directed by the Governor, be audited by the Auditor General, or such other auditor as the Governor may appoint for the purpose.

Audit.
W.A., s. 52.

(2) The Auditor General and any auditor so appointed shall, in respect of such accounts, have all the powers conferred on the Auditor General by any law in force relating to the audit of public accounts.

Report to be laid before Parliament.
W.A., s. 53.

75. In every year the Commission shall furnish a financial statement and report to the Minister upon the operation of this Act, and every such financial statement and report, together with the report of the auditor shall be laid, as soon as possible, before both Houses of Parliament.

Financial statement—Particulars. Amended by No. 12 of 1954, s. 6.
W.A., s. 54.

76. The annual financial statement required by virtue of section seventy-five shall show, in respect of the previous financial year—

- (a) the financial position of the Fund, and other funds created by this Act;
- (b) a balance sheet as at the thirtieth day of June of that year;
- (c) a profit and loss account for the year;
- (d) and (e) [*Paragraphs (d) and (e) deleted by No. 12 of 1954, S.6*].
- (f) such other accounts and records (if any) as are prescribed.

Protection of Board and officers from personal liability. Amended by No. 73 of 1954, s. 5.
W.A., s. 55.

77. No matter or thing done and no agreement entered into by the Commission or any member thereof, and no matter or thing done by any officer or other person acting under the authority or direction of the Commission shall, if the matter or thing was done or the agreement was entered into *bona fide* for the purposes of this Act, subject the Commission or any member thereof, or any such officer or person, to any personal liability in respect thereof.

78. The Governor may from time to time make regulations, prescribing forms and the fees to be paid for any valuation, inspection, report, plan or specification, and for or with respect to the management, use, control, regulation and inspection of houses, buildings and land maintained or caused to be maintained by the Commission, and generally for the objects and purposes of this Act.

Regulations.
W.A., s. 56.
Vic. 3, s. 8
(2).

FIRST SCHEDULE.

Title.	Number.
Workers' Homes Act, 1911	8 of 1912
Workers' Homes Act Amendment Act, 1912	75 of 1912
Workers' Homes Act Amendment Act, 1914	16 of 1914
Workers' Homes Act Amendment Act, 1921	1 of 1922
Workers' Homes Act Amendment Act, 1925	34 of 1925
Workers' Homes Act Amendment Act, 1928	35 of 1928
Workers' Homes Act Amendment Act, 1929	2 of 1929
Workers' Homes Act Amendment Act, 1935 (No. 2)	21 of 1935
Workers' Homes Act Amendment Act, 1938	43 of 1938
Workers' Homes Act Amendment Act, 1941	44 of 1941
Workers' Homes Act Amendment Act, 1943	21 of 1943
Workers' Homes Act Amendment Act, 1945	36 of 1945

SECOND SCHEDULE.

Provisions applicable to Debentures issued by the Commission under section twenty-five of this Act.

1. Debentures—

- (a) shall be in the prescribed form sealed with the seal of the Commission and shall be numbered consecutively;
- (b) may be issued with or without interest coupons attached;
- (c) shall be charged and secured upon the assets and revenue to the Commission;
- (d) with interest coupons (if any) attached thereto, and interest coupons, after being detached therefrom, shall be payable to bearer and shall pass by delivery and without any assignment or indorsement; and the bearer shall have the same rights as if he were expressly named as payee therein;
- (e) shall be registered in a register to be kept at the Treasury;
- (f) shall provide for payment of interest half-yearly on the last days of December and June in each year.

2. The principal sum and interest for which any debenture may be issued shall be paid with moneys in the State Housing Commission Fund appropriated as hereinafter provided and so far as money in such fund shall not be available for payment of such principal and interest, any such principal sum and interest shall be chargeable upon and be paid out of the Consolidated Revenue Fund, which so soon as reasonably may be thereafter shall be recouped the amount so paid out of moneys in the State Housing Commission Fund.

3. It shall be lawful for the Commission upon the issue of any debentures to provide therein for the repayment of the principal money secured thereby at the end of the term for which the principal money has been borrowed, or for the repayment of the principal money with interest by half-yearly or other periodical instalments.

4. Where by any debentures it is provided that the principal money secured thereby shall be repayable at the end of the term for which the principal money has been borrowed, then so long as such debentures remain outstanding the Commission shall in each half-year ending respectively on the last days of December and June appropriate out of the State Housing Commission Fund a sum equal to the interest due on such debentures calculated up to the end of such half-year and also shall appropriate such sum, being such percentage half-yearly as may be fixed by the Governor, as a contribution half-yearly to a sinking fund which will be sufficient to liquidate the loan at the date of maturity and shall pay the said sums appropriated as aforesaid half-yearly to the Treasurer.

5. Where, by any debentures, it is provided that the principal money secured thereby, together with interest thereon, shall be repayable by half-yearly or other periodical instalments, then from time to time before any such instalment shall fall due the Commission shall appropriate out of the State Housing Commission Fund a sum equal to the amount of the principal sum and interest payable by the periodical instalment then next falling due, and shall pay the sum so appropriated to the Treasurer.

6. As and when payments are made by the Commission to the Treasurer under clauses (4) and (5) hereof the said payments shall be paid by the Treasurer to the credit of a special account in the Treasury to be called The State Housing Commission Loan Redemption Account, and thereafter shall be applied by the Treasurer as hereinafter mentioned, namely—

- (a) as regards payments made by the Commission to the Treasurer under clause (4) hereof, the Treasurer shall hold the sum appropriated for payment of interest for the purpose of paying the interest as

and when it falls due and payable, and shall invest the sum appropriated as contribution to the sinking fund to accumulate at compound interest in such investments as are permitted by law in relation to the investment of trust funds in the name of the Commission and the Treasurer;

Provided that—

- (i) any of the moneys required to be invested as aforesaid may in lieu thereof be invested in the purchase of any of the debentures by the issue and sale whereof the loan was raised, and the debentures with the coupons belonging thereto so purchased shall be forthwith cancelled; and
 - (ii) during the period for which debentures purchased by the Treasurer under the authority of the next preceding paragraph of this proviso would have been current if the same had not been so purchased, a sum equal to the half-yearly interest and contribution to the sinking fund which such debentures would have carried or entailed if not so purchased shall be provided by the Commission half-yearly and invested as aforesaid and paid to the credit of the sinking fund.
- (b) As regards payments made by the Commission to the Treasurer under clause (5) hereof, the Treasurer shall hold the same for the purpose of paying as and when they fall due for payment the periodical instalments of principal and interest in respect of which the said payments have been appropriated by the Commission and paid to the Treasurer as aforesaid.

7. All payments to debenture holders or to the holders of interest coupons which have been detached from debentures when due, whether for interest only or for principal and interest, shall be payable by the Treasurer at the times and at the place mentioned for such payment on the face of the debenture or interest coupon, as the case may be.

8. If at the maturity of any loan there is any balance in the sinking fund formed for liquidating the loan after such loan has been liquidated, such balance shall be transferred to the State Housing Commission Fund and become part of the funds of the Commission and may be used accordingly.

9. The accumulated sinking fund formed for the redemption of any loan shall be charged in priority with payment at their due date of the principal owing on or secured by the debentures in respect of which such sinking fund was created:

Provided that the accumulated sinking fund in respect of any debentures which are redeemed by the issue and sale of other debentures shall be held or used on account of the sinking fund (if any) for such other debentures.

10. With the approval of the Governor, the Commission may sell and dispose of debentures beyond the limits of the State and in such case the Commission may appoint agents to negotiate such sale on behalf of the Commission.

11. Any person shall be entitled to obtain from the Treasurer copies or extracts certified by the officer of the Treasury in whose custody the register of debentures is kept to be true copies of, or extracts from, such register, upon payment of the prescribed fee, and any copy or extracts so certified shall be admissible in evidence.

12. No notice of any trust expressed or implied or constructive shall be received by the Commission or the Treasurer or by any officer of the Treasury having the custody of the register of debentures in relation to any debentures issued under this Act.

13. A person advancing money and receiving in consideration thereof any debentures issued under this Act shall not be bound to inquire into the application of the moneys advanced or be in any way responsible for the non-application or misapplication thereof.

14. (1) In case any debenture shall by accident be defaced, the Commission may from time to time on such debenture being delivered to the Commission cause a new debenture to be issued and delivered to the holder of such defaced debenture in lieu thereof and thereupon the debenture so defaced shall be cancelled.

(2) The debenture so to be issued in lieu of the defaced debenture shall have a like currency and shall in all respects be subject to the same rules, regulations and provisions as by this Act are declared of and concerning the debenture in substitution for which such new debenture shall be issued as aforesaid and shall bear the same number, date and amount and bear the like interest as the said defaced debenture bore respectively.

15. In case proof shall be made to the satisfaction of the Treasurer by statutory declaration or otherwise that any debenture has by casualty or mischance been lost, burnt or otherwise destroyed, it shall be lawful for the Treasurer to cause the principal money and interest due upon such debenture so lost, burnt or otherwise destroyed to be paid as the same respectively become due to the person claiming to have been the last holder of such debenture in like manner as if the original debenture had been brought in to be paid off:

Provided that the person so receiving the principal money and interest in respect of such debenture alleged to have been lost, burnt or otherwise destroyed shall give security to the satisfaction of the Treasurer against any lawful claim which may be made upon the Treasurer in respect of such debenture.

16. From and after the day appointed for the repayment of any debenture or for payment of any periodical instalment of principal and interest under any debenture all interest in respect of the principal moneys then payable shall cease and determine whether repayment of such debenture or payment of such periodical instalment has or has not been demanded.