

Western Australia

Government Employees' Housing Act 1964

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Government Employees' Housing Act 1964

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Government Employees' Housing Act 1964

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Government Employees' Housing Act 1964

An Act to make provision for adequate and suitable housing accommodation for persons employed by or under the Government of the State and for incidental and other purposes.

[Long title amended by No. 28 of 2006 s. 296.]

1. Short title

This Act may be cited as the *Government Employees' Housing Act 1964*¹.

2. Commencement

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

[3. Repealed by No. 10 of 1998 s. 76.]

Part I — Preliminary

4. Objects

The objects of this Act are —

- (a) the provision of adequate and suitable housing accommodation for Government employees; and
- (b) the improvement of existing housing conditions with respect to Government employees.

[Section 4 amended by No. 28 of 2006 s. 297.]

5. Interpretation

In this Act unless the context requires otherwise —

“**Account**” means the Government Employees' Housing Authority Account referred to in section 24;

“**Authority**” means the Housing Authority referred to in section 6(4) of the *Housing Act 1980*;

“**Department**” means any department which principally assists the Minister for Public Sector Management or the Minister in the administration of Part 3 of the *School Education Act 1999*; and includes any other department or any Crown instrumentality, hospital, board, body corporate or other body of whatever description that the Governor declares by proclamation to be a Department for the purposes of this Act;

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

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

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

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

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

[Section 5 amended by No. 36 of 1999 s. 247; No. 28 of 2006 s. 298; No. 77 of 2006 s. 17.]

[6. Repealed by No. 28 of 2006 s. 299.]

7. Governor may by proclamation declare Departments

- (1) The Governor may at any time declare, by proclamation, any department under the administration of a Minister of the Crown in the Government of the State or any Crown instrumentality, hospital, board, body corporate or other body of whatever description to be a Department for the purposes of this Act, and thereupon the provisions of this Act shall apply to that Department.
- (2) A proclamation made under this section may be varied or cancelled by a subsequent proclamation.

[Part II (s. 8-15) repealed by No. 28 of 2006 s. 300.]

Part III — Administration

16. Function of Authority

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

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

17. Transfer to Authority of land and houses

- (1) Forthwith upon the coming into operation of this Act, and upon the date of proclamation in the case of a Department proclaimed pursuant to section 7, all land, houses and improvements vested in or under the management or control of any Department for providing housing accommodation of Government employees, and all powers, authorities, rights, title, interest and obligation in the same or with respect thereto, shall by virtue of this Act and without any transfer or assignment whatever pass to and become vested in and imposed upon the Authority and be divested and discharged from that Department.
- (2) Notwithstanding the provisions of subsection (1), the Authority may refuse to take over, accept or have vested in it any land or house referred to in that subsection in any case where such taking over, acceptance or vesting of that land or house would in the opinion of the Authority impose or be likely to impose upon

it an obligation or duty, whether financial or otherwise, which the Authority considers it should not undertake or accept.

18. Application may be made for houses for Department

- (1) The chief executive officer of a Department may in any case where he is of opinion that houses are required for Government employees apply to the Authority for the allocation to his Department of houses owned or controlled by the Authority.
- (2) The Authority shall have regard to the submissions of the chief executive officer of a Department set forth in his application under this section and if satisfied that his Department requires houses for Government employees may allocate such houses as it thinks fit for occupation by those employees.
- (3) For the purpose of exercising its duties under this section the Authority has power and authority —
 - (a) to inquire into and consider applications under this section;
 - (b) to require any further or other information in respect of any application;
 - (c) to approve of any application, either wholly or in part;
 - (d) to refuse any application.
- (4) Except in so far as the Authority is required under this Act, or under the terms of any agreement relating to any house taken over by the Authority under this Act, to provide a house for any Government employee, the Authority is not required to provide a house for any Government employee and may let any house to a person other than such an employee at such rent and upon such terms and conditions as it thinks fit.

[Section 18 amended by No. 28 of 2006 s. 301.]

19. Powers of Authority

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

- (a) subject to the provisions of the *Planning and Development Act 2005*, to plan and subdivide any land acquired by the Authority under this Act;
- (b) to lay out and construct as streets any land so acquired by the Authority or any part of that land and to expend moneys on works and operations necessary or deemed necessary for the purpose of tendering that land suitable for housing;
- (c) to let or lease or dispose of any land, whether improved or unimproved, for any one or more of the purposes of this Act, or if satisfied that any land vested in it under this Act is not immediately required for the purposes of this Act, to lease or dispose of that land at such price and on such terms and conditions as the Authority thinks fit;
- (d) to erect, or cause to be erected, on lands vested in the Authority houses for letting to Government employees in accordance with the provisions of this Act, or to convert any buildings or erections into houses;
- (e) to maintain, alter, enlarge, repair and carry out any improvements to, and generally to control and manage, houses and other buildings and the land upon which they are situated;
- (f) to exchange, upon such terms and conditions and subject to such restrictions, exceptions and reservations as the Authority thinks fit, any unimproved land of the Authority for any other land, and to give or receive consideration for equality of exchange;
- (g) to enter into arrangements and agreements with any Department or any Crown instrumentality in regard to the building, maintenance, management, letting or

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

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

[Section 19 amended by No. 62 of 1987 s. 7; No. 1 of 1995 s. 24; No. 38 of 2005 s. 15; No. 28 of 2006 s. 302.]

20. Power to accept gifts

- (1) For the purposes of this Act, the Authority may —
 - (a) accept any absolute gift, devise or bequest of real or personal property; or
 - (b) with the consent of the Minister, accept any gift, devise or bequest of real or personal property subject to any trust the objects of which are not substantially different from those for which the Authority is established, and carry out and give effect to the objects of any such trust.
- (2) If the Authority receives any gift, devise or bequest for the purpose of assisting it to provide houses for Government employees and that gift, devise or bequest is subject to any trust, condition or stipulation which cannot by reason of any other

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provision of this Act be given effect to, the Authority may, notwithstanding that provision, give effect to the trust, condition or stipulation if it is otherwise in accordance with law.

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

[21. Repealed by No. 28 of 2006 s. 303.]

Part IV — Finance

22. Power to borrow money

- (1) The Authority has power to borrow money upon the guarantee of the Treasurer of the State for the purposes of carrying out its functions and powers under this Act.
- (2) The Authority is authorised with the prior approval in writing of the Treasurer to borrow money upon such terms and conditions only as the Treasurer approves.
- (3) The Treasurer is hereby authorised to so approve and to give the guarantee referred to in subsection (1), including the guarantee of interest, for and on behalf of the Crown in right of the State.
- (4) Before a guarantee is given by the Treasurer under this section, the Authority shall give to the Treasurer such security as the Treasurer may require, and shall execute all such instruments as may be necessary for that purpose.
- (5) The Authority shall apply and use all moneys borrowed under the power conferred by this section for the purposes of carrying this Act into effect.

23. Funds of Authority

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

- (a) moneys from time to time appropriated by Parliament;
- (b) moneys borrowed by the Authority under the powers conferred by this Act;
- (c) moneys from time to time received by the Authority from rents derived from letting houses and from the disposal of houses and land pursuant to the provisions of this Act;
- (d) moneys received by way of gifts or legacies for the general purposes of this Act; and

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- (e) moneys received by the Authority in any manner and from any source as part of its general revenue, including short term borrowings and temporary advances.

[Section 23 amended by No. 28 of 2006 s. 304.]

24. Establishment of Government Employees' Housing Fund

- (1) An agency special purpose account called the Government Employees' Housing Authority Account is established under section 16 of the *Financial Management Act 2006*.
- (1a) All moneys received by or for the Authority are to be credited to the Account, and all costs of operation and administration of this Act are to be charged to the Account.
- (2) The Account shall be controlled by the Authority and may be operated upon for the purposes in such manner as the Treasurer approves from time to time.
- (3) The expenses incurred by the Authority in carrying out its functions and exercising its powers under this Act and generally in administering this Act shall be charged to the Account, and such expenses shall include interest on and contributions to the sinking fund for the redemption of moneys appropriated by Parliament to the purposes of this Act and moneys borrowed by the Authority under the provisions of this Act.
- [(4) repealed]*
- (5) Any moneys standing to the credit of the Account may, until required for the purposes of this Act, be temporarily invested at the request of the Authority by the Treasurer in any securities approved by the Treasurer, and all interest derived from the investment shall be credited to the Account.

[Section 24 amended by No. 98 of 1985 s. 3; No. 49 of 1996 s. 64; No. 28 of 2006 s. 305; Correction to reprint in Gazette 9 May 2003 p. 1619; No. 77 of 2006 s. 17.]

Part V — Miscellaneous

[25. *Repealed by No. 28 of 2006 s. 306.*]

[26. *Repealed by No. 98 of 1985 s. 3.*]

27. **Exemption from personal liability**

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

28. **Determination of tenancy**

- (1) The Authority may determine the tenancy of any premises let pursuant to the provisions of this Act in any case where the tenant —
 - (a) makes default in payment of any instalment of rent for 14 days after the day upon which that instalment became due;
 - (b) fails or neglects to comply with any of his covenants or conditions under the tenancy agreement and such default continues for 14 days;
 - (c) ceases to be an employee in a Department; or
 - (d) is an owner, or the spouse or de facto partner of an owner, of land where, in the opinion of the Authority, that tenant might reasonably reside.
- (2) Where the Authority determines a tenancy pursuant to this section, it may give notice in writing to the tenant requiring him to vacate the premises on or before a date specified in the notice, and if the tenant fails to vacate the premises on or before the date so specified, any court of summary jurisdiction may upon

s. 28

application made by the Authority or its agent issue a warrant in the prescribed form directed to such person as the court thinks fit requiring that person, within a period to be specified in the warrant, to enter (if need be by force) upon the premises the subject of the tenancy and give possession thereof to the Authority.

- (3) A warrant to a person to give possession of premises under this section shall justify the person named in the warrant in entering upon the premises with such assistance as he thinks necessary, and in giving possession accordingly.
- (4) For the purpose of subsection (1)(d) “**owner**”, in relation to any land, means —
- (a) a person authorised by the Crown to occupy land vested in the Crown pursuant to any lease, licence, concession or any other arrangement;
 - (b) a person entitled to the use, occupation and enjoyment of land of which a corporation is the registered proprietor in fee simple, or a specific part of that land, by virtue of a shareholding in that corporation held by that person expressly conferring that entitlement;
 - (c) a person entitled to —
 - (i) receive the rent of the land;
 - (ii) receive the rent of the land if the land were let at a rent; or
 - (iii) possession of the land for the time being as a beneficiary under a deceased estate or as a life tenant;
- or
- (d) a person who has agreed to purchase the land under a contract of sale, notwithstanding that title to that land has not passed to that person from the vendor.

[Section 28 amended by No. 62 of 1987 s. 8; No. 28 of 2003 s. 71.]

29. Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are contemplated, required or permitted to be prescribed or that may in his opinion be necessary or expedient to be prescribed for enabling the functions of the Authority to be carried out, or for carrying out or giving effect to the objects and purposes of this Act.
- (2) Regulations made under this Act may impose a fine of \$40 for the breach of any regulation.

[Section 29 amended by No. 113 of 1965 s. 8(1).]

30. Review of Act

- (1) As soon as practicable after 1 July 1992, and every 5 years thereafter, the Minister shall cause an investigation and review to be conducted, and a report to be prepared, as to the need for this Act to continue in operation.
- (2) The Minister shall cause a copy of the report prepared for the purposes of subsection (1) to be laid before each House of Parliament as soon as practicable after it is completed.

[Section 30 inserted by No. 62 of 1987 s. 9.]

Notes

¹ This is a compilation of the *Government Employees' Housing Act 1964* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Government Employees' Housing Act 1964</i>	95 of 1964 (13 Eliz. II No. 95)	14 Dec 1964	2 Aug 1965 (see s. 2 and <i>Gazette</i> 23 Jul 1965 p. 2133)
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
<i>Government Employees' Housing Act Amendment Act 1973</i>	3 of 1973	21 May 1973	21 May 1973
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Government Employees' Housing Amendment Act 1987²</i>	62 of 1987	13 Nov 1987	Act other than s. 4-6: 13 Nov 1987; s. 4-6: 22 Apr 1988 (see s. 2 and <i>Gazette</i> 22 Apr 1988 p. 1219)
<i>Acts Amendment (Public Sector Management) Act 1994 s. 19</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Industrial Legislation Amendment Act 1995 s. 24</i>	1 of 1995	9 May 1995	9 May 1995 (see s. 2)
<i>Education Amendment Act 1996 s. 16(5)</i>	22 of 1996	11 Jul 1996	11 Jul 1996 (see s. 2(1))
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998 s. 76</i>	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
<i>School Education Act 1999 s. 247</i>	36 of 1999	2 Nov 1999	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7904)

Short title	Number and year	Assent	Commencement
Reprint of the Government Employees' Housing Act 1964 as at 8 Dec 2000 (includes amendments listed above except those in the <i>School Education Act 1999</i>) (correction in <i>Gazette</i> 9 May 2003 p. 1619)			
<i>Acts Amendment (Equality of Status) Act 2003 Pt. 25</i>	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Planning and Development (Consequential and Transitional Provisions) Act 2005 s. 15</i>	38 of 2005	12 Dec 2005	9 Apr 2006 (see s. 2 and <i>Gazette</i> 21 Mar 2006 p. 1078)
<i>Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 10 Div. 2³</i>	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
Reprint 2: The Government Employees' Housing Act 1964 as at 13 Oct 2006 (includes amendments listed above)			
<i>Financial Legislation Amendment and Repeal Act 2006 s. 17⁴</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137)

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

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Duties Legislation Amendment Act 2008 s. 52⁵</i>	12 of 2008	14 Apr 2008	1 Jul 2008 (see s. 2(d))

² The *Government Employees' Housing Amendment Act 1987* s. 4(2) reads as follows:

“

(2) The appointment of the holder of an office specified in section 8(2) of the principal Act as in force immediately before the coming into operation of this section is hereby determined.

”.

³ The *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 10 Div. 6 reads as follows:

“

Division 6 — Transitional matters

336. Financial reporting

- (1) Despite the continuation of the former bodies as part of the Housing Authority, section 65A of the *Financial Administration and Audit Act 1985* applies in relation to the preparation and submission of a final report in respect of the former body as if —
 - (a) at commencement, it were abolished;
 - (b) references in that section to a department were references to the former body; and
 - (c) references in that section to provisions of sections 62 to 65 of the *Financial Administration and Audit Act 1985* were references to the equivalent provisions of sections 66 to 70 of that Act,except that —
 - (d) the period to which the final report is to relate is the final period; and
 - (e) the references in sections 66(1), 68 and 70(1) to the end of the financial year are to be read as references to the end of the final period.
- (2) If at commencement, any duty imposed by Part II Division 14 of the *Financial Administration and Audit Act 1985* on the accountable authority of the former body has not been complied with in relation to the former body for any financial year that expired before commencement, that duty subsists and is to be performed by the reporting officer as if the reporting officer were the accountable authority.
- (3) The time within which the reporting officer is to perform a duty referred to in subsection (2) is extended until the end of the day that is 2 months after the day on which the reporting officer is appointed, but this subsection does not prevent the time from being extended again under section 70 of the *Financial Administration and Audit Act 1985*.
- (4) The Housing Authority is to give the reporting officer access to all records necessary for the purposes of this section.
- (5) In this section —

“final period” means the period starting at the beginning of the 1 July immediately before commencement and ending immediately before commencement;

“reporting officer” means the person appointed under section 65A(2) of the *Financial Administration and Audit Act 1985* as applied because of subsection (1).

337. References to former bodies

After commencement, a reference to the former body in an instrument or other document is to be taken to be a reference to the Housing Authority unless the contrary intention appears or the context otherwise requires.

338. Government Employees' Housing Act 1964

- (1) The Government Employees' Housing Fund referred to in section 24(1) of the *Government Employees' Housing Act 1964* as in force after commencement is a continuation of the Government Employees' Housing Authority Fund referred to in that section as in force before commencement.
- (2) After commencement, a reference to the Government Employees' Authority Housing Fund in an instrument or other document is to be taken to be a reference to the Government Employees' Housing Fund referred to in section 24(1) of the *Government Employees' Housing Act 1964* as in force after commencement unless the contrary intention appears or the context otherwise requires.

339. Housing Act 1980

- (1) After commencement, a reference to The State Housing Commission in an instrument or other document is to be taken to be a reference to the Housing Authority unless the contrary intention appears or the context otherwise requires.
- (2) The office of chief executive officer of the Housing Authority is a continuation of the office of general manager of The State Housing Commission referred to in the *Housing Act 1980* as in force before commencement.
- (3) The Housing Authority Fund referred to in section 62(2) of the *Housing Act 1980* as in force after commencement is a continuation of The State Housing Commission Fund referred to in that subsection as in force before commencement.
- (4) After commencement, a reference to The State Housing Commission Fund in an instrument or other document is to be taken to be a reference to the Housing Authority Fund referred to in section 62(2) of the *Housing Act 1980* as in force after

commencement unless the contrary intention appears or the context otherwise requires.

- (5) Section 69 of the *Housing Act 1980*, as in force before commencement, continues to apply in relation to things done or omitted to be done and agreements entered into before commencement.

340. Interpretation

In this Division —

“**commencement**” means the time at which section 314 comes into operation;

“**former body**” means —

- (a) the Country Housing Authority established by section 4 of the *Country Housing Act 1998* as in force before commencement;
- (b) the Government Employees' Housing Authority established by section 8 of the *Government Employees' Housing Act 1964* as in force before commencement;

“**Housing Authority**” means the Housing Authority referred to in section 6(4) of the *Housing Act 1980* as in force after commencement.

”.

⁴ The amendment to s. 25 in the *Financial Legislation Amendment and Repeal Act 2006* s. 17, which gives effect to Sch. 1 cl.77, is not included because the section it sought to amend was repealed by the *Machinery of Government (Miscellaneous Amendments) Act 2006* s. 306.

⁵ On the date as at which this compilation was prepared, the *Duties Legislation Amendment Act 2008* s. 52, which gives effect to Sch. 1 cl. 12, had not come into operation. It reads as follows:

“

52. Various Acts amended

Schedule 1 sets out how various Acts listed in that Schedule are to be amended.

”.

Schedule 1 cl. 12 reads as follows:

“

Schedule 1 — Amendments to various Acts

[s. 52]

12. Government Employees' Housing Act 1964

Section 20(3) is amended by deleting "stamp duty" and inserting instead —

“ duty under the *Duties Act 2008* ”.

”.