STATE HOUSING DEATH BENEFIT SCHEME.

No. 52 of 1965.

AN ACT to provide a Scheme of Benefits for the Families of deceased Purchasers of dwellinghouses from the State Housing Commission who die prior to completion of purchase; and for incidental and other purposes.

[Assented to 9th November, 1965.]

 $B^{\rm E}$ it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:-

- 1. This Act may be cited as the State Housing short title. Death Benefit Scheme Act, 1965.
- 2. In this Act unless the contrary intention Interpreappears—
 - "Commission" means the State Housing Commission constituted by the State Housing Act, 1946:

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- "contract of sale" means a contract for the sale by the Commission of a dwelling-house pursuant to the provisions of the State Housing Act, 1946;
- "family" includes the wife or husband and the children of, and the parents or other relations dependent upon, the purchaser;
- "mortgage" means any instrument or agreement whereby security is made in favour of the Commission for payment of advances made by it under the State Housing Act, 1946;
- "purchaser" means the person who is purchasing from the Commission a dwelling-house on terms pursuant to a contract of sale under which he is liable for unpaid purchase money, and includes the person liable to the Commission for payments of money in repayment of advances secured by a mortgage;
- "the Scheme" means the State Housing Death Benefit Scheme established and provided by this Act.

Adminis-

Subject to the Minister, this Act shall be administered by the Commission.

Establishment of the

- (1) For the purposes of this Act there is hereby established a Scheme which shall be known as the State Housing Death Benefit Scheme.
- (2) The Scheme established by this section shall be deemed to have come into operation and to have taken effect on, and to have operated and had effect from and including the twentieth day of February, nineteen hundred and sixty-five.
- (3) In order to remove any doubts which but for the enactment of this subsection might arise, it is expressly declared that all matters and things

done, and every credit and adjustment made, by the Commission prior to the commencement of this Act in exercise or purported exercise of any right, power, authority or duty conferred or imposed upon it by this Act are by this subsection confirmed and validated.

5. The objects of the Scheme are to provide the Scheme. benefits in accordance with the provisions of this Act to or for the families of purchasers who die leaving unpaid the whole or part of purchase money or mortgage advances for payment of which they are liable to the Commission under any contract of sale or mortgage.

6. (1) This Act applies in respect of families of Application of this Act. purchasers who are purchasing from the Commission dwelling-houses sold to them pursuant to the provisions of Part V of the State Housing Act, 1946, or dwelling-houses made available by the Commission in its administration of the respective agreements approved and ratified by the Commonwealth and State Housing Agreement Act, 1945, the Commonwealth and State Housing Agreement Act, 1956 and the Commonwealth and State Housing Agreement Act, 1961, and in respect of families of purchasers who are purchasing dwelling-houses pursuant to the provisions of Part VI of the State Housing Act, 1946, or to whom advances have been made under that Part for any of the purposes referred to in section forty of that Act.

- (2) This Act does not apply where the deceased purchaser is not survived by any family, or where the liability of the deceased purchaser to the Commission is in respect of assistance received by him under and in accordance with the provisions of section sixty A of the State Housing Act, 1946, or where the deceased purchaser, being a dependant wife, is purchaser as joint tenant with her husband.
- (3) Where the purchaser dies before he has signed the documents required by the Commission security in respect of his purchase or the advances

made or to be made to him under the State Housing Act, 1946, the family of the purchaser shall be entitled to the benefits under this Act if the Commission has approved the application of the purchaser made under that Act and he has paid the deposit (if any) required by the Commission to be paid in respect to the purchase or advances.

Benefits under this Act.

- 7. (1) Subject to the provisions of this Act, upon the death of a purchaser on or after the date of the coming into operation of the Scheme, the family of the purchaser, if at the time of his death he is liable to the Commission for payment of unpaid purchase money or mortgage advances, is entitled to the benefits specified in subsection (2) of this section.
- (2) Subject to section eight of this Act, the benefits to which the family of a deceased purchaser is entitled under subsection (1) of this section shall be, if the age of the deceased purchaser at the time of his death—
 - (a) does not exceed thirty-five years, the sum of Five hundred pounds;
 - (b) exceeds thirty-five years but does not exceed forty-five years, the sum of Four hundred pounds;
 - (c) exceeds forty-five years but does not exceed fifty-five years, the sum of Three hundred pounds;
 - (d) exceeds fifty-five years but does not exceed sixty-five years, the sum of Two hundred pounds,

and if the deceased purchaser is survived by any child or children under the age of sixteen years, the amount of that benefit shall be increased by the sum of One hundred pounds in respect of each such child.

(3) Where at the time of his death the age of a deceased purchaser exceeds sixty-five years, if he is survived by a child or children under the age of

sixteen years, the amount of the benefit to which the family of the deceased purchaser is entitled under this section shall be the sum of One hundred pounds in respect of each such child.

8. (1) The benefits referred to in section seven Benefits to be of this Act shall be provided by way of credit to the credits to accounts accounts account of the deceased purchaser with the purchasers. Commission against the balance of purchase money or mortgage advances for which at the time of his death he is liable, and shall not in any case be a cash payment to the family or any member of the family of the deceased purchaser.

- (2) No benefit under this Act shall in any case be in excess of the balance of purchase money or mortgage advances for which at the time of his death the deceased purchaser is liable to the Commission, except where the deceased purchaser is one to whom Part V of the State Housing Act, 1946, applies in which case any amount of the benefit in excess of the balance owing on the dwelling-house being purchased shall be applied in reduction of the amount required to freehold the land on which the dwelling-house is erected.
- 9. (1) Every application for a benefit to be Application for benefit. granted under this Act shall-
 - (a) be made in the prescribed form to the Commission by the surviving spouse of the deceased purchaser or by his personal representative or by the guardian of any surviving child;
 - (b) contain such particulars as are prescribed and be accompanied by-
 - (i) a certificate of the death of the deceased purchaser or such other evidence of the death as the Commission may consider satisfactory; and

- (ii) a statutory declaration by the person making the application in the prescribed form setting out particulars of the family of the deceased purchaser and his age and the ages of the children (if any);
- (c) be supported by such other evidence (if any) as may be prescribed or as the Commission requires.
- (2) The Commission shall consider the application and upon being satisfied that the entitlement to a benefit under this Act is established shall grant the benefit in accordance with the provisions of section seven of this Act but if the Commission is not so satisfied, it may refuse the application.
- (3) The Commission may refuse to grant the benefit under this Act in any case where default has been made by the purchaser in due payment of any instalment under the contract of sale or mortgage and such default has at the time of his death continued for not less than three months, unless the Commission is satisfied that having regard to the circumstances such default is occasioned by reasons acceptable to the Commission.
- (4) Any person aggrieved by the refusal of the Commission, or its delegate under this Act, to grant any benefit under this Act may within fourteen days after notice of such refusal appeal against the same to the Minister, who may uphold, vary or cancel the decision of the Commission, or as the case may be, its delegate, and the order of the Minister shall be conclusive and binding on all parties.

Benefit to be applied to credit of purchasers' account. 10. Where a benefit is granted under this Act, the Commission shall appropriate and apply that benefit to the credit of the account of the deceased purchaser with the Commission in reduction, or as the case may be, in discharge, of the amount of purchase money or mortgage advances owing to the

Commission by the deceased purchaser at the time of his death, and shall in respect of the balance (if any) of purchase money or mortgage advances remaining unpaid after such credit has been given reduce the instalments payable under the contract of sale or mortgage to such amounts as will ensure that upon regular payment thereof together with the interest payable thereon during the unexpired portion of the repayment period specified by the contract of sale or mortgage, the balance of purchase money or mortgage advances will be fully paid.

11. Where the purchaser under a contract of sale Application of Act on or mortgage made with the Commission is a married death of husband of woman residing with her husband, if after the purchaser wite. coming into operation of the Scheme the husband dies while any of the purchase moneys or mortgage advances for which his wife is liable to the Commission under that contract of sale or mortgage remain unpaid, the provisions of this Act shall apply in respect of that unpaid purchase money or mortgage advances in all respects as though the deceased husband were the purchaser from the Commission under that contract of sale or mortgage.

Where a purchaser whose earning capacity Application of Act on aired through illness or disability depends death of is impaired through illness or disability depends upon a member of his family for his support, if wife of invalid after the coming into operation of the Scheme that member dies while any of the purchase money or mortgage advances for which the purchaser is liable to the Commission remains unpaid, the purchaser shall be entitled to the benefits specified in section seven of this Act to which, if he himself had been the person who died, his family would have been entitled.

purchaser.

13. Nothing in this Act shall prevent the disposal Benefit to of a dwelling-house the subject of a contract of sale or mortgage in respect of which a benefit has been dwelling-house sold. granted under this Act, if the disposal is effected in accordance with the provisions of the State Housing Act, 1946, relating to the disposal of

dwelling-houses by persons who are in the course of purchasing the same, and in the event of such disposal the benefit granted under this Act shall continue to apply.

Benefits applicable where house transferred subject to liability owing to Commission.

14. Where with the approval of the Commission a person acquires from a purchaser a dwelling-house which the purchaser is purchasing from the Commission and takes over and assumes responsibility for the purchaser's liability to the Commission in respect of the unpaid purchase money or mortgage advances, that person is deemed to be a purchaser under this Act, and in the event of his death prior to the liability to the Commission being discharged, the provisions of this Act shall apply in all respects as though he had entered into a contract of sale or mortgage with the Commission in respect to the purchase of that dwelling-house.

Regulations.

The Governor may make regulations not inconsistent with this Act prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular prescribing penalties not exceeding fifty pounds for an offence against the regulations.