

WESTERN AUSTRALIA

HOUSING LOAN GUARANTEE AMENDMENT ACT

No. 85 of 1987

AN ACT to amend the *Housing Loan Guarantee Act 1957*.

[Assented to 9 December 1987]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title

1. This Act may be cited as the *Housing Loan Guarantee Amendment Act 1987*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Principal Act

3. In this Act the *Housing Loan Guarantee Act 1957** is referred to as the principal Act.

[*Reprinted as approved 20 May 1974 and amended by Acts Nos. 98 of 1985 and 15 of 1986.]

Section 3 amended

4. Section 3 of the principal Act is amended by inserting before the definition of “approved institutions” the following definition—

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

Section 7B amended

5. Section 7B of the principal Act is amended in subsection (1a) by inserting after “Minister may” the following—

“ , in relation to an approved housing scheme, ”.

Section 7C repealed and substituted

6. Section 7C of the principal Act is repealed and the following section substituted—

Approved housing schemes

“ 7C. The Treasurer shall not execute an agreement for indemnity under this Act unless the loan or contract is a loan or contract within an approved housing scheme specified in—

(a) the Schedule; or

(b) an Order made by the Governor and published in the *Government Gazette* or an order made by the Governor amending or in substitution for such an Order and published in the *Government Gazette*. ”.

Section 7F amended

7. Section 7F of the principal Act is amended—

- (a) by inserting after the section designation “7.” the subsection designation “(1)”; and
- (b) by deleting paragraphs (d) and (e) and the word “and” after paragraph (d) and substituting the following paragraph—

“ (d) for the purposes of section 7B, the maximum amount which an approved institution shall advance to a borrower under an approved housing scheme on the giving of a first mortgage of a house in any part of the State or in a specified part of the State or the maximum amount of the purchase moneys which an approved lending institution shall permit to remain payable under a contract for sale and purchase of a house in any part of the State or a specified part of the State before an indemnity is given by the Treasurer under this Act. ”; and

(c) by inserting the following subsection—

“ (2) In subsection (1) (d) “specified” means specified in a notice published under section 7B (1a). ”.

Section 7G repealed

8. Section 7G of the principal Act is repealed.

Section 8A repealed

9. Section 8A of the principal Act is repealed.

Schedule added

10. After section 11 of the principal Act the following Schedule is added—

“

SCHEDULE**Approved housing schemes****1. General loan scheme**

(1) To be eligible under this Scheme—

- (a) the applicant shall declare in a manner satisfactory to the Minister that the applicant intends to use the house the subject of the application for the applicant and spouse and dependants of the applicant; and

- (b) the applicant, unless exempted by the Minister, shall not be the owner jointly or as tenant in common with any person in any other dwelling house.

(2) The interest charged on the loan or balance of purchase moneys during the period of the indemnity shall not exceed the maximum rate of interest declared by the Treasurer under section 7F as the maximum rate of interest which an approved lending institution may charge a borrower or purchaser on the amount of the loan or purchase money.

(3) The mortgage or contract for sale shall provide for repayment of the loan or payment of the purchase money, as the case may be, together in either case with interest adjusted quarterly on the balance of the loan or purchase money then outstanding, by fixed weekly, monthly, or three monthly instalments of such amounts as will be sufficient to repay the loan, or to pay the purchase price, in full before the expiration of 45 years from the date of the mortgage, or of the contract for sale and purchase.

2. Deferred repayment loan scheme

(1) To be eligible under this scheme—

- (a) the applicant shall declare in a manner satisfactory to the Minister that the applicant intends to use the house the subject of the application for the applicant and spouse and dependants of the applicant; and
- (b) the applicant shall not be the owner either as joint tenant or tenant in common, of any residential property other than the land the subject of the application.

(2) Moneys advanced shall not be used for the purpose of discharging an existing security except where the land is vacant land.

(3) The maximum value of the land and house to be erected or purchased by the person shall not exceed \$55 000 or such other amount as is fixed in relation to the area in which the house is situate or proposed to be situated under section 7B.

(4) The minimum deposit to be paid by the applicant in respect of the property shall be 10% of the lending institution valuation subject to a reduction in respect of dependent children of an amount to 5% of that valuation at the discretion of the lending institution.

(5) The maximum value of the loan shall not exceed \$45 000 or such other amount as is fixed in relation to the area in which the house is situate or is proposed to be situated under section 7F.

(6) Provision is made for repayment of the loan including provisions for—

- (a) deferring of interest payable under the loan with capitalisation of interest so deferred;
- (b) repayment of the loan if and when income of the applicant or the spouse of the applicant or both exceeds an amount specified by the Minister by direction given by the Minister for the purposes of this scheme and for instalments of the interest and principal to be on *credit foncier* terms approved by the Minister;

- (c) reductions in the instalments payable in a case where the gross family income of the applicant (which in this context means the combined gross income of the applicant and the spouse of the applicant) are reduced for any reason but so that the instalments as so reduced are not less than 25% of the gross family income of the applicant.

(7) The lending institution will require of any moneys received by the applicant by way of financial assistance and payable to the applicant under any law of the State or the Commonwealth in relation to subsidising the purchase of houses by persons eligible under that law are paid to the lending institution into the account of the applicant with the lending institution in reduction of the loan to the applicant.

3. Mortgage support scheme

(1) Where—

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

the repayments under the mortgage may be re-scheduled under the terms of a new mortgage.

(2) Notwithstanding subclause (1), a mortgagor is not eligible for mortgage support unless the ratio of the repayments fixed under the mortgage to the gross family income of the mortgagor at the time of the application exceeds the ratio of those repayments to the gross family income of the mortgagor at the time when the mortgage was executed.

(3) No new moneys shall be advanced to the applicant.

(4) The maximum value of the land and house under the mortgage shall not exceed \$55 000 or such other value as is fixed in relation to the area in which the house is situate under section 7B.

(5) The maximum value of the loan that may be re-negotiated is \$45 000 or such other amount as is fixed in relation to the area in which the house is situate under section 7F.

(6) Provision is made for repayment of the loan by deferring any interest then unpaid or accruing under the original mortgage together with interest in terms approved by the Minister.

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

Validation

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