

STATE HOUSING.

No. 22 of 1972.

AN ACT to amend the State Housing Act 1946-1969.

[Assented to 26th May, 1972.]

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:—

1. (1) This Act may be cited as the *State Housing Act Amendment Act, 1972.* Short title and citation.

(2) In this Act the State Housing Act, 1946-1969 is referred to as the principal Act. Reprinted in Vol. 17 of the Reprinted Acts as approved for reprint, 1st March, 1961 and amended by Acts Nos. 36 of 1961, 41 of 1964, 11 of 1966, 50 of 1968, and 11 and 102 of 1960.

(3) The principal Act as amended by this Act may be cited as the State Housing Act, 1946-1972.

S. 3
amended.

2. Section 3 of the principal Act is amended by adding after the passage, "PART VIII., ss. 66 to 67—ARRANGEMENTS WITH COMMONWEALTH." the passage, "PART VIIIA., ss. 67A to 67I—FURTHER ARRANGEMENTS WITH COMMONWEALTH."

S. 6
amended.

3. Section 6 of the principal Act is amended—

- (a) by adding after the section number "6." in line one, the subsection designation "(1)";
- (b) by deleting the words "one thousand one hundred and ninety-six pounds per annum" in lines four, five and six of paragraph (b) of the interpretation "worker" and substituting the passage "the relevant amount per annum fixed by the Minister under subsection (2) of this section that is applicable";
- (c) by deleting the words "the limit of one thousand one hundred and ninety-six pounds aforesaid" in the first proviso to the interpretation "worker" and substituting the passage "the amount for the time being fixed under subsection (2) of this section";
- (d) by deleting the third proviso to the interpretation "worker"; and
- (e) by adding at the end thereof a subsection as follows—
 - (2) The Minister may from time to time by notice published in the *Government Gazette*—
 - (a) fix the amount of salary, wages or income which is to be the relevant amount for the purposes of paragraph (b) of the interpretation "worker" in subsection (1) of this section;

(b) vary or revoke any notice previously so published,

but the Minister shall not fix any amount under this subsection which is less than such amount as the Commission certifies in writing to the Minister to be the greatest amount of salary, wages or income payable at that time to any tradesman within the metropolitan area of Perth. .

4. Subsection (1) of section 40 of the principal Act is amended by substituting for the words "eight thousand dollars" in line five of the proviso to paragraph (b), the words "nine thousand dollars".

S. 40
amended.

5. Section 62 of the principal Act is amended—

S. 62
amended.

- (a) by adding after the passage "62." in line one the subsection designation "(1)"; and
- (b) by adding at the end thereof the following subsection—

(2) The Commission may authorize the reduction of the rent ordinarily payable under a tenancy agreement by a tenant if the tenant is a person who is included in a class of persons whom the Minister considers to have insufficient means to be able to pay the rent ordinarily paid by tenants in respect of that dwelling house. .

6 The principal Act is amended by adding after Part VIII the following Part—

Part VIIIA
added.

PART VIIIA.—FURTHER ARRANGEMENTS WITH
COMMONWEALTH.

67A. (1) In this Part—

"approved institution" means a building society registered under the Building Societies Act, 1920 and any other body

Definitions
and
application.

that is approved under section 7 of the Commonwealth Act as a body to which loans may be made out of the State Home Builders' Account;

"instrument of constitution" means the Act or other instrument by which, an approved institution is constituted and by authority of, or subject to, which, the approved body carries on its business, and includes rules, by-laws, regulations, and other subordinate authorizations effective under the Act or other instrument;

"loan agreement" means an agreement between the State and an approved institution in relation to a loan of moneys from the State Home Builders' Account for the provision of finance to assist borrowers to erect or purchase dwellings for themselves and their families;

"the commencing day" means the sixth day of December, 1971, being the day on which the Commonwealth Act came into operation;

"the Commonwealth Act" means the States Grants (Housing) Act 1971, as amended from time to time, of the Commonwealth.

(2) The provisions of this Part shall be deemed for all purposes to have come into operation on the commencing day.

(3) Without limiting the generality of subsection (2) of this section, it is hereby expressly declared that any act or thing done or determined by or on behalf of the State, the Minister or the Commission or by any society or approved institution on or after the commencing day but prior to the day on which the State Housing Act Amendment Act, 1972 received the

Royal Assent which would have been lawful under the provisions of this Part of this Act had this Part been in operation at that time, shall be deemed for all purposes to have been lawfully done or determined under this Part.

67B. (1) The Minister and the Commission, on behalf of the State, are hereby respectively invested with such powers, functions, duties and responsibilities as are necessary or convenient for—

Minister
and
Commission
authorized
to imple-
ment States
Grants
(Housing)
Act of the
Common-
wealth.

- (a) enabling the State, and the Minister and the Commission on behalf of the State, to obtain such grants, assistance and benefits as are provided or capable of being provided under the Commonwealth Act; and
- (b) enabling the State, and the Minister and the Commission, to fulfil such conditions and comply with such other requirements as are necessary for obtaining the grants, assistance and benefits referred to in paragraph (a) of this subsection.

(2) Without limiting the generality of subsection (1) of this section—

- (a) the Commission shall on behalf of the State maintain an account to be known as the "State Home Builders' Account" for the purposes of meeting the conditions set out in, and fulfilling the objects and purposes of, sections 7 and 8 of the Commonwealth Act; and
- (b) the Commission is hereby authorized, on behalf of the State, to pay moneys into the State Home Builders' Account, to expend and advance moneys standing to the credit of that account, and generally to operate that account so as to comply with conditions imposed

by, and to fulfil the objects and purposes set out in, sections 7 and 8 of the Commonwealth Act.

Power to
make loan
agreements.

67C. Power to enter into and to carry out loan agreements with the State is conferred by this Act on any approved institution, notwithstanding that the power is not conferred by the instrument of constitution of the approved institution, and notwithstanding any provision of the instrument of constitution to the contrary.

Terms and
conditions of
agreement.

67D. (1) The State and an approved institution may agree to the inclusion in a loan agreement of such terms and conditions as they think fit, but the provisions of section 67E of this Act apply to, and are included by virtue of this section in, every loan agreement entered into after the commencing day, whether those provisions are or are not expressly included by the agreement in it, or are expressly excluded by the agreement from it.

(2) Without limiting the generality of subsection (1) of this section, the conditions which may be included in a loan agreement include conditions—

- (a) fixing or limiting the rate of interest payable by borrowers in respect of moneys advanced to them by the approved institution;
- (b) fixing or limiting the term or period of years for which any advance may be made to a borrower by the approved institution;
- (c) prohibiting the approved institution from making any advance to a borrower where the value of the house, or of the house and land, in respect of which the advance is sought, exceeds the amounts respectively determined from time to time by the Commission; and

- (d) prohibiting the approved institution from making any advance to a borrower whose income exceeds the amount determined from time to time by the Commission.

67E. (1) Subject to sections 67F and 67G of this Act, where an approved institution makes a loan agreement the State has, by virtue of this Act and notwithstanding the provisions of any other Act or delegated legislation, or of the instrument of constitution of the approved institution, as floating security for the due observance by the approved institution of the terms and conditions of the loan agreement, a floating charge on the whole of the undertaking and other property and assets, present and future, of the approved institution.

Floating
security and
charge.

(2) A floating charge created by this section has priority to all other charges, whether they arose or were created before, or arise or are created after, the commencing day.

(3) Any amount owing under a loan agreement by an approved institution to the State is a debt owing to the Crown.

(4) If and when applicable, the provisions of section 291 and Part X of the Companies Act, 1961, apply in respect of the debt, but this subsection does not derogate from the generality of the operation of the provisions of subsections (1), (2) and (3) of this section.

(5) Unless and until proceedings are commenced for winding up of the approved institution,

whether under Part X of the Companies Act, 1961; or on termination of the approved institution as mentioned in paragraph (a) of subsection (1) of section 29 of the

Building Societies Act, 1920; or by such other procedure as is provided for the winding up of the approved institution; or

unless and until the State,

pursuant to the provisions, if any, of the loan agreement in respect of which the security and charge exist, directs otherwise;

the floating security and charge created by this section do not in any way preclude the approved institution from, or limit the approved institution in, carrying on business in the ordinary course as if the security did not exist and the charge had not been created.

Approved
institution
may give
securities.

67F. (1) Where an approved institution makes or has made a loan agreement, it may, with the consent of the Treasurer and the Minister, execute such securities over so much of its property and assets both real and personal as creates a charge thereon and which in the opinion of the Treasurer secures the due observance by the approved institution of the terms and conditions of the loan agreement.

(2) Where an approved institution makes or has made a loan agreement and, pursuant to subsection (1) of this section, executes in relation to that agreement such securities as are referred to in that subsection—

- (a) the provisions of section 67E of this Act do not have effect or cease to have effect, as the case requires, so as to create any floating charge or security by virtue of the making of that agreement; and
- (b) the Treasurer may, on the recommendation of the Minister, from time to time release from the charge such securities as are, in his opinion, no longer necessary to secure the due

observance by the approved institution of the terms and conditions of the loan agreement.

(3) Any securities referred to in subsection (1) of this section shall be, notwithstanding the provisions of any other Act and notwithstanding the existence on the property and assets of any other charge or encumbrance by virtue of this subsection, a first charge on so much of the property and assets of the approved institution as is from time to time the subject of those securities.

67G. Where—

- (a) an approved institution has, at any time after the commencing day, made a loan agreement; and
- (b) the approved institution has not, in relation to that loan agreement, executed securities pursuant to subsection (1) of section 67F of this Act,

Property and assets of approved institution may be released.

the Treasurer may, at the request of the approved institution and on the recommendation of the Minister, release from the floating charge and security created by section 67E of this Act on the making of the loan agreement, such of the property and assets of the approved institution as are, in his opinion, no longer necessary to secure the due observance by the approved institution of the terms and conditions of the loan agreement.

67H. (1) Where an approved institution is a party to a loan agreement the appropriate Minister of the State may, whenever he thinks fit, appoint a person to examine the affairs of the approved institution and to report to the Minister on the result of the examination.

Power of inspection of affairs of approved institution.

(2) For the purpose of enabling him to make the examination, a person so appointed, has, and if necessary may exercise, the powers conferred on a Royal Commission by the Royal Commissions Act, 1968.

(3) An appointment in writing purporting to have been made under this section and purporting to have been signed by a Minister is sufficient authority for a person so appointed to exercise the functions and powers of examination.

67 I. Notwithstanding anything to the contrary contained in the Building Societies Act, 1920 or the instrument of constitution of an approved institution, the approved institution may make advances to a borrower other than upon security of freehold or leasehold property by way of mortgage where—

- (a) the moneys being advanced to the borrower have been loaned to the approved institution under a loan agreement; and
- (b) the moneys being so advanced to the borrower will be used by him to purchase a dwelling erected upon, or to erect a dwelling upon, land which at the time the advance is made is owned by the Commission. .

Special
powers of
societies to
make
advances of
moneys,
other than
by way of
mortgage.
