



ELIZABETHAE SECUNDAE REGINAE

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No. 5 of 1979

**An Act to amend the State Housing Act 1945–1978 and the  
State Housing Acts and Another Act Amendment Act  
1957–1978 each in certain particulars and for other  
purposes**

[ASSENTED TO 20TH APRIL, 1979]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. **Short title.** This Act may be cited as the *State Housing Act and Another Act Amendment Act 1979*.

2. **Arrangement of Act.** This Act is divided into Parts as follows:—

PART I—PRELIMINARY;

PART II—AMENDMENTS OF STATE HOUSING ACT 1945–1978;

PART III—AMENDMENTS OF STATE HOUSING ACTS AND ANOTHER  
ACT AMENDMENT ACT 1957–1978.

PART II—AMENDMENTS OF STATE HOUSING ACT 1945–1978

**3. Citation.** (1) In this Part the *State Housing Act 1945–1978* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *State Housing Act 1945–1979*.

**4. Amendment of s. 4.** Section 4 of the Principal Act is amended by omitting from the definition “Commission” the words “any member, the Commissioner, Deputy Commissioner, Secretary, or” and substituting the words “the Commissioner, Secretary or any”.

**5. Amendment of s. 7.** Section 7 of the Principal Act is amended by omitting from subsection (14) the words “, Deputy Commissioner,”.

**6. Amendment of s. 9.** Section 9 of the Principal Act is amended by omitting from subsection (3) the words “, Deputy Commissioner,”.

**7. Amendment of s. 10.** (1) Section 10 of the Principal Act is amended by—

(a) omitting subsection (5) and the note appearing at the beginning thereof and substituting the following subsection:—

“(5) Where immediately prior to the appointment to the office of Commissioner (whether such appointment was made before or is made after the commencement of the *State Housing Act and Another Act Amendment Act 1979*), an appointee held office under *The Public Service Act of 1922* or that Act as subsequently amended, the appointment or any renewal of the appointment shall not, and it is hereby declared never did, affect the rights accrued or accruing to him under that Act, the *Public Service Superannuation Act 1958–1978* or the *State Service Superannuation Act 1972–1978*.

For the purpose of determining such rights the appointee shall be deemed to hold the office of Commissioner under *The Public Service Act of 1922* or that Act as subsequently amended.”;

(b) omitting from subsection (6) the words “or Deputy Commissioner” where twice occurring;

(c) omitting subsection (7) and the note appearing at the beginning thereof and substituting the following subsections:—

“(7) On the occurrence of any vacancy in the office of Commissioner, whether by effluxion of time or otherwise howsoever, the Governor in Council may appoint another person to fill the vacancy.

(7A) In the event of the illness or absence of the Commissioner, the Minister may appoint a person who shall during such illness or absence have and exercise all the powers, functions and authorities and perform all the duties of the Commissioner and shall be deemed to be the Commissioner.

(7B) In the case of suspension or death of the Commissioner, the Minister shall appoint a person who shall, under the direction of the Minister, have and exercise all the powers, functions and authorities and perform all the duties of the Commissioner, and be deemed for the purposes of this Act to be the Commissioner

until in the case of suspension the Commissioner has been restored to office or until, in the case of suspension and removal from office after suspension or death, the Governor in Council has appointed a person to be Commissioner:

Provided, however, that an appointment made by the Minister under this subsection shall not be for a longer period than six months, but if necessity arises a further appointment of the same or another person may be made by the Minister for the like purpose for another period not exceeding six months.”;

(d) omitting from paragraph (i) of subsection (9) the words “the Deputy” and substituting the words “any Assistant”.

(2) Upon the date of commencement of this Act the person who immediately before that date holds the office of Deputy Commissioner of Housing shall cease to hold that office and without further or other appointment shall hold the office of Assistant Commissioner of Housing under and in accordance with the *Public Service Act* 1922–1978.

(3) It is declared that—

(a) the person referred to in subsection (2);

(b) the person who at the commencement of this Act holds the office of Commissioner of Housing and who prior to holding that office held the office of Deputy Commissioner of Housing, at all times held the office of Deputy Commissioner of Housing as an officer of the Public Service of Queensland and the continuity of his service in that office and in every other office in the Public Service of Queensland held by him, whether before or after the commencement of this Act, shall be taken not to have been broken by his appointment to and service in the office of Deputy Commissioner of Housing.

**8. Amendment of s. 22.** Section 22 of the Principal Act is amended in subsection (1) by—

(a) omitting the proviso to subparagraph (a) of paragraph (i);

(b) in paragraph (v)—

(i) omitting from subparagraph (d) the words “vested in it under this Act” and substituting the words “purchased or acquired by or vested in it under this Act or set apart to be used for the purposes of this Act”;

(ii) omitting subparagraph (e) and substituting the following subparagraph:—

“(e) The Commission may, with the approval of the Minister, on such terms and conditions and subject to such restrictions, exceptions and reservations as the Commission thinks fit, sell any land vested in or purchased or acquired by it under this Act, or set apart to be used for the purposes of this Act:

Provided that the Minister shall not approve such sale unless he is satisfied that such land is not now required for the purposes of this Act or that such sale will serve a beneficial purpose with regard to the community in the locality of such land.”;

(iii) omitting from subparagraph (f) all words from and including the words “of the Commission” to and including the words “any house)” and substituting the words “vested in or purchased or acquired by the Commission under this Act or set apart to be used for the purposes of this Act”;

(iv) inserting after subparagraph (h) the following subparagraph:—

“(i) Upon the completion of a sale made pursuant to subparagraph (e) or an exchange pursuant to subparagraph (f) of land set apart the Commission shall certify in writing such completion to the Minister for submission to the Governor in Council who shall thereupon, in the name of Her Majesty, grant in fee-simple such land to the person to whom the land is sold or as the case may be, with whom the land is exchanged and cause a deed of grant thereof to issue in his name accordingly.”.

**9. Amendment of s. 22B.** Section 22B of the Principal Act is amended in subsection (2) by—

(a) omitting from paragraph (b) all words from and including the words “This subsection” to and including the words “it shall not so apply;” and substituting the following words:—

“The provisions of *The Land Act of 1962* as amended from time to time shall, with and subject to all necessary adaptations, apply and, it is hereby declared, always did apply from the commencement of that Act to demises of lands pursuant to this subsection whether demised before or after that commencement, save that—

(i) Any provision of that Act which is inconsistent with a provision of this subsection to the extent of such inconsistency shall not so apply;”;

(b) inserting after paragraph (b) the following paragraphs:—

“(c) Subject to paragraph (d), the rental periods of leases demised pursuant to this subsection shall be five years.

(d) In the case of any lease demised pursuant to this subsection and subsisting at the commencement of the *State Housing Act and Another Act Amendment Act 1979*, the first of the rental periods of five years shall commence as from the expiration of the rental period current immediately prior to the commencement of that Act.

(e) For each rental period (other than the first rental period of a lease) commencing after the commencement of the *State Housing Act and Another Act Amendment Act 1979* of a lease whether demised before or after the commencement of that Act, the annual rental shall be determined by the Land Court at a sum equal to—

(i) in respect of rental periods commencing during the period from the commencement of that Act to 31 December 1980, five per centum;

(ii) in respect of rental periods commencing during the period from 1 January 1981 to 31 December 1982, seven per centum;

(iii) in respect of rental periods commencing after 31 December 1982, an amount per centum equivalent to the long term bond rate,

of the fair unimproved capital value of the land as if it were held in fee-simple at the date of commencement of the rental period in question:

Provided that if in respect of any rental period the amount per centum equivalent to the long term bond rate is less than the amount per centum prescribed in respect thereof pursuant to provision (i) or (ii), then provision (iii) shall apply thereto.

(f) For the purposes of paragraph (e) the long term bond rate shall be the coupon rate on the longest term security of the last Commonwealth public loan issued prior to—

- (i) the commencement of the rental period in question;  
or
- (ii) the determination of the Land Court in respect thereof, whichever is the earlier.”.

**10. Amendment of s. 23.** Section 23 of the Principal Act is amended in subsection (4) by—

- (a) omitting the second subparagraph from paragraph (a);
- (b) omitting paragraph (b);
- (c) omitting from paragraph (c) the words “Save as prescribed in this section, no ” and substituting the word “No ”.

**11. Amendment of s. 24.** Section 24 of the Principal Act is amended by—

(a) inserting in paragraph (iii) of subsection (3) after the words “therefor and ” the words “for so long as any purchase moneys remain outstanding ”;

(b) in subsection (6)—

- (i) omitting the note appearing at the beginning of paragraph (i);
- (ii) omitting from paragraph (vi) the words “*Land Act 1962-1975* ” and the word “section ” and substituting the words “*The Land Act of 1962* or that Act as subsequently amended ” and the word “Division ” respectively;

(iii) inserting after paragraph (vi) as amended the following paragraph:—

“(via) All rents payable in respect of every Perpetual Town Lease and every Perpetual Suburban Lease demised pursuant to this section shall be paid to the Commission.”;

(iv) inserting after paragraph (vii) the following paragraph:—

“(viii) Subject to the provisions of this Act, the provisions of *The Land Act of 1962* or that Act as subsequently amended which apply to grazing homestead freeholding leases relating to registers, transfers, transmissions, mortgages, sub-leases and other dealings, forfeiture, resumption and compensation shall, with and subject to all necessary adaptations apply and, it is hereby declared, always did apply from the commencement of that Act to a freeholding lease and for that purpose—

- (a) a reference to the Minister in that Act shall be read and construed as a reference to the Minister charged with the administration of this Act;
- (b) a reference to the Department of Lands or to the Department in that Act shall be read and construed as a reference to the Commission.”.

**12. Amendment of s. 24A.** Section 24A of the Principal Act is amended by—

- (a) inserting in subsection (1) after the words “the Commission ” where first occurring the words “with the approval of the Minister ”;

(b) omitting subsection (4) and substituting the following subsection:—

“(4) Every agreement to sell any land entered into by the Commission with any person pursuant to this section after the commencement of the *State Housing Act and Another Act Amendment Act 1979* shall contain the following conditions which shall be binding upon such person and be performed by him, that is to say:—

- (a) that such person shall have paid a deposit of not less than ten per centum of the purchasing price before the entry by the Commission into the agreement;
- (b) that such person will pay interest at the prescribed rate, calculated at monthly rests, upon the unpaid balance of the purchasing price;
- (c) that such person will pay the balance of the purchasing price with interest thereon, within the period of three years next following the date of entry by the parties into the agreement, by payment on the day in each month specified in the agreement of monthly instalments of such amount, or of such amounts respectively, as is or are specified in the agreement;
- (d) that such person will, as from the date of entry by the parties into the agreement, pay all rates, taxes and other charges on the land concerned.”;

(c) omitting from subsection (5) the words “ paragraphs (d) and (e) ” where twice occurring and substituting the words “ paragraph (d) ” in each case;

(d) in subsection (7)—

(i) omitting from the fourth paragraph thereof the words “ section one hundred and twenty-one of the Land Acts, and the provisions of the Land Acts referred to in the said section one hundred and twenty-one, shall apply ” and substituting the words “ Division II of Part VII of the *Land Act of 1962* as amended from time to time and the provisions of that Act referred to therein shall apply and, it is hereby declared, always did apply from the commencement of that Act ”;

(ii) inserting at the end thereof the following paragraph:—

“ All rents payable in respect of every Perpetual Town Lease and every Perpetual Suburban Lease demised pursuant to this section shall be paid to the Commission.”;

(e) inserting at the end thereof the following subsection:—

“(13) The Governor in Council from time to time may, and it is hereby declared, always could prescribe by Order in Council the rate per centum per annum of the interest payable in respect of the purchasing price payable under agreements to sell land pursuant to this section.”.

**13. Amendment of s. 33.** Section 33 of the Principal Act is amended by inserting at the end of subsection (2) the following paragraph:—

“(e) The provisions of this subsection do not apply to—

- (i) the purchasing price payable under agreements to sell land pursuant to section 24A;
- (ii) advances made or the purchasing price payable in respect of the sale of any land pursuant to section 22.”.

**14. Amendment of s. 38.** Section 38 of the Principal Act is amended by omitting from paragraph (a) the words "one hundred and sixty of the Land Acts" and substituting the words "285 of the *Land Act 1962-1975*".

**15. New s. 38A.** The Principal Act is amended by inserting after section 38 the following section:—

**"38A. Land Acts apply to deeds of grant.** Every grant in fee-simple by the Governor in Council pursuant to this Act and every deed of grant issued accordingly whether before or after the commencement of the *State Housing Act and Another Act Amendment Act 1979* shall be and, it is hereby declared, always was deemed to have been issued under the Land Acts the provisions whereof relating to deeds of grant apply thereto."

**16. Amendment of s. 43A.** Section 43A of the Principal Act is amended by omitting subsection (5) and substituting the following subsections:—

"(5) For the purposes of this section, a notice to quit or a demand for possession may, without prejudice to any other mode of service be effected by—

- (a) delivery personally to the lessee or tenant; or
- (b) delivery personally to some person apparently over the age of 18 years and apparently residing in or in occupation of the land; or
- (c) delivery personally to the person by whom the rent is usually paid, if that person is apparently over the age of 18 years; or
- (d) affixing to a conspicuous place upon some part of the dwelling-house; or
- (e) sending by post to the lessee or tenant at the place of his residence or business last known to the Commission.

(5A) (a) Where a lessee or tenant has died and probate or letters of administration of his estate have not been granted, a notice to quit that might have been given to the legal personal representative of the deceased lessee or tenant had probate or letters of administration of his estate been granted shall be sufficiently given if—

- (i) where any person is or persons are apparently residing in or in occupation of the land; it is delivered to any of those persons apparently over the age of 18 years;
- (ii) in any other case, it is advertised twice in a newspaper circulating in the locality in which the land is situated.

(b) Where a proceeding for the recovery of possession of land is taken in reliance on a notice to quit given in the manner provided in subparagraph (i) of paragraph (a), any occupier of the land or other person claiming an interest in the land shall be entitled to be heard in the proceeding and the contesting of the proceeding shall not of itself be regarded as an act of administration or as intermeddling in the estate of the deceased lessee or tenant or as constituting the person so contesting the proceeding an executor *de son tort* of the deceased lessee or tenant."

**17. Amendment of Schedule.** The Principal Act is amended in the Schedule thereto by—

(a) omitting from subclause (5) of clause 1 the word “ section ” and substituting the word “ clause ”;

(b) inserting in subclause (2) of clause 15 after the words “ of purchase money ” the words “(including interest thereon)”;

(c) in subclause (iii) of clause 18—

(i) omitting from paragraph (d) the word “ subsection ” and substituting the word “ subclause ”;

(ii) omitting from subparagraph (ii) of paragraph (f) the word “ subsection ” and substituting the word “ subclause ”;

(d) omitting from the second paragraph of clause 20 the word “ section ” and substituting the word “ clause ”;

(e) omitting from provision (i) of clause 21 the word “ subsection ” where twice occurring and substituting the word “ subclause ” in each case.

### PART III—AMENDMENTS OF STATE HOUSING ACTS AND ANOTHER ACT AMENDMENT ACT 1957–1978

**18. Citation.** (1) In this Part the *State Housing Acts and Another Act Amendment Act 1957–1978* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *State Housing Acts and Another Act Amendment Act 1957–1979*.

**19. Amendment of s. 4.** Section 4 of the Principal Act is amended by inserting after the words “ “ *The State Housing Acts, 1945 to 1957,* ” the words “ or section 24A of *The State Housing Acts, 1945 to 1961* as amended from time to time ”.

**20. Amendment of s. 7.** Section 7 of the Principal Act is amended by omitting from provision (iii) of paragraph (a) the words “ Where the contract of sale of a home erected on the land comprised in the lease has been fully performed ” and substituting the words “ In any other case ”.

**21. Amendment of s. 9.** Section 9 of the Principal Act is amended by inserting after subsection (6) the following subsection:—

“(7) In respect of the purchasing price of land under this section, the Governor in Council may from time to time by Order in Council—

(a) prescribe the rate per centum per annum of the interest payable thereon;

(b) vary the rate per centum per annum of the interest payable thereon by increasing above or reducing below the rate fixed by the preceding Order in Council.

An Order in Council made under this subsection shall come into force on such date as may be specified therein or, if no such date is so specified, on the date of the publication thereof in the Gazette and shall continue in force until and including the day next preceding the date when the next following such an Order in Council comes into force.”.



**22. Amendment of s. 10.** Section 10 of the Principal Act is amended by inserting after subsection (4) the following subsection:—

“(5) Every grant in fee-simple by the Governor in Council pursuant to this Act and every deed of grant issued accordingly whether before or after the commencement of the *State Housing Act and Another Act Amendment Act 1979* shall be and, it is hereby declared, always was deemed to have been issued under the Land Acts the provisions whereof relating to deeds of grant apply thereto.”.

**23. New s. 10A.** The Principal Act is amended by inserting after section 10 the following section:—

“**10A. Application of Land Act of 1962 to freeholding leases.** Subject to the provisions of this Act, the provisions of *The Land Act of 1962* or that Act as subsequently amended which apply to grazing homestead freeholding leases relating to registers, transfers, transmissions, mortgages, sub-leases and other dealings, forfeiture, resumption and compensation shall, with and subject to all necessary adaptations apply and, it is hereby declared, always did apply from the commencement of that Act to a freeholding lease and for that purpose—

- (a) a reference to the Minister in that Act shall be read and construed as a reference to the Minister charged with the administration of this Act;
- (b) a reference to the Department of Lands or to the Department in that Act shall be read and construed as a reference to the Commission.”.