

Queensland



ANNO TRICESIMO SECUNDO

ELIZABETHAE SECUNDAE REGINAE

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No. 9 of 1983

**An Act to amend the State Housing Act 1945–1982 and the State Housing (Freeholding of Land) Act 1957–1980 each in certain particulars, to repeal the Workers' Homes Acts Repeal Act 1961–1978 and for other purposes**

[ASSENTED TO 31ST MARCH, 1983]

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 1983*.

**2. Arrangement.** This Act is arranged as follows:—

PART I—PRELIMINARY;

PART II—AMENDMENTS OF STATE HOUSING ACT 1945–1982;

PART III—AMENDMENTS OF STATE HOUSING (FREEHOLDING OF LAND) ACT 1957–1980;

SCHEDULE.

**3. Repeal of Workers' Homes Acts Repeal Act 1961-1978.** The Acts specified in the Schedule are repealed as and to the extent indicated therein.

PART II—AMENDMENTS OF STATE HOUSING ACT 1945–1982

**4. Citation.** (1) In this Part the *State Housing Act 1945–1982* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *State Housing Act 1945–1983*.

**5. Amendment of s. 22.** Section 22 of the Principal Act is amended in subsection (1), in paragraph (v) by—

(a) omitting subparagraph (d) and substituting the following subparagraph:—

“(d) With the approval of the Minister, at such price and on such terms and conditions as the Commission thinks fit lease any land purchased or acquired by or vested in it under this Act or set apart to be used for the purposes of this Act:

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

(b) in subparagraph (e), omitting the words “The Commission may, with” and substituting the word “With”.

**6. Amendment of s. 22A.** Section 22A of the Principal Act is amended by inserting in and at the beginning of the section the note “**Provision for payment upon erection of one of several dwelling-houses under contract.**”.

**7. Amendment of s. 22B.** (1) Section 22B of the Principal Act is amended by—

(a) in and at the beginning of the section, inserting the note “**Provision of land for industry, trade or business.**”;

(b) in subsection (2), omitting paragraphs (c), (d), (e) and (f);

(c) after subsection (2) inserting the following subsections:—

“(3) (a) Subject to this section, each rental period of a lease demised pursuant to subsection (2) shall be one year.

(b) The first rental period of a lease demised after 31 December 1983 shall be from the date of the grant of the lease to 30 June next occurring after the expiration of 12 months from the date of grant.

(c) Where a lease granted pursuant to subsection (2) subsists on 31 December 1983—

(i) notwithstanding paragraph (a), the rental period then current shall continue as the rental period;

(ii) upon the expiration of the rental period referred to in provision (i), the rental period shall be from the day after the date of that expiration to 30 June next following; and

(iii) each rental period subsequent to the rental period referred to in provision (ii) shall be one year.

(4) (a) For each rental period of one year (other than the first rental period of a lease) commencing after 31 December 1983, the annual rental shall be a sum equal to—

(i) the prescribed percentage of the unimproved value of the land the subject of the lease at the date of commencement of the period in question; or

(ii) \$30,

whichever is the greater.

(b) For the purposes of paragraph (a) “prescribed percentage” means the percentage prescribed by Order in Council and effective at the date of commencement of the relevant rental period.

The Governor in Council may from time to time by Order in Council vary the prescribed percentage for the purposes of this subsection.

(c) In respect of a rental period being—

(i) a rental period referred to in subsection (3) (b); or

(ii) a rental period referred to in subsection (3) (c) (ii),

the rental shall be an amount that bears to the amount that would have been the rental had the period been a rental period referred to in subsection (4) (a) the same proportion that the actual rental period expressed in weeks (in which expression a part of a week shall be taken to be a whole week) bears to 52.

(d) For the purposes of this subsection the unimproved value of land shall be—

(i) in respect of the first rental period of a lease, the capital value of the land demised fixed pursuant to subsection (2) (a);

(ii) in the case where a valuation of the unimproved value of the land made by the Valuer-General under the *Valuation of Land Act* 1944–1980 is in force at the date of commencement of the rental period in question, the amount of that valuation or that amount as varied by the Land Court, on appeal by the lessee under paragraph (e);

(iii) in any other case, the amount that the Governor in Council determines in the particular case to be the unimproved value of the land.

(e) If the lessee is dissatisfied with the valuation of the Valuer-General of the unimproved value of the land, he may, within 42 days after receipt by him of notification in writing by the Commission of the amount of the valuation, appeal against the valuation to the Land Court.

Such appeal shall be instituted by lodging in the Land Court registry written notice of his grounds of appeal and serving a copy of that notice on the Commission.

Upon hearing an appeal under this paragraph the Land Court may—

(i) vary the amount of the valuation in such way as it thinks just; or

(ii) disallow the appeal and confirm the amount of the valuation,

and may make such order as to the costs of the appeal as it thinks fit.

The unimproved value of land shall be determined by the Land Court in accordance with the provisions of the *Valuation of Land Act* 1944–1980 as if the Land Court were the Valuer-General.

The determination of the Land Court on appeal shall be final and conclusive.”.

(2) Until the expiration of the rental period current at 1 January 1984 of any lease demised on or before 1 January 1984 pursuant to section 22B of the Principal Act, the provisions of section 22B (2) (c), (d), (e) and (f) of the Principal Act, notwithstanding their repeal by subsection (1), shall continue to apply in respect of that lease.

**8. Amendment of s. 23.** Section 23 of the Principal Act is amended by—

(a) omitting subsection (5);

(b) omitting subsection (8).

**9. Amendment of s. 23A. Advances for the purchase of dwelling-houses.** Section 23A of the Principal Act is amended by—

(a) in subsection (2)—

(i) after provision (a), inserting the word “ and ”;

(ii) after provision (b), omitting the expression and word “; and ”;

(iii) omitting provision (c);

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

“ (4) The Commission shall not make to a person an advance or advances under this section the amount of which exceeds 90 per centum of—

(a) the purchasing price; or

(b) the fair estimated value of the house and its appurtenant land, whichever is the less.”;

(c) omitting subsection (7).

**10. Amendment of s. 24.** Section 24 of the Principal Act is amended in subsection (6) in paragraph (vi) by—

(a) omitting the words “ Division II of Part VII of the ” and the words “, and the provisions of that Act in the said Division referred to,”;

(b) at the end thereof, inserting the following subparagraph:—

“ The provisions of section 188 of the *Land Act 1962–1982* do not apply to leases referred to in this paragraph.”.

**11. Amendment of s. 24A. Power of Commission to provide home sites.** Section 24A of the Principal Act is amended in subsection (7) by—

(a) in the fourth paragraph commencing with the words “ Every such lease ” omitting the words “ Division II of Part VII of ” and the words “ and the provisions of that Act referred to therein ”;

(b) after the fourth paragraph as amended, inserting the following paragraph:—

“ The provisions of section 188 of the *Land Act 1962–1982* do not apply to leases referred to in this section.”.

**12. New s. 24B.** The Principal Act is amended by inserting after section 24A the following section:—

“ **24B. Application of Act to Workers’ Homes Perpetual Town Leases.** (1) Notwithstanding the provisions of the *Workers’ Homes Acts Repeal Act 1961–1978*, each Perpetual Town Lease—

(a) granted under *The Workers’ Homes Acts, 1919 to 1957* or deemed to be so granted; and

(b) current at the date of commencement of the *State Housing Act and Another Act Amendment Act 1983*,

shall be deemed to be and, it is hereby declared, always has been on and from the date of commencement of the *Commonwealth and State Housing Agreement and State Housing Act and Another Act Amendment Act 1978* a Perpetual Town Lease granted under section 24 of this Act and the provisions of this Act and of any other Act or law that apply to or in respect of Perpetual Town Leases granted under section 24 shall and, it is hereby declared, always did from the date of that commencement apply accordingly.

(2) Nothing in subsection (1) shall invalidate any thing validly done in pursuance of any provision of the *Workers' Homes Acts Repeal Act 1961-1978* relating to Perpetual Town Leases prior to the date of commencement of this section which thing shall be deemed to have been validly done under the corresponding Act or law that applied to Perpetual Town Leases granted under section 24 of this Act.

(3) The provisions of section 10 (6) and (7) of the *Workers' Homes Acts Repeal Act 1961-1978* shall continue to apply notwithstanding the repeal of that Act by the *State Housing Act and Another Act Amendment Act 1983*."

**13. New s. 24C.** The Principal Act is amended by inserting after section 24B as inserted by section 12 the following section:—

" **24C. Rental provisions regarding perpetual leases.** (1) This section applies to all perpetual leases granted or deemed to have been granted, whether before or after the commencement of the *State Housing Act and Another Act Amendment Act 1983*, pursuant to this Part.

(2) Subject to this section, each rental period of perpetual leases granted or deemed to have been granted pursuant to this Part shall be one year.

(3) The first rental period of a perpetual lease granted after 31 December 1983 shall be from the date of grant of the lease to 30 June next occurring after the expiration of 12 months from the date of grant.

(4) Where a perpetual lease granted or deemed to have been granted pursuant to this Part subsists on 31 December 1983—

- (a) notwithstanding subsection (2), the rental period subsisting at 31 December 1983 shall continue as the rental period;
- (b) upon the expiration of the rental period referred to in provision (a), the rental period shall be from the day after the date of that expiration to 30 June next following; and
- (c) each rental period subsequent to the rental period prescribed in provision (b) shall be one year.

(5) (a) For each rental period of one year (other than the first rental period of a perpetual lease) commencing after 31 December 1983 the annual rental shall be a sum equal to—

- (i) the prescribed percentage of the unimproved value of the land the subject of the lease at the date of commencement of the period in question; or
- (ii) \$30,

whichever is the greater.

(b) For the purposes of this subsection “prescribed percentage” means three per centum or such other percentage prescribed by Order in Council and effective at the date of commencement of the relevant rental period.

The Governor in Council may from time to time by Order in Council vary the prescribed percentage for the purposes of this subsection.

(6) In respect of a rental period being—

- (a) a rental period referred to in subsection (4) (b); or
- (b) the first rental period referred to in subsection (3),

the rental shall be an amount that bears to the amount that would have been the rental had the period been a rental period referred to in subsection (5) (a) the same proportion that the actual rental period expressed in weeks (in which expression a part of a week shall be taken to be a whole week) bears to 52.

(7) For the purposes of this section, the unimproved value of land shall be—

(a) in respect of the first rental period of a lease—

- (i) in the case of a perpetual lease granted pursuant to section 24, the capital value of the land approved by the Governor in Council under that section;
- (ii) in the case of a perpetual lease granted pursuant to section 24A, the capital value of the land fixed by the Commission under that section;

(b) in the case where a valuation of the unimproved value of the land made by the Valuer-General under the *Valuation of Land Act 1944–1980* is in force at the date of commencement of the rental period in question, the amount of that valuation or that amount as varied by the Land Court, on appeal by the lessee under subsection (8);

(c) in any other case, the amount that the Governor in Council determines in the particular case to be the unimproved value of the land.

(8) If the lessee is dissatisfied with the valuation of the Valuer-General of the unimproved value of the land, he may, within 42 days after receipt by him of notification in writing by the Commission of the amount of the valuation, appeal against the valuation to the Land Court.

Such appeal shall be instituted by lodging in the Land Court registry written notice of his grounds of appeal and serving a copy of that notice on the Commission.

Upon hearing an appeal under this subsection the Land Court may—

- (a) vary the amount of the valuation in such way as it thinks just; or
- (b) disallow the appeal and confirm the amount of the valuation,

and may make such order as to the costs of the appeal as it thinks fit.

The unimproved value of land shall be determined by the Land Court in accordance with the provisions of the *Valuation of Land Act 1944–1980* as if the Land Court were the Valuer-General.

The determination of the Land Court on appeal shall be final and conclusive.”.

**14. s. 2 of Act No. 21 of 1981 to continue to have effect.** Notwithstanding its repeal by section 6 of the *Land Act and Another Act Amendment Act 1982*, section 2 of the *Land Act and Another Act Amendment Act 1981* shall continue, and it is declared always did on and from the date of that repeal, to have effect for the purpose of the determination of the annual rental payable in respect of rental periods commencing before 1 January 1984 under perpetual leases granted or held under *The Workers' Homes Acts, 1919 to 1957* or the *State Housing Act 1945–1982*.

**15. Repeal of s. 25A.** (1) The Principal Act is amended by omitting section 25A.

(2) The Home Builders Deposit Trust Fund established in the Treasury shall be discontinued.

**16. New s. 33A.** The Principal Act is amended by inserting after section 33 the following section:—

“ **33A. Priority of amounts added to principal under mortgage.** Where, pursuant to the terms and conditions under which moneys secured by a mortgage are advanced by the Commission, an amount is added to and becomes part of the principal then outstanding by the mortgagor, that amount shall rank in priority to any mortgage entered into by the mortgagor with another mortgagee (whether or not the Commission has notice of or consents to that mortgage) subsequent to the firstmentioned mortgage.”.

**17. Amendments of Schedule.** (1) The Principal Act is amended in the Schedule by—

(a) in clause 9—

(i) omitting from the note appearing in and at the beginning of the clause the words “ **during term fixed** ” and substituting the words “ **until repaid in full** ”;



(ii) omitting the words “for the term fixed under or pursuant to this Act, and shall bear” and substituting the words “until the full amount has been repaid together with”;

(b) in clause 12—

(i) in subclause (a)—

(A) omitting from the paragraph commencing with the words “For the period” the words “For the period ending six months after the date on which the advance or any instalment thereof is made” and substituting the words “Until the first day of the month next following the date of payment to the contractor of the final instalment of the advance for the erection of the dwelling-house”;

(B) omitting the paragraph commencing with the words “After the expiration” and substituting the following paragraph:—

“Upon the first day of the month next following the date of payment to the contractor of the final instalment of the advance for the erection of the dwelling-house or, in the case of an advance deemed to have been made pursuant to section 24 (7) (a) (ii), from the date on which the advance or any instalment thereof is made, the advance with interest at the rate prescribed from time to time shall be repaid by the borrower to the Commission by payment on the prescribed day of each month in each year of such monthly instalments as the Commission may determine from time to time until the whole advance with interest at the rate prescribed from time to time has been repaid.”;

(C) omitting the paragraph commencing with the words “When any advance” and the proviso thereto and substituting the following paragraph:—

“In respect of an advance made by instalments by the Commission under the provisions of section 23A the borrower shall pay to the Commission interest on the advance at the rate prescribed from time to time from the date on which the advance is made up to and including the last day of the month in which it is so made and that advance together with interest at the rate prescribed from time to time shall be repaid by the borrower to the Commission commencing from the first day of the month next succeeding that in which the advance is made by payment on the prescribed day of each month in each year of such monthly instalments as the Commission may determine from time to time until the whole advance with interest at the rate prescribed from time to time has been repaid.”;

(ii) omitting subclause (b) and the proviso thereto and substituting the following subclause:—

“(b) The purchase money under a contract of sale shall be paid by the purchaser together with interest at the rate prescribed pursuant to section 33 from time to time on the outstanding balance of the purchase money at the beginning of each month to the Commission by payment on the prescribed day of each month

in each year of such monthly instalment as the Commission may determine from time to time until the whole of the purchase money with interest at the rate prescribed from time to time has been paid.

There shall be payable with and additional to each monthly instalment, where the tenure of the land is perpetual leasehold, one-twelfth of the annual rental of the appurtenant land.”;

(iii) omitting subclause (c) and the proviso thereto and substituting the following subclause:—

“(c) Where the period for—

(i) repayment of an advance by a borrower; or

(ii) the payment of the purchasing price under a contract of sale,

exceeds 30 years, the borrower or purchaser and any joint borrower or purchaser shall not be eligible to take the insurance cover provided under section 25B.”;

(c) in clause 13, omitting the words “, so as to shorten the term of repayment of the advance.”;

(d) in clause 14, omitting all words from and including the words “; and the amounts” to the end thereof;

(e) in clause 18, in subclause (iii)—

(i) in paragraph (a), omitting from the paragraph commencing with the words “A lessee of” the words “determined by the Land Court”;

(ii) in paragraph (c), omitting the words “or The Land Act”;

(iii) in paragraph (d)—

(A) omitting from provision (i) the words “as determined by the Land Court”;

(B) omitting the proviso to provision (ii);

(iv) in paragraph (e), omitting the word “Commissioner” and substituting the word “Commission”;

(f) in clause 21 (i)—

(i) in the paragraph commencing with the words “Every agreement” inserting after the words “or letting” the words “or mortgage”;

(ii) in the paragraph commencing with the words “If the owner” inserting after the word “transfers” the words “, mortgages”;

(g) in clause 21 at the end thereof inserting the following paragraph:—

“Nothing in this Act or any other enactment shall require the Commission to consent to the transfer, subdivision, letting, mortgaging or abandonment of any land to which this clause applies.”.

(2) Clauses 9, 12, 13 and 14 of the Schedule to the Principal Act, notwithstanding their amendment by subsection (1), shall continue to apply in respect of advances made and contracts of sale entered into under the Principal Act before the commencement of this Act as if those clauses had not been so amended.

PART III—AMENDMENTS OF STATE HOUSING (FREEHOLDING OF LAND) ACT 1957–1980

**18. Citation.** (1) In this Part the *State Housing (Freeholding of Land) Act 1957–1980* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *State Housing (Freeholding of Land) Act 1957–1983*.

**19. Amendment of s. 2. Parts of Act.** Section 2 of the Principal Act is amended by omitting the words “PART III—PROVISION FOR THE FREEHOLDING OF CERTAIN LEASEHOLDS HELD UNDER “THE WORKERS’ HOMES ACTS, 1919 TO 1957””.

**20. Amendment of s. 4. Conversion of certain tenures from Perpetual Leases to leases for term of years with freeholding covenant.** Section 4 of the Principal Act is amended by inserting after the words “and held” the words “or deemed to be held”.

**21. Amendment of s. 9. Payment of purchasing price including interest thereon.** (1) Section 9 of the Principal Act is amended in subsection (7) by inserting at the end thereof the following paragraph:—

“The Governor in Council may prescribe different rates per centum per annum of the interest payable on such purchasing prices of land as is specified in the relevant Order in Council.”

(2) It is hereby declared that, notwithstanding Order in Council of 12 August 1982 published in the Gazette on 14 August 1982 at page 2746 made pursuant to section 9 (7) of the Principal Act, the rate per centum per annum of the interest payable on the purchasing price of land applications for the freeholding of which were received by the Commission before 14 August 1982 continued to be from 14 August 1982 and shall continue to be eight per centum per annum until varied pursuant to section 9 of the Principal Act.

**22. Repeal of Part III—Provision for Freeholding of Certain Leaseholds Held Under “The Workers’ Homes Acts, 1919 to 1957”.** The Principal Act is amended by omitting the heading “PART III.—PROVISION FOR THE FREEHOLDING OF CERTAIN LEASEHOLDS HELD UNDER “THE WORKERS’ HOMES ACTS, 1919 TO 1957.”” appearing after section 10 and omitting sections 11 to 18, both inclusive.

SCHEDULE

[s. 3

Year and Number of Act	Short Title	Extent of Repeal
10 Eliz. 2 No. 13	<i>The Workers' Homes Acts Repeal Act of 1961</i>	The whole.
11 Eliz. 2 No. 9	<i>The State Housing Acts and Another Act Amendment Act of 1962</i>	Part III
No. 23 of 1964	<i>The State Housing Acts and Another Act Amendment Act of 1964</i>	Part III
No. 21 of 1972	<i>Workers' Homes Acts Repeal Act Amendment Act 1972</i>	The whole.
No. 3 of 1978	<i>Workers' Homes Acts Repeal Act Amendment Act 1978</i>	The whole.