

Queensland



ANNO TRICESIMO TERTIO

ELIZABETHAE SECUNDAE REGINAE

No. 89 of 1984

**An Act to amend the State Housing Act 1945–1983 and the
State Housing (Freeholding of Land) Act 1957–1983
each in certain particulars**

[ASSENTED TO 12th NOVEMBER, 1984]

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 1984*.

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

PART I—PRELIMINARY (ss. 1-2);

PART II—AMENDMENTS OF STATE HOUSING ACT 1945-1983 (ss. 3-8);

PART III—AMENDMENTS OF STATE HOUSING (FREEHOLDING OF LAND) ACT 1957-1983 (ss. 9-11).

PART II—AMENDMENTS OF STATE HOUSING ACT 1945-1983

3. Citation. (1) In this Part the *State Housing Act 1945-1983* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *State Housing Act 1945-1984*.

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

(a) in subsection (1)—

(i) in provision (a), inserting after the word “owned” the words “or being acquired”;

(ii) omitting the words “with the aid of such advances”;

(b) after subsection (1), inserting the following subsection:—

“(1A) (a) In his application for an advance under provision (a) of subsection (1) the applicant may apply for the Commission to utilize and the Commission may utilize part of the amount to be advanced for the purpose of liquidating the liability of the applicant arising as a consequence of his purchasing or acquiring or agreeing to purchase or acquire the land upon which the dwelling-house is intended to be erected.

(b) It shall be a condition of an advance any part of which is utilized as provided in paragraph (a) that the applicant, within the period of three months of that utilization or such longer period as the Commission in the particular case approves, shall execute an agreement approved by the Commission for the

erection of a dwelling-house on the land the subject of the application for the advance.”;

(c) omitting subsection (2) and substituting the following subsection:—

“(2) An advance shall not be made under this section to a person unless the Commission is satisfied that—

- (a) the applicant is the owner of or is purchasing or acquiring or has agreed to purchase or acquire any land whether freehold, leasehold or an estate or interest in land that the Commission accepts as being of a sufficiently permanent nature and as suitable for the purposes of this section;
- (b) the dwelling-house in respect of which the advance is made is intended to be used by the borrower as a home for himself and his dependants and for no other purpose; and
- (c) neither the borrower nor the wife or husband (if any) of the borrower is the owner of any other dwelling-house within Queensland or elsewhere.

Except as provided in subsection (1A), an advance shall only be made under this section if the applicant for the advance is the owner of the land the subject of the application.”;

(d) in subsection (3), omitting the words “ninety cents in the dollar” and substituting the expression “90 per centum”.

5. Amendment of s. 23A. Advances for purchase of dwelling-houses. Section 23A of the Principal Act is amended by 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.”.

6. Repeal of and new s. 26. The Principal Act is amended by repealing section 26 and substituting the following section:—

‘26. Letting or leasing of houses to eligible persons. (1) The Commission may, on such terms and for such periods and subject to such covenants and conditions as are prescribed, let or lease to any eligible person any house vested in it together with the land on which it is situated:

Provided that a person shall not be an eligible person unless the Commission is satisfied that—

- (a) the house is intended to be used by the person as a home for himself and his dependants (if any) and for no other purpose; and

(b)—

- (i) neither the person, nor the wife or husband (if any) of that person, is the owner of any house in Queensland or elsewhere; or
- (ii) if the person or the wife or husband (if any) of that person is the owner of any house in Queensland or elsewhere, the person has a sufficient reason for not residing in that house.

(2) The Commission, in letting or leasing any house and land, shall give preference to those persons who, in its opinion, are in greatest need of accommodation as a home.

(3) The Governor in Council may make regulations for or with respect to determining the amount of rent to be paid by tenants under this Part having regard to—

- (a) the overall costs of providing and maintaining housing for the purposes of this Part (including administration costs); and
- (b) the income of the tenant (including the husband or wife of the tenant who is or will be residing with the tenant) and other occupants.

(4) The regulations may provide for rebates of rent to be paid by tenants under this Part in such circumstances and subject to such conditions as are prescribed.

(5) The provisions of the Schedule shall, so far as may be necessary or applicable, *mutatis mutandis*, apply in respect of a tenant or lessee under this Part.”.

7. Amendment of s. 48. Regulations. Section 48 of the Principal Act is amended by—

(a) in subsection (2)—

- (i) in provision (iv) omitting the word “economic”;
- (ii) omitting provision (va);

(b) omitting subsection (3) and substituting the following subsection:—

“(3) **Tabling of Orders in Council.** Section 28A of the *Acts Interpretation Act 1954–1977* (Tabling of Regulations) shall apply with respect to Orders in Council made for the purposes of this Act as if those Orders in Council were regulations.”.

8. Amendment of Schedule. The Schedule to the Principal Act is amended by—

(a) in clause 1—

(i) in subclause (1), omitting the words “his agent” where they appear three times and substituting the words “its agent” in each case;

(ii) in subclause (2)—

(A) in the first paragraph, omitting the words “to him or to his” and substituting the words “to it or to its”;

(B) in the fourth paragraph, omitting the words “his agent” and substituting the words “its agent”;

(C) in the fifth paragraph, omitting the words “his agent” and substituting the words “its agent”;

(iii) in subclause (3), in the first paragraph, omitting the words “as he may” and substituting the words “as it may”;

(iv) in subclause (4), omitting the word “Commission” and substituting the word “Commissioner”;

(v) in subclause (6), omitting the word “he” and substituting the word “it”;

(b) in clause 2, omitting the word “he” where it twice appears and substituting the word “it” in each case;

(c) omitting clause 8;

(d) in clause 12, in paragraph (a)—

(i) in the paragraph commencing with the words “Upon the first day of” omitting the words “or any instalment thereof”;

(ii) in the paragraph commencing with the words “In respect of an advance” omitting the words “by instalments”;

(e) in clause 15, in subclause (2), omitting the words “he thinks expedient” where they twice appear and substituting the words “it thinks expedient” in each case;

(f) in clause 19, in provision (i), omitting the word “his” where it twice appears and substituting the word “its” in each case;

(g) in clause 20, in the third paragraph, in provision (ii), omitting the word “his” and the word “him” and substituting the word “its” and the word “it” respectively;

(h) in clause 22, omitting the words “he thinks” and substituting the words “it thinks”;

(i) in clause 24—

(i) in subclause (1), omitting the word “his” and substituting the word “its”;

(ii) in subclause (2), omitting the word "his" and substituting the word "its".

PART III—AMENDMENTS OF STATE HOUSING (FREEHOLDING OF LAND) ACT 1957–1983

9. Citation. (1) In this part the *State Housing (Freeholding of Land) Act 1957–1983* 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 1957–1984*.

10. New s. 5A. The Principal Act is amended by inserting after section 5 the following section:—

"5A. Notification of rental credit. (1) In respect of every application pursuant to section 4 made after the commencement of the *State Housing Act and Another Act Amendment Act 1984*, the notice given to an applicant pursuant to section 5 (4) shall include advice of the total of amounts paid as rent under the perpetual lease in respect of the period when the applicant was the lessee.

(2) For the purposes of this section the period when the applicant was the lessee includes any period when—

(a) the applicant together with another person (who is now deceased) was the lessee; or

(b) a person other than the applicant (which person is now deceased) was the lessee,

if, upon the death of that person, that person's interest passed (whether by way of survivorship or succession) to the applicant."

11. Amendment of s. 8. Terms and conditions of freeholding lease. Section 8 of the Principal Act is amended by—

(a) omitting paragraph (e) and substituting the following paragraph:—

"(e) Moneys paid as rent under the perpetual lease in respect of the period before the commencement of the term of the freeholding lease when the applicant for the freeholding lease was the lessee under that perpetual lease shall be credited to the purchasing price but moneys paid as rent during any other period shall not be so credited:

Provided that the amount so credited shall be limited to 50 per centum of the purchasing price;"

(b) at the end of the section inserting the following paragraph:—

"For the purposes of paragraph (e), the period when the applicant for the freeholding lease was the lessee includes any period when—

(a) the applicant together with another person (who is now deceased) was the lessee of the perpetual lease; or

(b) a person other than the applicant (which person is now deceased) was the lessee of the perpetual lease, if, upon the death of that person, that person's interest passed (whether by way of survivorship or succession) to the applicant.”.