



Western Australia

## **Housing Agreement (Commonwealth and State) Act 1973**

Compare between:

[01 Jul 1982, 00-d0-02] and [30 Apr 1998, 00-e0-05]



## Housing Agreement (Commonwealth and State) Act 1973

**An Act relating to Financial Assistance from the Commonwealth for  
the purposes of Housing.**

~~[Assented to 21 December 1973.]~~

Be it enacted —

**1. Short title**

This Act may be cited as the *Housing Agreement  
(Commonwealth and State) Act 1973*.

**2. Interpretation**

In this Act unless the contrary intention appears —

**“instrument of constitution”** means the Act or other instrument by which a lending institution is constituted by authority of, or subject to, which the lending institution carries on its business, and includes rules, by-laws, regulations, and other subordinate authorizations effective under the Act or other instrument;

**“lending institution”** means any building society or lending authority of the State to which loans may be made under subclause (4) of clause 23 of the scheduled agreement of moneys standing to the credit of the Home Builders’ Account or, as may be appropriate under subclause (1) of clause 24 of the second supplemental agreement of moneys standing to the credit of the Home Purchase Assistance Account;

**“loan agreement”** means an agreement between the State and a lending institution in relation to a loan under subclause (4) of clause 23 of the scheduled agreement to enable the lending institution to make loans to borrowers to assist such borrowers to build or purchase homes for themselves and their families or, as may be appropriate, in relation to a loan under subclause (1) of clause 24 of the second supplemental agreement for a like purpose;

**“scheduled agreement”** means, in section 3 of this Act, the agreement a copy of which is set forth in the First Schedule to this Act, and elsewhere in this Act means that agreement as varied by the supplemental agreement;

**“supplemental agreement”** means the agreement copy of which is set forth in the Second Schedule to this Act;

**“the second supplemental agreement”** means the agreement a copy of which is set forth in the Third Schedule to this Act.

*[Section 2 amended by No. 35 of 1974 s.2; No. 20 of 1978 s.3.]*

**3. Authorization or confirmation of execution of scheduled agreement**

In order that the scheduled agreement may, as between the Commonwealth and the State, come into force as provided by Part I of the scheduled agreement —

- (a) the execution by or on behalf of the State of an agreement substantially in accordance with the form of the scheduled agreement, if not already executed prior to the coming into operation of this Act, is hereby authorized; or
- (b) if already executed by or on behalf of the State prior to the coming into operation of this Act, the execution of the agreement by or on behalf of the State is approved.

*[Section 3 amended by No. 20 of 1978 s.4.]*

**3A. Authorization or confirmation of execution of supplemental agreement**

In order that the supplemental agreement may, as between the Commonwealth and the State, come into force as provided by Part I of the supplemental agreement —

- (a) the execution by or on behalf of the State of an agreement substantially in accordance with the form of the supplemental agreement, if not already executed prior to the coming into operation of this Act, is hereby authorized; or
- (b) if already executed by or on behalf of the State prior to the coming into operation of this Act, the execution of the agreement by or on behalf of the State is approved.

*[Section 3A inserted by No. 35 of 1974 s.3.]*

**3B. Authorization or confirmation of execution of second supplemental agreement**

In order that the second supplemental agreement may, as between the Commonwealth and the State, come into force as provided by Part I of the second supplemental agreement —

- (a) the execution by or on behalf of the State of an agreement substantially in accordance with the form of the second supplemental agreement, if not already executed prior to the coming into operation of this Act, is hereby authorized; or
- (b) if already executed by or on behalf of the State prior to the coming into operation of this Act, the execution of the second supplemental agreement by or on behalf of the State is approved.

*[Section 3B inserted by No. 20 of 1978 s.5.]*

**4. Power to make loan agreements**

Power to enter into and to carry out loan agreements with the State is conferred by this Act on a lending institution,

notwithstanding that the power is not conferred by the instrument of constitution of the lending institution, and notwithstanding any provision of the instrument of constitution to the contrary.

**5. Terms and conditions of agreement**

The State and a lending institution may agree to the inclusion in a loan agreement of such terms and conditions as they think fit, but the provisions of section 6 of this Act apply to, and are included by virtue of this section in, every loan agreement, whether those provisions are or are not expressly included by the agreement in it, or are expressly excluded by the agreement from it.

**6. Floating security and charge**

- (1) Subject to sections 7 and 8 of this Act, where a lending 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 lending institution, as floating security for the due observance by the lending 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 lending institution.
- (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 coming into operation of this Act.
- (3) Any amount owing under a loan agreement by a lending institution to the State is a debt owing to the Crown.
- (4) If and when applicable, the provisions of section 438 and Division 6 of Part XII of the *Companies (Western Australia) Code* 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 lending institution,

whether under Part XII of the *Companies (Western Australia) Code* of a corresponding law; or on termination of the lending 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 lending 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 lending institution from, or limit the lending institution in, carrying on business in the ordinary course as if the security did not exist and the charge had not been created.

*[Section 6 amended by No. 10 of 1982 s.28.]*

**7. Lending institution may give securities**

- (1) Where a lending 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 lending institution of the terms and conditions of the loan agreement.
- (2) Where a lending 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 6 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 lending 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 lending institution as is from time to time the subject of those securities.

**8. Property and assets of lending institution may be released**

Where —

- (a) a lending institution has, at any time after the coming into operation of this Act, made a loan agreement; and
- (b) the lending institution has not, in relation to that loan agreement, executed securities pursuant to subsection (1) of section 7 of this Act,

the Treasurer may, at the request of the lending institution and on the recommendation of the Minister, release from the floating charge and security created by section 6 of this Act on the making of the loan agreement, such of the property and assets of the lending institution as are, in his opinion, no longer necessary to secure the due observance by the lending institution of the terms and conditions of the loan agreement.

**9. Power of inspection of affairs of approved institution**

- (1) Where a lending 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 lending institution and to report to the Minister on the result of the examination.



- (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.

**1st Schedule**

[Section 3.]

*[Heading amended by No. 35 of 1974 s.4.]*

AN AGREEMENT made the . . . . . day of . . . . .  
One thousand nine hundred and seventy- . . . . . Between  
The Commonwealth of Australia (in this Agreement called “the  
Commonwealth”) of the first part, The State of New South Wales of the second  
part, The State of Victoria of the third part, The State of Queensland of the  
fourth part, The State of South Australia of the fifth part, The State of Western  
Australia of the sixth part and The State of Tasmania of the seventh part.

WHEREAS —

- (a) at conferences between Ministers for Housing of the Commonwealth and of the States proposals have been discussed in relation to the provision in the States of housing for the welfare of persons who are in need of governmental assistance if their housing requirements are to be met;
- (b) the Commonwealth has proposed to the States that to further the provision of housing to meet those requirements the Commonwealth will grant to the States financial assistance under section 96 of the Commonwealth of Australia Constitution and that the terms and conditions on which the grant of financial assistance should be made are those set out in this Agreement; and
- (c) the Parliament of the Commonwealth has authorized the execution by and on behalf of the Commonwealth of this agreement and the making of advances to the States in accordance with its provisions:

NOW it is hereby agreed as follows —

**PART I — PRELIMINARY**

**1. Commencement of Agreement**

This Agreement shall come into force in respect of the Commonwealth and of a State when it has been signed on behalf of the Commonwealth and has been signed on behalf of the State with the authority of the Parliament of the State or, having been signed on

behalf of the State without that authority, is approved by the Parliament of the State.

**2. Operation in respect of States**

Notwithstanding that in this Agreement all the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania are named as parties, this Agreement shall operate as an agreement between the Commonwealth and the State or States in respect of which it comes into force as fully and effectually as if the State or States in respect of which it comes into force were the only State or States named as parties.

**3. Performance of Agreement**

The Commonwealth shall provide for or secure the performance by it and its authorities of the obligations of the Commonwealth under this Agreement and each of the States shall provide for or secure the performance by that State and its authorities of the obligations of that State under this Agreement.

## **PART II — INTERPRETATION**

**4. Reference to States**

In this Agreement each State named as a party in respect of which the Agreement comes into force is referred to as a “State” and, except where the context otherwise indicates, the expression “the States” means all of those States.

**5. References to Ministers**

Where in this Agreement a Minister of State of the Commonwealth or of a State is referred to, the reference shall include a Minister or other member of the Federal Executive Council or Minister of the relevant State, as the case may require, acting on behalf of the Minister referred to.

**6. Definitions**

In this Agreement, unless the contrary intention appears or the context otherwise requires —

**“aged person”** means a person who has reached the age that is determined by the Commonwealth as pensionable for aged persons;

**“dwelling”** means a dwelling-house or flat and includes such fences, outbuildings and other improvements and such connexions for sewerage, drainage, water, electricity, gas and other services as are provided or are reasonably required to be provided for the dwelling-house or flat;

**“family dwelling”** means a dwelling constructed or purchased by a State Housing Authority as being suitable for allocation to a family unit consisting of a couple, with or without children, or of a parent or guardian with one or more children;

**“financial year”** means a period of twelve months commencing on the first day of July;

**“Housing Authority”** in relation to a State, means —

- (a) in the case of New South Wales — The Housing Commission of New South Wales;
- (b) in the case of Victoria — the Housing Commission constituted under the *Housing Act 1958* of that State as amended and in force for the time being;
- (c) in the case of Queensland — The Queensland Housing Commission;
- (d) in the case of South Australia — the South Australian Housing Trust;
- (e) in the case of Western Australia — the State Housing Commission constituted under the *State Housing Act 1946* of that State as amended and in force for the time being; and
- (f) in the case of Tasmania — the Director of Housing holding office under the *Homes Act 1935* of that State as amended and in force for the time being;

**“the Home Builders’ Account”** means the account of a State referred to in clause 23 and, if that account is incorporated into another account or consolidated with other accounts as mentioned in subclause (2) of that clause, means the account resulting from the incorporation or consolidation;

**“the Minister”** means the Minister for Housing of the Commonwealth or other Minister of State of the Commonwealth for

the time being responsible for the administration of this Agreement for the Commonwealth;

**“the State Minister”** means the Minister of State of the State for the time being responsible for the administration of this Agreement for the relevant State.

**7. Construction of Agreement**

In this Agreement, unless the contrary intention appears —

- (a) a reference to a Part or to a clause is to a Part or a clause of this Agreement, as the case may be;
- (b) words importing the masculine gender also import the feminine and, where appropriate, the neuter; and
- (c) words in the singular number include the plural and *vice versa*.

**PART III — FINANCIAL ASSISTANCE**

**8. Financial Assistance**

- (1) During the financial years of this Agreement the Commonwealth will provide financial assistance to the States for welfare housing purposes by way of advances upon and subject to the terms of this Agreement.
- (2) The financial years of this Agreement shall be the five financial years commencing on the first day of July in the years 1973, 1974, 1975, 1976 and 1977.

**9. Allocation of Assistance**

- (1) Of the total amount of the advances by the Commonwealth to the State under this Agreement in respect of a financial year, portion (in this Agreement referred to as Housing Authority advances) shall be for allotment by the State to the Housing Authority of the State for the provision of housing in accordance with Part IV and the other portion (in this Agreement referred to as Home Builders' Account advances) shall be for payment into the Home Builders' Account of the State for application in accordance with Part V.
- (2) Subject to subclause (3) of this clause, the amount of the Home Builders' Account advances to be made to a State in respect of a

financial year shall be not less than 20 per centum nor more than 30 per centum of the total amount of the advances to be made by the Commonwealth to the State under this Agreement in respect of the financial year.

- (3) Where a State has in each of the two financial years immediately preceding the first day of July, 1973, allocated to its Home Builders' Account from the amount set aside for housing within the meaning of subsection (2) of section 3 of the *States Grants (Housing) Act 1971* in excess of 30 per centum of that amount, the State may, if at the request of the State Minister the Minister so approves, allocate as Home Builders' Account advances in respect of a financial year of this Agreement more than 30 per centum of the total amount of the advances under this Agreement in respect of that financial year.

**10. Amount of advances**

- (1) Each State shall, not later than the fifteenth day of May preceding the beginning of a financial year of this Agreement, inform the Minister of the amounts that the State wishes the Commonwealth to advance to it under this Agreement in respect of the financial year for —
- (a) the provision of welfare housing by the Housing Authority of the State; and
  - (b) payment to the Home Builders' Account of the State.
- (2) After consultation with the State Minister on the requirements of the State for welfare housing, during which regard shall be taken, among other relevant matters of the numbers seeking assistance, the cost of land and of dwelling construction and the capacity of the State to use advances, the Minister shall determine the amounts to be advanced to the State in respect of the financial year as Housing Authority advances and as Home Builders' Account advances in accordance with clause 9.

**11. Instalments of Advances**

The advances to be made by the Commonwealth to a State under this Agreement in respect of a financial year shall be made available by the Commonwealth during that financial year by equal monthly instalments unless otherwise agreed between the Treasurer of the Commonwealth and the Treasurer of the State.

**12. Interest**

- (1) Each advance made by the Commonwealth to a State under this Agreement or so much of each advance as for the time being remains unrepaid by the State shall until repayment as provided in clause 13 bear interest computed from the date upon which the advance is made.
- (2) The rate of interest shall be —
  - (a) in respect of Housing Authority advances — 4 per centum per annum; and
  - (b) in respect of Home Builders' Account advances — 4½ per centum per annum.
- (3) A State will on the thirty-first day of December and the thirtieth day of June of a financial year during which advances are made to the State by the Commonwealth under this Agreement pay to the Commonwealth the interest that has accrued on those advances up to the date of the payment of the interest.

**13. Repayment of Advances**

- (1) Each State will repay to the Commonwealth the amount of each advance made to the State under this Agreement, and will pay the interest thereon as provided in clause 12 other than that payable under subclause (3) of that clause, by equal annual instalments of principal and interest so that the amount of the advance, together with the interest, will be repaid in 53 years from the beginning of the financial year next succeeding the financial year in respect of which the advance was made, the first such instalment being payable on or before the end of the financial year next succeeding the financial year in respect of which the advance was made.
- (2) Accounting procedures in respect of the repayment of advances will be as agreed upon between the Treasurer of the Commonwealth and the Treasurer of each State or, in default of agreement, as determined by the Treasurer of the Commonwealth, but nothing in this subclause shall affect the other provisions of this Agreement.

## **PART IV — HOUSING AUTHORITY ADVANCES**

### **14. Use of Advances**

Housing Authority advances shall be used by the State for the provision through its Housing Authority of welfare housing in accordance with this Agreement and, without prejudice to the generality of the foregoing, may be used by the Housing Authority for the following purposes —

- (a) to meet the costs of acquisition and development of land primarily for residential purposes;
- (b) to meet the cost of construction of dwellings;
- (c) to meet the cost of purchase and upgrading and renovation of dwellings, and of substantial improvements to its existing dwellings but not so as to include the cost of maintenance of any dwellings; and
- (d) subject to the approval of the Minister, to provide bridging finance for community amenities that are not the responsibility of the Housing Authority.

### **15. Allocation of Dwellings**

- (1) Dwellings for the provision of which Housing Authority advances have been used and which become available for allocation during the period of five years commencing on the first day of January, 1974, shall be allocated by the Housing Authority of the State for rental or for purchase by applicants for housing assistance in accordance with this clause and the other provisions of this Part.
- (2) The dwellings shall be allocated so that —
  - (a) not less than 85 per centum of the family dwellings that are allocated for the first time;
  - (b) all of the dwellings built for couples, without dependants, of which the main breadwinner is an aged person or an invalid; and
  - (c) all of the dwellings built for single aged persons and for invalids,

are allocated to families and other persons who respectively satisfy the needs tests set out in clause 16.



- (3) Subject to the granting of priorities in cases of urgent need, dwellings shall be allocated to persons in order of lodgement or of acceptance by the Housing Authority of applications for housing assistance.
- (4) A Housing Authority shall not be required by the provisions of this clause to allocate a dwelling to a family or other person where the circumstances are such that in the opinion of the Housing Authority, the family or other person does not require housing assistance of the nature that is provided for by this Part.

**16. Needs Tests**

- (1) The needs tests referred to in subclause (2) of clause 15 for the purpose of the allocation of dwellings are —
  - (a) for a family, which shall consist of not less than a couple, with or without children, or of a parent or guardian with one or more children—that the average gross weekly income of the main breadwinner (exclusive of any overtime and child endowment payments) during the six months immediately prior to the allocation of the dwelling does not exceed —
    - (i) where the family does not include more than two children — 85 per centum of average weekly earnings;
    - (ii) where the family includes more than two children — 85 per centum of average weekly earnings plus two dollars for each child beyond the second;
  - (b) for a couple, without dependants, of which the main breadwinner is an aged person or an invalid — that the gross weekly income of the main breadwinner (exclusive of any overtime) does not at the time of allocation of the dwelling exceed 60 per centum of average weekly earnings;
  - (c) for a single aged person or an invalid — that the gross weekly income of that person at the time of allocation of the dwelling does not exceed 40 per centum of average weekly earnings.
- (2) For the purposes of subclause (1) of this clause “average weekly earnings” means the average weekly earnings per employed male unit in the State or in Australia (as to which the State may elect) during the December quarter in respect of which statistics were last published by

the Commonwealth Statistician prior to the date of allocation of the relevant dwelling.

**17. Variation of Needs Test**

- (1) At the initiative of the Minister and with the concurrence of the State Minister or Ministers concerned or at the request of the State Minister or Ministers concerned, the Minister may at any time vary all or any of the needs tests provided for by clause 16 either generally in respect of a State or States or specifically in relation to specified categories of persons or to localities or locations.
- (2) A variation under subclause (1) of this clause shall be in writing under the hand of the Minister and as soon as practicable after a variation is made a copy shall be forwarded to the Minister for Housing of each State.

**18. Total Allocation of Family Dwellings**

Each State will ensure that the number of family dwellings allocated by the Housing Authority of the State during each of the five calendar years commencing on the first day of January, 1974, to persons eligible as families under this Agreement shall be at least the equivalent of the sum of —

- (a) the total number of the family dwellings for the provision of which Housing Authority advances have been used and which become available during the relevant calendar year for allocation for the first time; and
- (b) 25 per centum of the number of the family dwellings for the provision of which advances by the Commonwealth under this Agreement and under previous Commonwealth-State Housing Agreements have been used and which become available during the year for reallocation by the Housing Authority by way of rental vacancies and of reversion or revesting of dwellings that had been sold.

**19. Limitations and Restraints on Sales of Family Dwellings**

- (1) Subject to subclause (2) of this clause, the Housing Authority of a State shall not sell more than 30 per centum of the family dwellings for the provision of which Housing Authority advances have been

used and which are completed or purchased during the period of five years commencing on the first day of January, 1974.

- (2) In the case of the State of Tasmania the percentage of family dwellings referred to in subclause (1) of this clause that may be sold shall not exceed —
  - (a) during the year commencing on the first day of January, 1974 — 50 per centum; and
  - (b) during the year commencing on the first day of January, 1975 — 40 per centum.
- (3) A dwelling that may be sold under subclause (1) or (2) of this clause shall be sold only to a purchaser who represents a family the income of whose main breadwinner at the time of sale does not exceed the relevant income limit referred to in paragraph (a) of subclause (1) of clause 16 (as at any time varied in accordance with clause 17) except that a dwelling may be sold to the Director of Defence Service Homes to enable such a purchaser to purchase the dwelling from the Director in order to obtain assistance under the Defence Service Homes Act 1918 -1973 as amended from time to time.
- (4) Except with the approval of the Minister, sales of family dwellings in conformity with this clause shall be made on terms under contracts of sale.
- (5) The State shall ensure that a purchaser of a family dwelling will not be entitled to dispose of the dwelling (except by release or resale to the Housing Authority of his interest in the dwelling) during the period of not less than five years after the date of sale and that after the expiration of that period a purchaser who proposes to sell a family dwelling may be required by the Housing Authority to offer to the Housing Authority the release or resale of his interest in the dwelling on the basis of the fair market value of the dwelling and the land on which it is built at the time of the offer.
- (6) Nothing in this clause shall preclude the sale or other disposal by the Housing Authority of the State, subject to the approval of the Minister, of land on which a dwelling is erected where the land is required for public purposes not of a residential character or in other circumstances which the State establishes to the satisfaction of the Minister justify the sale or disposal.

**20. Sale Price and Interest**

- (1) Dwellings built with Housing Authority advances and completed after the thirty-first day of December, 1973, shall not be sold for a price that is less than one-half of the sum of the cost to the Housing Authority of the dwelling and the land on which it is built and the fair market value of the dwelling and the land on which it is built at the date of sale.
- (2) The interest charge, which shall include an element for the costs of administration by the Housing Authority of the contract of sale, to purchasers of dwellings shall not be less than 5 per centum per annum nor more than 54 per centum per annum.

**21. Review of Rentals**

A State shall arrange for the financial position in regard to the rental activities of its Housing Authority to be reviewed at least once in each financial year and shall ensure that rents are adjusted whenever an increase would appear to be justified.

**22. Distributions of Dwellings**

To the maximum extent reasonably practicable —

- (a) dwellings built with Housing Authority advances shall be intermingled with dwellings privately constructed; and
- (b) a State Housing Authority will acquire some blocks in areas developed or to be developed privately and will construct and let dwellings on those blocks.

**PART V — HOME BUILDERS' ACCOUNT ADVANCES**

**23. Home Builders' Account**

- (1) Each State shall pay the Home Builders' Account advances made to the State to an account in the public accounts of the State to be known for the purposes of this Agreement as "the Home Builders' Account".
- (2) A State may arrange for the Home Builders' Account to be incorporated into the account established and operated under that name for the purposes of the 1956-1966 Housing Agreement or into the account opened and maintained in accordance with section 7 of

the *States Grants (Housing) Act 1971* or for all three of those accounts to be consolidated but any such incorporation or consolidation shall not affect the operation of this Part with respect to loans from Home Builders' Account advances under this Agreement.

- (3) The Home Builders' Account shall be credited also with the moneys received by the State from building societies and approved lending authorities in repayment of principal and interest in respect of loans made by the State to those societies and authorities under this Agreement and shall be debited with the repayments of principal and the payments of interest payable by the State to the Commonwealth under clause 13 in respect of Home Builders' Account advances to the State under this Agreement and with any expenses incurred by the State in providing finance for prospective home owners in accordance with this Agreement.
- (4) The moneys standing to the credit of the Home Builders' Account (after allowing for amounts with which the Account is to be debited under the last preceding subclause) shall be used by the State for the purpose of the provision of finance for prospective home owners in the State by way of loans to terminating building or cooperative housing societies (in this Part referred to individually as a "society") or to a lending authority of the State approved by the Minister so that the societies or the authority may make loans (in this Part referred to individually as "a loan to a home owner") to assist the borrowers to build or purchase homes for themselves and their families.

#### **24. Eligibility of Borrowers**

- (1) To be eligible to obtain a loan to a home owner the borrower will be required to represent a family which consists or will consist of not less than a couple, with or without children, or of a parent or guardian with one or more children, of which the average gross weekly income of the main breadwinner (inclusive of overtime and exclusive of child endowment payments) during the six months immediately prior to application for the loan does not exceed —
  - (a) where the family does not include more than two children — 95 per centum of average weekly earnings;
  - (b) where the family includes more than two children — 95 per centum of average weekly earnings plus two dollars for each child beyond the second.

- (2) For the purposes of subclause (1) of this clause “average weekly earnings” has the meaning attributed to that expression in subclause (2) of clause 16.
- (3) At the initiative of the Minister and with the concurrence of the State Minister or Ministers concerned or at the request of the State Minister or Ministers concerned, the Minister may at any time vary the needs test provided for by subclause (1) of this clause either generally in respect of a State or States or specifically in relation to specified categories of persons or to localities or locations.
- (4) A variation under subclause (3) of this clause shall be in writing under the hand of the Minister and as soon as practicable after a variation is made a copy shall be forwarded to the Minister of Housing of each State.
- (5) Where a society or lending authority has entered into an obligation before the first day of July, 1973 to make a loan to a borrower of moneys to be provided from any of the accounts mentioned in subclause (2) of clause 23 and the whole or a part of that loan was not made by the thirtieth day of June, 1973, the loan or the balance of the loan, as the case may be, may be made from moneys standing to the credit of the Home Builders’ Account notwithstanding that the average gross weekly income of the main breadwinner in the family exceeds the relevant limitation in subclause (1) of this clause.

**25. Minimum equity**

A loan to a home owner shall not be made except on the condition that the borrower shall be bound to provide an equity of not less than 3 per centum of the valuation by the society or lending authority of the property in respect of which the loan is made.

**26. Charges for Loans**

The amount that is charged by the society or lending authority in respect of a loan to a home owner by way of interest and management fee shall not exceed the equivalent, calculated with annual rests, of  $5\frac{3}{4}$  per centum per annum of the amount of the loan that for the time being remains to be repaid.

**27. Homes for Purchase**

A loan to a home owner may be made for the purpose of the purchase of a new or previously occupied dwelling and may be made in respect of a dwelling to be purchased from a State Housing Authority where the dwelling has not been built with Housing Authority advances under this Agreement.

**PART VI — MISCELLANEOUS**

**28. Supply of Information**

A State Minister will, upon request by the Minister, supply to the Minister such information relevant to the operation of this Agreement in respect of the State as is reasonably so requested.

**29. Title of Agreement**

This Agreement shall be known and may be referred to as “the 1973 Housing Agreement”.

In witness whereof, etc.

## **2<sup>nd</sup> Schedule**

[Section 3A.]

A SUPPLEMENTAL AGREEMENT made the  
day of One thousand nine hundred  
and seventy-between THE COMMONWEALTH  
OF AUSTRALIA of the first part, THE STATE OF NEW SOUTH WALES of  
the second part, THE STATE OF VICTORIA of the third part, THE STATE OF  
QUEENSLAND of the fourth part, THE STATE OF SOUTH AUSTRALIA of  
the fifth part, THE STATE OF WESTERN AUSTRALIA of the sixth part and  
THE STATE OF TASMANIA of the seventh part.

WHEREAS —

- (a) by an agreement between the parties in the form set out in the Schedule to the *Housing Agreement Act 1973* made the seventeenth day of October 1873 (in this agreement called “the Principal Agreement”) provision was made in relation to housing for the welfare of persons who are in need of governmental assistance if their housing requirements are to be met;
- (b) it has been agreed between the parties that it is desirable that the Principal Agreement be varied in certain respects;
- (c) the Australian Parliament has authorized the execution by and on behalf of the Commonwealth of Australia of this agreement and the provision of financial assistance to the States in accordance with the Principal Agreement as varied by this agreement:

NOW IT IS HEREBY AGREED as follows: —

### **PART I — PRELIMINARY**

#### **1. Commencement of agreement**

This agreement shall come into force in respect of the Commonwealth and of a State when it has been signed on behalf of the Commonwealth and has been signed on behalf of the State with the authority of the Parliament of the State, or, having been signed on behalf of the State without that authority, is approved by the Parliament of the State.



**2. Operation in respect of States**

Notwithstanding that in this agreement all the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania are named as parties, this agreement shall operate as an agreement between the Commonwealth and the State or States in respect of which it comes into force as fully and effectually as if the State or States in respect of which it comes into force were the only State or States named as parties.

**3. Interpretation**

Words and expressions used in this agreement to which a meaning is attributed in or for the purposes of the Principal Agreement shall, unless the contrary intention appears or the context otherwise requires, have in respect of their use in this agreement the respective meanings so attributed to them.

**PART II — AMENDMENT OF PRINCIPAL  
AGREEMENT**

**4. Allocation of assistance**

Subclause (3) of clause 9 of the Principal Agreement is amended so that it provides as follows: —

(3) Where —

- (a) a State has in each of the two financial years immediately preceding the first day of July 1973 allocated to its Home Builders' Account from the amount set aside for housing within the meaning of subsection (2) of section 3 of the *States Grants (Housing) Act 1971* in excess of 30 per centum of that amount; or
- (b) special circumstances in relation to a State warrant the allocation to its Home Builders' Account of more than 30 per centum of the total amount of the advances to be made by the Commonwealth to the State under this Agreement in respect of a financial year,

the State may, if at the request of the State Minister the Minister so approves, allocate as Home Builders' Account advances in respect of a financial year of this agreement more than 30 per centum of the total amount of the advances under this Agreement in respect of the financial year.

**5. Amount of advances**

Clause 10 of the Principal Agreement is amended by the addition of the following subclause: —

- (3) At any time during a financial year after further consultation with the State Minister and having regard to the matters mentioned in subclause (2) the Minister may determine an additional amount or additional amounts to be advanced to a State in respect of the financial year.

**6. Eligibility of borrowers**

- (1) Subclause 24 (1) is amended by deleting the word “inclusive” and inserting in its place the word “exclusive”.
- (2) This amendment shall be deemed to have come into effect on the first day of November 1974.

**7. Confirmation and name**

The Principal Agreement as amended by this agreement is confirmed and shall be known and referred to as “the 1973-1974 Housing Agreement”.

In witness whereof, etc.

*[Second Schedule inserted by No. 35 of 1974 s.5.]*

### **3<sup>rd</sup> Schedule**

[Section 3B.]

AN AGREEMENT made the ..... day of  
..... One thousand nine hundred and  
seventy-eight Between THE COMMONWEALTH OF AUSTRALIA (in this  
Agreement called “the Commonwealth”) of the first part, THE STATE OF  
NEW SOUTH WALES of the second part, THE STATE OF VICTORIA of the  
third part, THE STATE OF QUEENSLAND of the fourth part, THE STATE  
OF SOUTH AUSTRALIA of the fifth part, THE STATE OF WESTERN  
AUSTRALIA of the sixth part, and THE STATE OF TASMANIA of the  
seventh part.

WHEREAS —

- (A) the Commonwealth and the States of Australia have from time to time entered into agreements for the purpose of the provision by the States with financial assistance from the Commonwealth of housing for persons who are in need of governmental assistance if their housing requirements are to be met;
- (B) the Ministers of the respective governments who are responsible for housing have agreed upon the provision of rental housing assistance and home purchase assistance in the States during the three financial years commencing on the first day of July 1978;
- (C) the Ministers have also established principles that are to apply to the provision of housing assistance under this Agreement, namely —
  - (a) housing assistance will —
    - (i) facilitate home ownership for those able to afford it but not able to gain it through the private market;
    - (ii) provide adequate rental housing for those of the community who are deemed to be in need of governmental assistance at a price that is within their capacity to pay;
    - (iii) provide assistance for home ownership and assistance with rental accommodation in the most efficient way and thus to exclude from eligibility those not in need, to minimise continued availability of assistance to those no longer in need and to accord benefits which

are designed so that assistance being provided is related to the particular family's or individual's current economic and social circumstances;

- (b) benefits which are available are offset to the minimum extent practicable by poor location of dwellings, an inadequate range of choice of dwellings and stigmatization of those who are to receive benefits;
  - (c) there will be clear recognition of the separate but complementary roles of
    - (i) construction and acquisition of dwellings;
    - (ii) management of the rental operation; and
    - (iii) sales of dwellings;
  - (d) maximum social benefit will be sought from previous investment in housing; and
  - (e) the States will be able to exercise maximum autonomy and flexibility in the administrative arrangements necessary to achieve these principles;
- (D) it is proposed that in order to implement the agreement of the Ministers the Commonwealth will grant to the States financial assistance under section 96 of the Commonwealth of Australia Constitution and that the terms and conditions on which the grant of financial assistance should be made are those set out in this Agreement;
- (E) the Commonwealth and the States wish to vary in certain respects the agreements which have been entered into as aforesaid; and
- (F) the Parliament of the Commonwealth has authorized the execution by and on behalf of the Commonwealth of this Agreement and the making of advances to the States in accordance with its provisions:

NOW IT IS HEREBY AGREED as follows:

## **PART I — OPERATION OF AGREEMENT**

1. This Agreement shall come into force in respect of the Commonwealth and of a State when it has been signed on behalf of the Commonwealth and has been signed on behalf of the State with the authority of the

Parliament of the State or, having been signed on behalf of the State without that authority, is approved by the Parliament of the State.

Notwithstanding that in this Agreement all the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania are named as parties, this Agreement shall operate as an agreement between the Commonwealth and the State or States in respect of which it comes into force as fully and effectually as if the State or States in respect of which it comes into force were the only State or States named as parties.

2. Acts and things provided for by this Agreement which have been done or carried out in accordance with and in anticipation of the coming into force of this Agreement by a Government which becomes a party to this Agreement shall be deemed to have been done or carried out under and by virtue of this Agreement as if it were in force at the relevant time in respect of that party.

## **PART II — INTERPRETATION**

3. (1) Subject to sub-clause (2), in this Agreement each State named as a party in respect of which the Agreement comes into force is referred to as a “State” and, except where the context otherwise indicates, the expression “the States” means all of those States.  
(2) Where in an existing Housing Agreement included in the Schedule, including any amendment of that Agreement made by this Agreement, the word “State” or the expression “the States” means a State or the States in respect of which that Agreement is in force, that word and that expression shall, for the purposes of the operation of that Agreement, as amended by this Agreement, mean respectively a State or the States in respect of which this Agreement has come into force.
4. (1) In this Agreement —  
    **“the Minister”** means the Minister of State of the Commonwealth for the time being responsible for the administration of this Agreement for the Commonwealth; and  
    **“the State Minister”** means the Minister of State of a State for the time being responsible for the administration of this Agreement for the relevant State.

- (2) A reference in this Agreement to a Minister includes a Minister or other member of the Federal Executive Council or Minister of the relevant State, as the case may require, acting on behalf of or for the time being acting for the Minister referred to.
5. In this Agreement, unless the contrary intention appears or the context otherwise requires —
- “dwelling”** means a dwelling-house or fiat and includes such fences, outbuildings and other improvements and such connexions for sewerage, drainage, water, electricity, gas and other services as are provided or are reasonably required to be provided for the dwelling-house or fiat;
- “financial year”** means a period of twelve months commencing on the first day of July;
- “housing”** means residential housing including dwellings and other forms of residential accommodation;
- “previous housing arrangements”** means the provisions in relation to housing that were made by the existing Housing Agreements and by the *States Grants (Housing) Act 1971* and the *Housing Assistance Act 1973* of the Commonwealth Parliament; and
- “the existing Housing Agreements”** means the Agreements set out in the Schedule and where the singular is used means such one or other of those Agreements as the context requires.
6. In this Agreement, unless the contrary intention appears —
- (a) a reference to a Part or to a clause is to a Part or to a clause of this Agreement, as the case may be;
- (b) a reference to a sub-clause is, unless otherwise indicated, to the relevant sub-clause of the clause in which the reference appears;
- (c) the Schedule referred to is the Schedule to this Agreement;
- (d) words importing the masculine gender also import the feminine and, where appropriate, the neuter; and
- (e) words in the singular number include the plural and vice versa.

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### **PART III — OBJECTIVE OF AGREEMENT**

7. The objective of this Agreement is the provision by the States with financial assistance from the Commonwealth of housing assistance for rental housing and for home purchase in accordance with, and in fulfilment of, the principles set out in recital (C).

### **PART IV — FINANCIAL ASSISTANCE**

8. (1) During the financial years of this Agreement the Commonwealth will provide financial assistance to the States for housing purposes by way of advances upon and subject to the terms of this Agreement in order to assist the States in the achievement of the objective of this Agreement.
- (2) The financial years of this Agreement shall be the three financial years commencing on the first day of July in the years 1978, 1979 and 1980.
9. Of the total amount of the advances by the Commonwealth to the State under this Agreement in respect of a financial year, portion (referred to as advances for rental housing assistance) shall be for allotment by the State for the provision of rental housing in accordance with Part V and the other portion (referred to as advances for home purchase assistance) shall be for payment into the Home Purchase Assistance Account established by the State for application in accordance with Part VI.
10. (1) Each State shall, not later than the thirtieth day of November preceding the beginning of a financial year of this Agreement, inform the Minister of the amounts that the State wishes the Commonwealth to advance it under this Agreement in respect of the financial year for rental housing assistance and home purchase assistance programs of the State and at the same time shall provide estimates of financial performance and planned programs for that year.
- (2) After consultation with the State Ministers of the States and after considering State requirements and practices but without regard to any operating surpluses on rental housing assistance operations under previous housing arrangements and under this Agreement or on the operations of the Home Builders' Accounts or the Home Purchase Assistance Account under those arrangements or under this

Agreement, the Minister shall determine the total amount to be advanced to the State under this Agreement in respect of the financial year.

- (3) In consultation with the State Minister the Minister shall determine and may in like manner at any time vary the allocation between rental housing assistance and home purchase assistance of the total amount of the advances to be made by the Commonwealth to a State under this Agreement in each financial year of this Agreement but the amount of home purchase assistance to be made to a State in respect of the financial year commencing on the 1st day of July 1980 shall not be less than 40 per centum of the total amount of the advances to be made by the Commonwealth to the State under this Agreement in respect of that financial year.
11. The advances to be made by the Commonwealth to a State under this Agreement in respect of a financial year shall be made available by the Commonwealth during that financial year by equal monthly instalments unless otherwise agreed between the Minister for Finance of the Commonwealth and the Treasurer of the State.
12. (1) Each advance made by the Commonwealth to a State under this Agreement or so much of each advance as for the time being remains unrepaid by the State shall until repayment as provided in clause 13 bear interest computed from the date upon which the advance is made.
  - (2) The rate of interest shall be —
    - (a) In respect of rental housing assistance — 5 per centum per annum; and
    - (b) In respect of home purchase assistance — 4½ per centum per annum.
  - (3) A State will on the thirty-first day of December and the thirtieth day of June of a financial year during which advances are made to the State by the Commonwealth under this Agreement pay to the Commonwealth the interest that has accrued on those advances up to the date of the payment of the interest.
13. (1) Each State will repay to the Commonwealth the amount of each advance made to the State under this Agreement and will pay the interest thereon as provided in clause 12, other than that payable under sub-clause (3) of that clause, by equal annual instalments of



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principal and interest so that the amount of the advance, together with the interest, will be repaid in 53 years from the beginning of the financial year next succeeding the financial year in respect of which the advance was made, the first such instalment being payable on or before the end of the financial year next succeeding the financial year in respect of which the advance was made.

- (2) Accounting procedures in respect of the repayment of advances will be as agreed upon between the Minister for Finance of the Commonwealth and the Treasurer of each State, or in default of agreement, as determined by the Minister for Finance of the Commonwealth, but nothing in this sub-clause shall affect the other provisions of this Agreement.

## **PART V — RENTAL HOUSING ASSISTANCE**

14. In this Part “rental housing” means housing for rental which has been provided under the previous housing arrangements or is provided under this Agreement and “rental dwelling” means a dwelling that is included in rental housing.
15. Funds available to a State during a financial year for rental housing assistance programs (in this Part referred to as “rental housing assistance funds”) shall consist of —
- (a) in respect of a financial year of this Agreement, advances for rental housing assistance made under this Agreement during the financial year;
  - (b) in respect of any financial year, any surplus during the financial year of revenue after allowing for rental rebates over outgoings incurred or provided for arising from —
    - (i) the rental housing operations of the State in respect of dwellings provided under previous housing arrangements and under this Agreement; and
    - (ii) any other rental operations of the State which arise out of this Agreement and to which this Agreement applies; and
  - (c) subject to sub-clause 20 (3), net proceeds from the sale of rental dwellings in accordance with the provisions of this Part.

16. (1) Rental housing assistance funds shall be used by the State for the provision of rental housing in such manner subject to and in accordance with the provisions of this Agreement as is appropriate for and conducive to the achievement of the objective of this Agreement with respect to the principles set out in recital (C) which relate to rental housing.
- (2) Without prejudice to the generality of sub-clause (1) or conveying any implication that funds are or are to be made available by the Commonwealth for, or are to be applied by the State for, any particular purpose or purposes or in any order of priority, the particular purposes for which rental housing funds may be used by the State to give effect to sub-clause (1) include the following purposes —
- (a) to meet the costs of and associated with the acquisition, planning and development of land primarily for residential development;
  - (b) to pay for the construction or acquisition of housing;
  - (c) to repay the principal of and pay interest on loans made to the State for rental housing assistance;
  - (d) to provide funds to such voluntary, non-profit, charitable or other housing management bodies or groups as are approved by the State Minister;
  - (e) to enable housing to be let to such charitable bodies and other organisations as are approved by the State Minister for the provision of assistance to disadvantaged persons;
  - (f) to engage in urban renewal activities related to public housing;
  - (g) to allocate funds to local government bodies for the provision of rental housing where the State Minister considers that it would be more appropriate for such rental housing assistance to be carried out by those bodies;
  - (h) to make payments for, or provide bridging finance for, the provision of open space, landscaping, community facilities and for costs associated with land development, including contributions to headworks and reticulation of services;

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- (i) to undertake research and policy development in relation to matters not funded by the Australian Housing Research Council;
  - (j) to undertake and participate in joint ventures, co-operative enterprises or similar arrangements in order that public housing developments may be integrated with private housing and to achieve a desirable socio-economic mixture of housing;
  - (k) to lease housing from the private housing sector;
  - (l) to provide housing advisory services related to public housing; and
  - (m) any other purposes, including special housing needs or innovative practices, agreed upon between the Minister and the State Minister.
17. The conditions of eligibility of persons for rental housing assistance shall be determined by the State and shall ensure that assistance is directed to those applicants most in need of such assistance.
18. (1) The rates at which rents are payable by tenants of rental housing shall be determined by the State which when making any such determination shall have regard to a policy of generally relating rents to rates of rental on the open market.
- (2) Rental rebates are to be granted to tenants who are not able to afford the rent determined in accordance with sub-clause (1) and the Commonwealth and the States will jointly seek ways of establishing a uniform approach to the calculation of such rental rebates.
- (3) The rates of rental shall, as far as practicable, be —
- (i) reviewed annually; and
  - (ii) adjusted according to the movement of rates of rental on the open market.
19. (1) Where in respect of any financial year the rental housing operations of the State result in a surplus of revenue after allowing for rental rebates over outgoings, that surplus shall be separately identified to the Commonwealth and shall be included in rental housing assistance funds as provided in paragraph (b) of clause 15 for application in accordance with clause 16.

- (2) Outgoings for the purposes of this clause shall consist of those normally incurred or provided for in rental housing operations and shall include repayments of principal and interest, maintenance, dwelling improvements, municipal rates and administrative expenses.
20. (1) Subject to this clause, the policy of a State with respect to sales of rental housing shall be as determined by the State but will be consistent with the objective of facilitating home ownership included in the principles set out in recital (C).
- (2) In the determination and implementation of that policy the State shall ensure that —
- (a) sales of dwellings are at market value or replacement cost;
  - (b) sales of dwellings are on the basis of a cash transaction;
  - (c) home purchase assistance funds may be used to finance the purchase of a dwelling; and
  - (d) proceeds from sales of dwellings are separately identified to the Commonwealth.
- (3) The net proceeds of sales of dwellings are generally to be applied towards the construction or purchase of a replacement dwelling which will be included in rental housing or which may be sold in accordance with this clause, but any part of them may be applied to other housing purposes provided for in this Agreement.
21. Each State shall in respect of each financial year furnish to the Commonwealth by the 30th November next occurring after that year a statement which shows the origin of rental housing assistance funds available during the year and the manner in which they were applied and which is certified as to its correctness by a person appointed by the State Minister for that purpose.

## **PART VI — HOME PURCHASE ASSISTANCE**

22. (1) Each State will establish an account in the public accounts of the State which will be known as “the Home Purchase Assistance Account” (in this Part called “the Account”) and moneys in which shall be available for home purchase assistance in accordance with this Part.
- (2) The State shall pay into the Account the advances that are made to it for home purchase assistance.

- (3) The Account shall be credited also with moneys received in the course of the home purchase assistance operations provided for by this Part and shall be debited with management costs and other outgoings in respect of those operations.
  - (4) The excess of amounts that are received into the Account over payments that are made from the Account in accordance with sub-clause (3) shall be separately identified by the State to the Commonwealth.
23. (1) A State may but shall not be obliged to arrange for payment into the Account of revolving funds which result from the operation of Home Builders' Accounts or other home purchase assistance accounts that were established under previous housing arrangements and may combine accounts established under those arrangements and under this Agreement into one account, being the Account.
- (2) It is acknowledged and agreed by the parties that, when regard is had to income and other circumstances, all persons who receive home purchase assistance under this Agreement or from revolving funds under previous housing arrangements shall have available to them the borrowing options provided in this Part and that this situation will be achieved by the last financial year of this Agreement.
24. (1) Moneys standing to the credit of the Account shall be made available for the achievement of the objective of this Agreement with respect to the principles set out in recital (C) which relate to home purchase and to that end may be used for —
- (a) making repayments of principal and payments of interest in respect of advances by the Commonwealth to the State under this Agreement or, where accounts under previous housing arrangements have been combined into the Account, the repayment of principal and payment of interest in respect of advances by the Commonwealth to the State which have been allocated for home purchase assistance under those arrangements;
  - (b) meeting expenditure by the State in providing and administering loans to approved lending authorities;
  - (c) making loans to —
    - (i) terminating building societies or cooperative housing societies;

- (ii) a lending authority of the State approved by the State Minister;
  - (iii) registered cooperative organisations approved by the State Minister;
  - (iv) such other bodies or organisations including permanent building societies as are from time to time agreed upon between the Minister and the State Minister,  
for on-lending to home purchasers;
  - (d) providing a subsidy to eligible home purchasers or such lending institutions as are from time to time agreed upon by the Minister and the State Minister to reduce the interest cost of loans to the end borrowers of the loans;
  - (e) financing the construction or purchase of dwellings for sale to persons who are eligible for home purchase assistance under this Agreement; and
  - (f) such other purposes as are from time to time agreed upon between the Minister and the State Minister.
- (2) In this clause —
- (a) “home purchaser” includes a purchaser of a dwelling under clause 20; and
  - (b) references to societies are to societies registered as societies referred to under the relevant legislation of the State.
25. (1) The rate of interest that is charged by the State in respect of so much as is for the time being outstanding on a loan to an agency of the State for the purposes of paragraphs (c), (e) or (f) of clause 24 shall —
- (a) be not less than 5 per centum per annum until the end of the first financial year that wholly occurs after the loan is made;
  - (b) be increased by per centum per annum at the end of the first financial year that wholly occurs after the loan is made and by per centum per annum at the end of each subsequent financial year of the loan until a rate equivalent to 1 per centum per annum below the long term bond rate for a financial year is reached;

- (c) thereafter be varied for any financial year of the loan according to any variation in the long term bond rate for that financial year.
  - (2) For the purposes of this clause the long term bond rate for a year shall be the coupon rate on the longest term security of the last Commonwealth public loan issued prior to the first day of May that last occurred prior to that year.
26. (1) Subject to this clause, it shall be a matter for the State, as it sees fit, to determine the conditions of eligibility and the amounts and conditions that are to apply in respect of loans to persons who are to receive home purchase assistance under this Agreement and under previous housing arrangements.
- (2) The conditions of eligibility shall be such that loans are made only to those persons who are not able to obtain mortgage finance assistance in the open market or from other sources.
  - (3) In determining the amount of a loan and of the repayments, regard shall be had to family income, assets of the borrower and size and standard of dwelling.
27. The State shall adopt policies and practices with regard to persons who receive home purchase assistance which are best suited to the achievement of the objective of this Agreement with respect of the principles set out in recital (C) which relate to home purchase assistance and may, where practicable, have regard to flexible lending practices, including those known as —
- (a) escalating interest loans with income geared starts;
  - (b) deferred interest repayment loans;
  - (c) income geared repayment loans;
  - (d) high start loans;
  - (e) second mortgage lending,
- and provision for variation in repayment in the event of hardship.
28. Each State shall in respect of each financial year furnish to the Commonwealth by the 30th November next occurring after that year a financial statement in respect of operations of the Account which shows the origin of funds received and the manner in which funds were applied

and which is certified as to its correctness by a person appointed by the State Minister for that purpose.

## **PART VII — SUPERSESSION OF PREVIOUS HOUSING ARRANGEMENTS**

29. (1) The provisions of this Agreement with respect to rental housing and home purchase assistance shall, except as provided herein, supersede the provisions of the existing Housing Agreements to the intent that this Agreement will provide the arrangements between the Commonwealth and each State in relation to the provision of rental housing, including the sale of housing so provided, and to the provision of assistance for home purchasers under the previous housing arrangements and this Agreement.
- (2) Notwithstanding sub-clause (1) a State which is at the date of this Agreement a party to the 1945 Agreement referred to in paragraph 1 of the SCHEDULE shall, subject to the State observing the provisions of this Agreement on its part to be observed, continue to be entitled to a contribution by the Commonwealth towards rental losses under sub-clauses (1) and (2) of clause 15 of that Agreement as if the provisions of those sub-clauses remained in force and, subject to sub-clause (2), the provisions of the SECOND SCHEDULE continued to apply by virtue of sub-clause (1) thereof.

## **PART VIII — GOVERNMENT AUTHORITIES AND AGENCIES**

30. The Commonwealth shall provide for or secure the performance by it and its authorities of the obligations of the Commonwealth under this Agreement and each of the States shall provide for or secure the performance by the State and its authorities of the obligations of the State under this Agreement.
31. A State shall determine an agency or agencies (including bodies or organizations that are not authorities of the State) for the performance of this Agreement on behalf of the State and acts and things that are done by or with respect to the agency or agencies so determined shall, for the purposes of this Agreement, be deemed to have been done by or with respect to the State.



## **PART IX — SUPPLY OF INFORMATION**

32. A State Minister will, upon request by the Minister, supply to the Minister such information relevant to the operation of this Agreement in respect of the State as is reasonably so requested.

## **PART X — VARIATION OF AGREEMENT**

33. (1) The provisions of Parts V and VI of this Agreement may be varied as between the Commonwealth and a State by agreement in writing between the Minister and the State Minister.
- (2) A copy of an agreement or copies of the document which constitute an agreement under sub-clause (1) shall be tabled in the Parliaments of the Commonwealth and of the State within 15 sitting days of respective Parliaments from the date upon which the agreement is made.
- (3) An agreement under sub-clause (1) shall not affect the operation of this Agreement as between the Commonwealth and the States other than that with which the agreement has been made.

## **PART XI — REPRESENTATIVES AND COMMUNICATIONS**

34. (1) The Commonwealth shall, subject to sub-clause (2), be represented for the purposes of this Agreement by the Department of Environment, Housing and Community Development, the address of which for notices and other communications is —
- Secretary,  
Department of Environment, Housing  
and Community Development,  
CANBERRA, A.C.T. 2600.
- (2) In the event that the administration of this Agreement for the Commonwealth is allocated to a Minister other than the Minister for Environment, Housing and Community Development, the Commonwealth shall be represented by the Department administered by that other Minister and that Minister shall notify the State Minister of the address of that Department.

35. The State shall be represented for the purposes of this Agreement by the Department administered by the State Minister and the State Minister shall notify the Minister of the address of that Department and of any change at any time of the Department or of the address.
36. (1) A notice or other communication under or in connexion with this Agreement shall be duly given if it is in writing signed by or on behalf of, or attributed to, the head of the Department by which it is given and addressed to or delivered at the address of the Department to which it is directed.
- (2) For the purposes of this clause writing includes a teleprinter message the address for such a message shall be the teleprinter address of the receiving Department.
- (3) A notice or other communication shall be given under this clause when it is received in the appropriate form by the Department to which it is directed.

*[Third Schedule inserted by No. 20 of 1978 s.6.]*

## Schedule

Clause 5.

### Existing Housing Agreements

1. The 1945 Agreement.  
Agreement made 19 November, 1945, between the Commonwealth and the States to which Tasmania is not now a party — Act No. 44 of 1945.
2. The 1955 Agreement.  
Supplemental Agreement made 16 April, 1955, between the Commonwealth and the States other than Tasmania — Act No. 12 of 1955.
3. The 1956 Agreement.  
Agreement made 13 February, 1957, between the Commonwealth and the States — Act No. 43 of 1956.
4. The 1961 Agreement.  
Agreement made 4 October, 1961, between the Commonwealth and the States — Act No. 31 of 1961.
5. The 1966 Agreement.  
Agreement made 21 December, 1966, between the Commonwealth and the States — Act No. 24 of 1966.
6. The 1973 Agreement.  
Agreement made 17 October, 1973, between the Commonwealth and the States — Act No. 43 of 1973.
7. The 1974 Agreement.  
Supplemental Agreement made 20 December, 1974, between the Commonwealth and the States — Act No. 102 of 1974.

IN WITNESS WHEREOF, etc.

**Notes**

<sup>1</sup> This is a compilation of the *Housing Agreement (Commonwealth and State) Act 1973* and includes all amendments effected by the other Acts referred to in the following Table.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Housing Agreement (Commonwealth and State) Act 1973</i>	89 of 1973	21 Dec 1973	21 Dec 1973
	35 of 1974	6 Nov 1974	6 Nov 1974
	20 of 1978	18 May 1978	6 Oct 1978 (see <i>Gazette</i> 6 Oct 1978 p.3617)
	10 of 1982	14 May 1982	1 Jul 1982 (see section 2 (1))

[This Act was repealed by the \*Statutes \(Repeals and Minor Amendments\) Act \(No. 2\) 1998 s. 9\(1\) \(No. 10 of 1998\) as at 30 Apr 1998\*](#)

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