

Western Australia

# **Housing Agreement (Commonwealth and State) Act 1981**

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Western Australia

# Housing Agreement (Commonwealth and State) Act 1981

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Western Australia

# Housing Agreement (Commonwealth and State) Act 1981

**An Act relating to financial assistance from the Commonwealth for the purposes of housing.**

*[Assented to 16 September 1981.]*

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows: —

**1. Short title and citation**

This Act may be cited as the *Housing Agreement (Commonwealth and State) Act 1981*.

**2. Commencement**

This Act shall come into operation on a day to be fixed by proclamation.

**3. Interpretation**

In this Act —

**“the 1981 Housing Agreement”** means the agreement a copy of which is set forth in the Schedule to this Act.

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**4. Authorization or confirmation of execution of 1981 Housing Agreement**

In order that the 1981 Housing Agreement may, as between the Commonwealth and the State, execution of come into force as provided by Part I of the 1981 Housing Agreement —

- (a) the execution by or on behalf of the State of an agreement substantially in accordance with the form of the 1981 Housing 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 1981 Housing Agreement is approved and ratified.

**5. Application of *Housing Act 1980***

The provisions of Division 2 of Part V of the *Housing Act 1980* apply to the 1981 Housing Agreement.

**Schedule**

[Section 4]

AN AGREEMENT made the . . . . . day of . . . . . One thousand  
nine hundred and eighty- . . . . . 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,
- THE STATE OF TASMANIA of the seventh part, and
- THE NORTHERN TERRITORY OF AUSTRALIA of the eighth 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) by an agreement dated the seventeenth day of October 1978, being the agreement authorized to be executed on behalf of the Commonwealth by the Housing Assistance Act 1978 of the Commonwealth Parliament and being the last of the agreements referred to in recital (A), provision was so made with respect to the three years commencing on the 1st July 1978;
- (C) the Commonwealth and the Northern Territory of Australia entered into an agreement dated the eleventh day of March 1980 in relation to the funding

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of welfare housing in the Northern Territory with respect to the two years commencing on the 1st July 1979;

(D) the Ministers of the respective governments throughout Australia who are responsible for housing have agreed upon the provision of rental housing assistance and home purchase assistance in the various States and in the Northern Territory during the five years commencing on the 1st July 1981.

(E) the Ministers have affirmed and augmented principles that apply to the provision of housing assistance under agreements of the nature aforesaid, 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 stigmatisation of those who are to receive benefits;

(c) clear recognition is accorded to the separate but complementary roles of —



- (i) construction and acquisition of dwellings;
  - (ii) management of the rental operations; and
  - (iii) sales of dwellings;
- (d) maximum social benefit is sought from previous investment in housing;
- (e) design, style and siting of public housing will to the maximum extent practicable —
- (i) support the energy conservation policies of the governments; and
  - (ii) reflect the need for accessibility and suitability for habitation by handicapped persons;
- (f) tenant participation in public housing policies and estate management is encouraged; and
- (g) the States will be able to exercise maximum autonomy and flexibility in the administrative arrangements necessary to achieve these principles;
- (F) 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 like assistance to the Northern Territory and that the terms and conditions on which the grant of financial assistance should be made are those set out in this agreement;

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- (G) the Commonwealth and the States and the Northern Territory wish to vary in certain respects the operation of the agreements which have been entered into as aforesaid; and
- (H) 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. (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 the authority, is approved by the Parliament of the State.

(2) This agreement shall come into force in respect of the Commonwealth and the Northern Territory when it has been signed on behalf of the Commonwealth and has been signed on behalf of the Northern Territory.

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

2. Acts and things provided for by this agreement which have been done or carried out by or with respect to a State or the Northern Territory in accordance with and in anticipation of its coming into force in respect of that State shall be deemed to have been done or carried out under this agreement as if it were in force at the relevant time or times in respect of that State, or that Territory, as the case may be.

PART II — PARTIES

3. (1) In this agreement, subject to this clause and except where the context otherwise indicates,

- (a) “the Commonwealth” means the Commonwealth of Australia as the party to this agreement;
- (b) 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 States” means all of those States; and
- (c) “the Northern Territory” means the Northern Territory of Australia as the party to this agreement, being the body politic established by section 5 of the Northern Territory (Self-Government) Act 1978 of the Commonwealth Parliament.

(2) A reference to a State in this Part and in the succeeding clauses of this agreement shall, except where the contrary intention appears and according to the requirements of the context, be deemed to include a reference to the Northern Territory.

4. Where in an existing Housing Agreement included in the Schedule 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 mean respectively, for the purposes of the operation of that Agreement, a State or the States in respect of which this agreement has come into force.

PART III — INTERPRETATION

5. (1) In this agreement —

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‘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.

6. In this agreement, unless the contrary intention appears or the context otherwise requires —

‘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;

‘home purchaser’ includes a purchaser of a dwelling under Part X of this agreement;

‘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, the Housing Assistance Act 1973 and the Housing Assistance Act 1978 of the Commonwealth Parliament;

‘rental housing’ means housing for rental which has been provided under the previous housing arrangements or is provided under this agreement and “rental housing” means a dwelling that is included in rental housing;

‘the Commonwealth Act’ means the legislation of the Commonwealth Parliament by which this agreement is authorized to be executed by or on behalf of the Commonwealth;

‘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; and

‘year’ means a period of twelve months commencing on the first day of July;

7. 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*.

#### PART IV — OBJECTIVE OF AGREEMENT

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8. The objective of this agreement is the provision by the States and by the Northern Territory 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 (E).

**PART V — FINANCIAL ASSISTANCE**

9. (1) In order to assist the States in the achievement of the objective of this agreement, the Commonwealth will, upon and subject to the provisions of this agreement, provide to the States during the years of this agreement financial assistance for housing purposes (hereinafter in this agreement referred to as “financial assistance”) by way of repayable advances (“advances”) and non-repayable grants (“grants”).

(2) The years of this agreement shall be the five years commencing on the first day of July in the years 1981, 1982, 1983, 1984, and 1985.

10. The Commonwealth will provide base financial assistance to the States in respect of each year of this agreement amounting to Two hundred million dollars (\$200 000 000.00) and consisting of —

- (a) Fifty-four million dollars (\$54 000 000.00) by way of interest free non-repayable grants identified as being for rental housing assistance to disadvantaged categories of persons in accordance with Part XI; and
- (b) One hundred and forty-six million dollars (\$146 000 000.00) by way of interest bearing repayable advances for rental housing assistance and home purchase assistance in accordance with this agreement.

11. The Commonwealth may provide to the States, out of moneys appropriated by the Commonwealth Parliament for the purpose, in addition to base financial assistance, financial assistance for home purchase assistance and rental housing assistance, including rental housing assistance to disadvantaged categories of persons in accordance with Part XI, in such proportions by way of non-repayable

grants and interest bearing advances repayable in accordance with this agreement or in such combinations of those forms of assistance as are from time to time determined by the Minister.

12. In and for the purposes of this agreement —

- (a) financial assistance to be provided under clause 10 is referred to and shall be known as “base financial assistance”;
- (b) financial assistance in addition to base financial assistance is referred to and shall be known as “additional financial assistance”;
- (c) grants of base financial assistance under paragraph (a) of clause 10 and of additional financial assistance that are identified as being for rental housing to disadvantaged categories of persons in accordance with Part XI are referred to and shall be known as “earmarked grants”; and
- (d) financial assistance other than earmarked grants is referred to and shall be known as “untied assistance”.

13. Financial assistance shall be allocated between the States in such manner as is provided by the Commonwealth Act and it shall be a condition with respect to the provision of untied assistance that a State will match the amount of that financial assistance from its own resources in accordance with Part VI.

#### PART VI — STATE MATCHING FUNDS

14. (1) A State will provide from its own resources during each year of this agreement and apply in accordance with this Part funds (“matching funds”) equivalent in amount to the amount of untied assistance that is provided to the State during that year.

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(2) Each State will by the fifteenth day of October in each year of this agreement furnish to the Commonwealth for the agreement of the Minister proposals for the provision and application of matching funds during that year.

(3) Matching funds in respect of a State may include —

(a) surpluses resulting from rental housing assistance activities by the State under Commonwealth-State housing arrangements;

(b) revolving funds resulting from home purchase assistance activities under previous housing arrangements and under this agreement;

(c) allocations from —

(i) consolidated revenue funds;

(ii) loan funds;

(iii) trust funds and other special accounts in the public account of the State to the extent that those funds have been financed from State resources, including deposits with the State Treasury;

(iv) borrowings by instrumentalities of the State under the terms of the Commonwealth-State arrangements associated with the Financial Agreement and known as the Gentlemen's Agreement; and

(v) appropriation from surpluses of authorities and instrumentalities of the State other than those referred to in paragraphs (a) and (b) of this sub-clause; and

(d) other sources at any time agreed upon between the Minister and the State Minister.



(4) Except as provided in sub-clause (3) matching funds shall not be derived from financial assistance under this agreement.

15. (1) Matching funds in respect of a State other than those referred to in paragraphs (a) and (b) of sub-clause 14 (3) shall be expended by the State on welfare housing programs of the State as from time to time agreed between the Minister and the State Minister.

(2) Matching funds other than those referred to in paragraphs (a) and (b) of sub-clause 14 (3) shall not be required to be expended by a State on welfare housing programs to which this agreement applies.

16. As soon as practicable after a year of this agreement a State will furnish to the Commonwealth a statement which shows particulars of the expenditure by the State of matching funds during the year on programs agreed upon by the Minister and the State Minister and which is certified as to its correctness by a person appointed by the State Minister for that purpose.

#### PART VII — FINANCIAL ASSISTANCE ARRANGEMENTS

17. (1) Each State will, not later than the thirtieth day of November preceding the beginning of a year of this agreement, inform the Minister of the amounts of financial assistance that the State wishes the Commonwealth to provide to it in respect of the year for home purchase assistance and rental housing assistance programs and at the same time will provide estimates of financial performance and planned programs for that year.

(2) The Minister and the State Minister will consult as appropriate concerning the provision of financial assistance to the State, including additional financial assistance, in respect of the year in accordance with Part V.

(3) In those consultations consideration shall be given to State requirements and practices but for the purposes of the provision of additional assistance regard shall not be had to any operating surpluses on rental housing

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assistance operations or on home purchase assistance operations under previous housing arrangements or under this agreement.

18. Financial assistance in respect of a year of this agreement shall be made available to a State during that year by equal monthly instalments unless otherwise agreed between the Minister and the Treasurer of the State.

19. The State Minister will determine the allocation between home purchase assistance and rental housing assistance of the total amount of advances of financial assistance and of grants of untied assistance to be provided by the Commonwealth to a State in a year of this agreement and may at any time during a year vary the determination in respect of that year.

**PART VIII — INTEREST AND REPAYMENTS OF ADVANCES**

20. (1) Each advance of financial assistance to a State or so much of each advance as for the time being remains unrepaid to the Commonwealth will, until repayment as provided in clause 21 bear interest at the rate of 4 ½ per centum per annum computed from the date upon which the advance is made.

(2) A State will on the thirty-first day of December and the thirtieth day of June of a year during which advances are made to the State 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.

21. Each State will repay to the Commonwealth the amount of each advance of financial assistance to the State and will pay interest thereon as provided in clause 20, other than that payable under sub-clause 20 (2), 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 year next succeeding the year of this agreement in respect of which the advance was made, the first such instalment being payable on or before the end of the year next succeeding the year of this agreement in respect of which the advance made.

22. Accounting procedures in respect of the repayment by a State of advances of financial assistance will be as agreed upon between the Minister for Finance of the Commonwealth and the Treasurer of the State or, in default of agreement, as determined by the Minister for Finance of the Commonwealth.

PART IX — HOME PURCHASE ASSISTANCE

23. (1) The Home Purchase Assistance Account established by each State in pursuance of the 1978 Housing Agreement with respect to the States and the 1980 Housing Agreement with respect to the Northern Territory shall continue to be operated by the State for the purpose of this agreement and shall be “the Account” referred to in this Part.

(2) The moneys in the Account shall be available for home purchase assistance in accordance with this Part.

24. (1) Each State will pay into the Account —

- (a) advances and grants of financial assistance made to the State that are allocated for home purchase assistance in accordance with this agreement; and
- (b) funds from any other source which the State decides to apply on home purchase assistance under this agreement.

(2) The Account shall also be credited with moneys received in the course of home purchase assistance operations provided for by this Part and shall be debited with management costs and other outgoings in respect of those operations.

(3) The excess of the amounts that are received into the Account over payments that are made from the Account in accordance with sub-clause (2) shall be separately identified by the State to the Commonwealth.

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25. (1) A State may use moneys standing to the credit of the Account of the State for —

- (a) making repayments of principal and payments of interest in respect of advances of financial assistance under this agreement or, where accounts under previous housing arrangements have been combined into the Account, repayments of principal and payments of interest in respect of advances of financial assistance by the Commonwealth to the State which have been allocated for home purchase assistance under those arrangements;
- (b) making repayments of principal and payments of interest in respect of any State funds allocated for home purchase assistance in accordance with paragraph (b) of sub-clause 24 (1);
- (c) meeting expenditure by the State in providing and administering loans to approved lending authorities;
- (d) making loans to —
  - (i) terminating building societies or co-operative housing societies;
  - (ii) a lending authority of the State approved by the State Minister;
  - (iii) registered cooperative organizations approved by the State Minister, not including permanent building societies;
  - (iv) such other bodies or organizations, 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;

- (e) 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;
- (f) financing the construction or purchase of dwellings for sale to persons who are eligible for home purchase assistance under this agreement; and
- (g) such other purposes as are from time to time agreed upon between the Minister and the State Minister.

(2) In this clause references to societies are to societies registered as societies referred to under the relevant legislation of the State.

26. 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 (d), (f) or (g) of clause 25 shall —

- (a) be not less than 5 per centum per annum until the end of the first year that wholly occurs after the loan is made;
- (b) be increased by  $\frac{1}{2}$  per centum per annum at the end of the first year that wholly occurs after the loan is made and by  $\frac{1}{2}$  per centum per annum at the end of each subsequent year of the loan until a rate equivalent to 1 per centum per annum below the then current Commonwealth Savings Bank rate for housing loans is reached; and
- (c) thereafter be varied for any year of the loan according to any variation for the time being of that Commonwealth Savings Bank rate.

27. (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

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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 assistance is provided 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 the dwelling.

28. The State will adopt policies and practices with regard to persons who receive home purchase assistance which are best suited to the achievement of the objective of the agreement with respect to the principles set out in recital (E) 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.

29. Each State will in respect of each year furnish to the Commonwealth by the thirtieth day of 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 X — RENTAL HOUSING ASSISTANCE

30. Funds available to a State during any year for its rental housing assistance program (for the purposes of this Part referred to as “rental housing assistance funds”) shall consist of —

- (a) in respect of a year of this agreement, advances and grants of financial assistance that are made under this agreement for rental housing assistance; and
- (b) in respect of any year —
  - (i) any surplus during the year of revenue, after allowing for rental rebates, over outgoings incurred or provided for, arising from rental housing operations of the State under this agreement or previous housing arrangements and to which this agreement applies;
  - (ii) subject to sub-clause 36 (e), net proceeds from sale of rental dwellings; and
  - (iii) any other funds which the State allocates for rental housing assistance under this agreement.

31. Without by this clause conveying any implication that funds are to be made available by the Commonwealth for, or are to be applied by a State for, any particular purpose or in any order of priority, the purposes for which rental housing assistance funds may be used by the State include the following —

- (a) to meet the costs of and associated with the acquisition, planning and development of land primarily for residential development;

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- (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 bodies and 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;
- (i) to undertake research and policy development in relation to matters not funded by the Australian 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;
- (m) to provide rental subsidy for eligible persons renting private housing;  
and
- (n) any other purposes agreed upon between the Minister and the State Minister.

32. 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.

33. The State will in respect of the rent for its rental dwellings apply a policy directed to the progressive movement during the term of this agreement of the rent for each dwelling to charging market rent and will review rents at least annually.

34. (1) Rental rebates are to be granted to tenants who are not able to afford to pay the rent determined in accordance with clause 33.

(2) A uniform rental rebate policy shall be developed by the Commonwealth and the States and shall be applied by each State for the calculation of rental rebates.

35. (1) Where in respect of any 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) (i) of clause 30 for application in accordance with clause 31.

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(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.

36. Each State will determine a policy for the sale of rental dwellings that is consistent with the objective of facilitating home ownership and is upon and subject to the following conditions —

- (a) all sales of dwellings shall be at market value or replacement cost, on the basis of a cash transaction, but not so as to preclude the State, if it so wishes, from providing a credit to the tenant in recognition of improvements that the tenant has made to the dwelling;
- (b) home purchase assistance funds may be used to provide finance for the purchase of dwellings;
- (c) all proceeds from sales of dwellings shall be separately identified to the Commonwealth;
- (d) net proceeds from sales of dwellings shall generally be applied to construct or purchase replacement dwellings which can be included in rental dwellings for the purpose of this agreement; and
- (e) without prejudice to the generality of (d), net proceeds from sales of dwellings may also be applied for specific housing purposes provided for in this agreement.

37. Each State will in respect of each year furnish to the Commonwealth by the thirtieth day of November next occurring after that year a financial statement in respect of operations of its rental housing assistance program during that year which shows the origin of funds received and the manner in which those funds were applied and which is certified as to its correctness by a person appointed by the State Minister for that purpose.

PART XI — EARMARKED GRANTS

38. The Minister will, in writing under his hand, identify grants of financial assistance to a State as being for rental housing assistance to persons (referred to as “disadvantaged persons”) of the following disadvantaged categories —

- (a) those in receipt of any of the following pensions, benefits or allowances under the Social Services Act 1947:
  - (i) age or invalid pension under Part III;
  - (ii) widow’s pension under Part IV;
  - (iii) supporting parent’s benefit under Part IVAAA;
  - (iv) special benefit under Division 6 of Part VII;
  - (v) sheltered employment allowance under Part VIIA; and
  - (vi) training allowance under section 135D payable in respect of a period during which any pension, benefit or allowance referred to in a preceding sub-paragraph payable to the person is suspended in accordance with that section; or
- (b) those in receipt of a service pension under section 84 or 85 of the Repatriation Act 1920 and, in the case of a person who is in receipt of a pension under section 85 of that Act, is qualified under sub-section 85 (2) of that Act to receive that pension;
- (c) Aboriginals in need of rental housing assistance; and
- (d) after consultation with the State Minister, any person included in a class of persons which is declared by the Minister in writing under

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his hand, to be persons in need of assistance to which this Part relates.

39. (1) Rental dwellings provided with earmarked grants may be sold by a State subject to and in accordance with the provisions of clause 36.

(2) The net proceeds of sale of a rental dwelling under this clause shall be applied only to provide rental housing assistance to persons of the same category as that of the persons to whom rental housing assistance for the provision of the dwelling was granted to the State by the Commonwealth.

(3) This clause shall apply to rental dwellings that have been provided from grants made by the Commonwealth to a State under Part III of the Housing Assistance Act 1978.

40. A State will furnish to the Commonwealth, as soon as practicable after the end of each financial year, a statement setting out the amounts of earmarked grants expended by the State during the financial year for a purpose referred to in clause 38 and which is certified as to its correctness by a person appointed by the State Minister for that purpose.

**PART XII — SUPERSESION OF PREVIOUS HOUSING ARRANGEMENTS**

41. 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.

**PART XIII — OBSERVANCE OF AGREEMENT**

42. 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.

43. A State shall determine an agency or agencies (including bodies or organisations 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.

44. If the Minister, in writing under his hand, informs the Treasurer of a State he is satisfied that the State has failed to ensure that an amount of financial assistance provided to the State has been applied for the purposes and in the manner provided for by this agreement with respect to that financial assistance, the State will repay that amount, or such part of that amount as the Minister thinks reasonable, to the Commonwealth.

45. If a State fails for any reason to meet the requirement for the provision by it of matching funds in accordance with Part VI with respect to any financial assistance that has been provided to it, the State will upon request by the Minister, in writing under his hand, repay to the Commonwealth the amount of that financial assistance or so much of that amount as is specified in the request.

#### PART XIV — SUPPLY OF INFORMATION

46. 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 XV — VARIATION OF AGREEMENT

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47. (1) The provisions of Parts VII, IX, X or XI 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 documents 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 XVI — REPRESENTATION AND COMMUNICATIONS**

48. (1) The Commonwealth shall, subject to sub-clause (2), be represented for the purposes of this agreement by the Department of Housing and Construction and the Minister shall notify the State Minister of the address of that Department and of any change at any time of that address.

(2) In the event that the administration of this agreement for the Commonwealth is allocated to a Minister other than the Minister for Housing and Construction, 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.

49. 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.

50. (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 and 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.

SCHEDULE

[Clause 6.]

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

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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 1984 between the Commonwealth and the States — Act No. 102 of 1974.

8. The 1978 Agreement

Agreement made 17 October 1978 between the Commonwealth and the States — Act No. 79 of 1978.

9. The 1980 Northern Territory Agreement

Agreement made 11 March 1980 between the Commonwealth and the Northern Territory.

IN WITNESS WHEREOF etc.



**NOTES**

- <sup>1.</sup> This is a compilation of the *Housing Agreement (Commonwealth and State) Act 1981* 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 1981</i>	48 of 1981	16 Sep 1981	9 Oct 1981 (see <i>Gazette</i> 9 Oct 1981 p.4231)