



ANNO VICESIMO QUINTO

GEORGII V REGIS.

A.D. 1934.

No. 2184.

An Act to approve an agreement concerning War Service Homes, made between the Commonwealth of Australia and the State of South Australia, and for other purposes.

[Assented to, November 29th, 1934.]

BE IT ENACTED by the Governor of the State of South Australia with the advice and consent of the Parliament thereof, as follows :—

1. This Act may be cited as the “ War Service Homes Agreement Act, 1934 ”. Short title.

2. In this Act, unless the context otherwise requires :— Definitions.

“ Commonwealth ” means the Commonwealth of Australia :

“ State ” means the State of South Australia :

“ the Agreement ” means the Agreement a copy of which is set forth in the Schedule to this Act :

“ the Bank ” means the State Bank of South Australia, and includes the Board of Trustees of that Bank and any State Authority which has, under the Agreement dated the seventeenth day of October, one thousand nine hundred and twenty-two, and made between the Prime Minister for and on behalf of the Commonwealth of Australia, and the Premier of the State of South Australia for and on behalf of that State, provided homes or taken any titles or securities for or in connection with War Service Homes.

War Service Homes Agreement Act.—1934.

Approval of Agreement.

3. Subject to this Act, the Agreement made between the Commonwealth and the State (a copy of which Agreement is set forth in the Schedule to this Act) is approved, and may be carried into effect.

Validation of certain re-sales made prior to the passing of the Advances for Homes Act, 1928.

4. Any re-sale of a dwelling-house or land effected by the Bank before the passing of the Advances for Homes Act, 1928, in circumstances mentioned in section 31 of that Act, shall be as valid and effectual as if section 31 of that Act had been in force at the time of the re-sale.

Transfer of certain Advances on leasehold securities from the War Service Homes Account to the Advances for Homes Account.

5. (1) In consideration of the Commonwealth permitting the Treasurer of the State to retain out of any moneys received by him on account of War Service Homes, as defined in the Agreement, any sums owing to the State for water and sewer rates payable on those homes, the Treasurer of the State may transfer the balance of the advances made by the State Bank on eleven leasehold securities from the War Service Homes Account to the Advances for Homes Account of the State, and may repay to the Commonwealth the balance of the principal sums outstanding in connection with such advances.

(2) Upon the transfer to the Advances for Homes Account of the State of the balances of the advances on leasehold securities referred to in subsection (1) of this section, those advances shall be deemed to have been made under the Advances for Homes Acts of the State, but without affecting any contract or rights as between the Bank and the persons to whom the advances were made.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

W. DUGAN, Governor.

THE SCHEDULE.

War Service Homes Agreement Act.—1934.

THE SCHEDULE.

MEMORANDUM OF AGREEMENT made the twenty-fifth day of June One thousand nine hundred and thirty-four BETWEEN THE COMMONWEALTH OF AUSTRALIA of the one part AND THE STATE OF SOUTH AUSTRALIA of the other part :

WHEREAS by an Agreement (herein called "the Principal Agreement") dated the seventeenth day of October One thousand nine hundred and twenty-two and made between the Prime Minister for and on behalf of the Commonwealth of Australia of the one part and the Premier for and on behalf of the State of South Australia of the other part it was agreed that the Commonwealth should advance moneys to the State of South Australia so that the State should through the Board of Trustees of the State Bank of South Australia (constituted under the Laws of the said State) and within the boundaries of the said State make advances and grant assistance to persons eligible for such advances or assistance under the War Service Homes Acts and Regulations thereunder of the Commonwealth :

AND WHEREAS the State of South Australia has in accordance with the provisions of the said Principal Agreement been carrying out by means of the State Bank of South Australia the undertaking of providing War Service Homes as aforesaid :

AND WHEREAS it has been agreed between the parties hereto to enter into this Agreement with the object of terminating the Principal Agreement insofar as it may be in operation and legally binding on the parties thereto and to effectuate the transfer and assignment to and the vestment in the War Service Homes Commissioner (a body corporate under the War Service Homes Acts of the Commonwealth) of all the right title and interest of the State of South Australia and/or of the State Bank of South Australia in and to all the War Service Homes and securities provided or taken by the State of South Australia and/or the State Bank of South Australia in accordance with the Principal Agreement :

NOW THIS AGREEMENT WITNESSETH as follows :—

1. IN this Agreement unless the contrary intention appears—

- "Bank" means the State Bank of South Australia and includes the Board of Trustees of the Bank and any State Authority which has under the Principal Agreement provided homes or taken any titles or securities for or in connection with War Service Homes.
- "Borrower" has the same meaning as that expression has in the *War Service Homes Act 1918-1932* and includes a borrower from the State or the Bank.
- "Commissioner" means the War Service Homes Commissioner.
- "Commonwealth" means the Commonwealth of Australia.
- "Principal Agreement" means the said recited Agreement dated the seventeenth day of October, One thousand nine hundred and twenty-two including any variations thereof.
- "Purchaser" has the same meaning as that expression has in the *War Service Homes Act 1918-1932* and includes a purchaser from the State or the Bank.
- "State" means the State of South Australia.
- "War Service Homes" means dwelling houses and/or lands provided or held by the State and/or the Bank under the Principal Agreement.

2. EXCEPT as regards Clause 3 hereof this Agreement—

- (a) shall have no force or effect and shall not be binding on either party hereto unless and until such legislative authority as is necessary to enable it to be carried into effect shall have been obtained ; and
- (b) shall commence and come into full force and effect upon the date upon which it shall have been approved by the respective Parliaments of the Commonwealth and the State.

3. EACH party hereto agrees to take every reasonable step in its power to have introduced and enacted as soon as practicable such legislation as is necessary to enable this Agreement to be fully and effectually performed by both parties and by the Bank and the Commissioner.

War Service Homes Agreement Act.—1934.

4. THE State agrees to take or cause to be taken all steps necessary on its part to divest from itself and/or the Bank and to transfer or assign to and have vested in the Commissioner all the estate right title and interest of the State and/or the Bank in and to—

- (a) all homes provided or held for the purposes of War Service Homes by the State and/or the Bank under the Principal Agreement ;
- (b) all securities for advances made by the State and/or the Bank for the purposes of War Service Homes ;
- (c) all agreements and all undertakings made with the State and/or the Bank or given to the State and/or the Bank by purchasers borrowers and other persons in respect of the homes and securities to be transferred or assigned to and vested in the Commissioner under this Agreement

as from a date to be proclaimed by His Excellency the Governor-General of the Commonwealth for the purpose and to deliver to the Commissioner all documents of title securities agreements undertakings instruments or other documents whatsoever held by the State and/or the Bank and relating to such homes and advances.

5. THE Commonwealth agrees to take or cause to be taken all steps necessary on its part to have transferred or assigned to and vested in the Commissioner all the estate right title and interest of the State and/or the Bank in and to—

- (a) all homes provided by the State and/or the Bank for purposes of War Service Homes under the Principal Agreement ;
- (b) all securities for advances made by the State and/or the Bank for purposes of War Service Homes ; and
- (c) all agreements and all undertakings made with the State and/or the Bank or given to the State and/or the Bank by purchasers borrowers and other persons in respect of the homes and securities to be transferred or assigned to and vested in the Commissioner under this Agreement

as from the said date to be proclaimed by His Excellency the Governor-General as aforesaid.

6. THE State shall cause the Bank subject to the direction and supervision of the Commissioner at its own cost and without expense to the Commonwealth or the Commissioner to arrange for the preparation execution and registration of all transfers conveyances agreements and other documents necessary to effectuate the transfer and assignment aforesaid to the Commissioner and also obtain in the name of the Commissioner the issue of all the titles to the said Homes provided that the Commissioner shall bear and pay all lands titles office and registration fees properly payable in respect of the transfer assignment and issue of titles aforesaid.

7. SUBJECT to Clause 9 hereof the Commonwealth shall cause the Commissioner to take over and assume all the risks burdens and liabilities of the State and/or the Bank in relation to the insurance with the State's Insurance Fund of the homes and securities to be transferred or assigned to and vested in the Commissioner under this Agreement.

8. ALL personal accounts letters documents and papers relating to the homes securities and agreements to be transferred or assigned to and vested in the Commissioner under this Agreement including plans specifications correspondence and other papers and documents relating to contracts for the erection of homes shall as soon as practicable after the said date to be proclaimed by His Excellency the Governor-General as aforesaid be delivered to the Commissioner who shall at all reasonable times thereafter allow the State's duly appointed representatives access thereto for the purpose of inspecting the same and making and taking away extracts therefrom.

9. So far as concerns the homes securities and agreements to be transferred or assigned to and vested in the Commissioner under this Agreement the State agrees to indemnify and keep indemnified the Commonwealth or the Commissioner against or in respect of all actions suits claims and demands commenced or made now or hereafter by any person arising out of—

- (a) any act of negligence or default on the part of the State and/or the Bank which has resulted in the title or security in respect of any home or advance being defective which title or security would not have been defective but for such negligence or default on the part of the State and/or the Bank ;
- (b) any clerical error made by the State and/or the Bank with respect to the particulars or payments by any purchaser or borrower ;
- (c) any error made in carrying out building operations for any purchaser or borrower which error has resulted in an unjustifiable encroachment upon any land or easement or out of any unjustifiable encroachment upon any land or easement of any home purchased by the State and/or the Bank or in respect of which money has been advanced by the State and/or the Bank ; and
- (d) the destruction of or damage to any such home or any property to which any such security relates caused prior to the said date to be proclaimed by His Excellency the Governor-General as aforesaid by fire lightning flood and tempest of which notice is received by the Bank from the purchaser or borrower as the case may be within two months after such date.

War Service Homes Agreement Act.—1934.

10. SUBJECT to the provisions of Clause 9 hereof the Commonwealth hereby agrees to indemnify and keep indemnified the State and the Bank and every officer and servant of the State and the Bank against or in respect of all actions suits claims and demands whatsoever and whensoever arising in respect of or in connection with any home security or agreement to be transferred or assigned to and vested in the Commissioner under this Agreement or in respect of any insurance effected with the Bank in relation to any such home or security.

11. THE Principal Agreement insofar as it is legally in operation and binding on the parties thereto shall be determined as from the said date to be proclaimed by His Excellency the Governor-General as aforesaid.

IN WITNESS whereof the Prime Minister for and on behalf of the Commonwealth of Australia and the Premier for and on behalf of the State of South Australia have hereunto set their respective hands and seals the day and year first above written.

SIGNED SEALED AND DELIVERED by the
 Right Honorable Joseph Aloysius Lyons,
 the Prime Minister of the Commonwealth
 of Australia for and on behalf of the
 Commonwealth in the presence of—
 J. H. STARLING. } J. A. LYONS. (L.S.)

SIGNED SEALED AND DELIVERED by the
 Honorable Richard Layton Butler, the
 Premier of the State of South Australia
 for and on behalf of the State of South
 Australia in the presence of—
 R. R. STUCKEY. } R. L. BUTLER. (L.S.)