



HOMES AMENDMENT ACT 1984

No. 2 of 1984

TABLE OF PROVISIONS

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|---|--|
| 1. Short title. | 6. Insertion in Principal Act of new sections 17AA, 17AB, and 17AC.
17AA—Calculation of adjustment rate.
17AB—Adjustment of amount specified in the fourth Schedule.
17AC—Director to notify adjustment in <i>Gazette</i> . |
| 2. Commencement. | 7. Insertion in Principal Act of new fourth Schedule. |
| 3. Principal Act. | 8. Validation. |
| 4. Insertion in Principal Act of new section 15B.
15B—Interpretation of Part IV. | 9. Transitional. |
| 5. Amendment of section 17 of Principal Act (Sale of dwelling-houses). | |

AN ACT to amend the Homes Act 1935.

[Royal Assent 18 April 1984]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Homes Amendment Act 1984*. Short title.

Commence-
ment.

2—This Act shall be deemed to have commenced on 1st July 1983.

Principal Act.

3—In this Act, the *Homes Act 1935** is referred to as the Principal Act.

Insertion in
Principal Act
of new
section 15a.

4—The Principal Act is amended by inserting the following section in Part IV before section 16:—

Interpretation
of Part IV.

15B—In this Part, unless the contrary intention appears—

“ adjustment rate ”, in relation to a year, means, subject to section 17AA (2), the rate calculated in accordance with section 17AA for that year;

“ March quarter ”, in relation to a year, means January, February, and March of that year;

“ year ”, for the purposes of calculating the adjustment rate for a year, means—

(a) the period of 12 months commencing on 1st July 1983; or

(b) a subsequent period of 12 months commencing on 1st July.

Amendment of
section 17 of
Principal Act
(Sale of
dwelling-
houses).

5—Section 17 of the Principal Act is amended by omitting subsection (5) and substituting the following subsections:—

(5) The purchaser may occupy as a tenant the dwelling-house and land—

(a) on such terms and conditions as the Director may determine; and

(b) at a rental determined by the Director which is sufficient to cover—

(i) interest at a rate to be determined by the Director (not exceeding the maximum annual rate of interest in respect of purchasers fixed by the Treasurer under section 28) on the capital cost of the property less any deposit paid;

(ii) insurance and rates;

* 26 Geo. V No. 98. For this Act, as amended to 1959, see the Reprint of Statutes (1826-1959), Vol. 2, p. 915. Subsequently amended by No. 18 of 1961, No. 55 of 1965, No. 27 of 1966, Nos. 1, 51, and 80 of 1973, Nos. 28 and 101 of 1976, Nos. 20, 29, 59, and 110 of 1977, No. 12 of 1978, No. 19 of 1980, No. 99 of 1982, and No. 24 of 1983.

- (iii) any repairs effected by or on behalf of the appropriate authority pursuant to section 30 (2) (b);
- (iv) a sum, to be determined by the Director, in reduction of the purchase-money; and
- (v) subject to subsections (5A), (5B), (5C), and (5D), the costs of administration as specified in the fourth Schedule.

(5A) The costs of administration referred to in subsection (5) (b) (v) shall, subject to subsections (5B), (5C), and (5D), be adjusted annually in accordance with this Part.

(5B) A purchaser under this section who claims that the imposition of a charge for costs of administration pursuant to subsection (5) (b) (v), or an increase in that charge, will cause him hardship shall—

- (a) notify the Director of his claim; and
- (b) provide the Director with a statutory declaration of the incomes of the residents of the property that he is purchasing under this section.

(5C) Where the Director is satisfied, on the basis of a claim under subsection (5B), that hardship would be caused to a purchaser, the Director shall, subject to subsection (5D), grant an exemption from the payment of the charge or increase to which the claim relates, so that the total rental payable in respect of the property is—

- (a) not more than 25 per cent of the combined incomes of the residents; or
- (b) the rental payable immediately before the charge was imposed or increased,

whichever is the higher.

(5D) An exemption granted pursuant to subsection (5C) may be total or partial.

Insertion in
Principal Act
of new
sections 17AA,
17AB, and
17AC.

Calculation of
adjustment
rate.

6—The Principal Act is amended by inserting the following sections after section 17:—

17AA—(1) For the purposes of the definition of “ adjustment rate ” in section 15B, the rate for a year shall be the ratio between the Consumer Price Index: All Groups Index for Hobart published by the Australian Statistician under the authority of the *Census and Statistics Act 1905* of the Commonwealth for the March quarter of that year and the Consumer Price Index: All Groups Index for Hobart for the March quarter of the previous year.

(2) Where the rate for a year calculated in accordance with this section is 1 there shall be deemed to be no adjustment rate for that year.

(3) Where pursuant to subsection (2) there is deemed to be no adjustment rate for a year, then, for the purposes of calculating the adjustment rate for the next year, the Consumer Price Index: All Groups Index for Hobart for the March quarter of the last year for which there was an adjustment rate shall be deemed also to be the Consumer Price Index: All Groups Index for Hobart for the March quarter of the first-mentioned year.

(4) If at any time, whether before or after the commencement of this section, the Australian Statistician has published for the March quarter of a year an index in substitution for the Consumer Price Index: All Groups Index for Hobart for the March quarter previously published by him in respect of that year—

(a) if the Minister so directs, regard shall be had to the later index; or

(b) if the Minister does not so direct, the publication of the later index shall be disregarded,

for the purposes of this section.

Adjustment of
amount
specified in
the fourth
Schedule.

17AB—(1) Where there is an adjustment rate for a year, the amount specified in the fourth Schedule is adjusted, in relation to a contract of sale under section 17, by virtue of this section, on and from a date to be determined by the Director in respect of that contract, that date being not later than 31st December of that year, by that rate.

(2) Where an amount adjusted under subsection (1) comprises, in addition to a number of dollars, a number of cents that is not a multiple of 5, that number of cents shall be reckoned as the next higher number that is a multiple of 5.

17AC—Where there is an adjustment rate for a year, the Director shall, before 1st August in that year, publish in the *Gazette* a notice of the amount payable in respect of costs of administration as a consequence of the adjustment made by the operation of section 17AB. Director to notify adjustment in *Gazette*.

7—The Principal Act is amended by inserting the following Schedule after the third Schedule:— Insertion in Principal Act of new fourth Schedule.

THE FOURTH SCHEDULE

Section 17 (5) (b) (v)

COSTS OF ADMINISTRATION

Annual amount to be included for costs of administration in rental payments under contracts of sale under section 17 \$156·00

8—A rental calculated pursuant to section 17 (5) of the Principal Act which, before the commencement of sections 5 and 7 of this Act, purported to include a charge in respect of costs of administration shall be deemed to have validly and properly included that charge as if those sections had been in force at the time that rental was calculated. Validation.

9—(1) Notwithstanding any provision of the Principal Act as amended by this Act, the Director shall, subject to subsection (2), fix such amount as he thinks fit to be the amount to be included each week for costs of administration in rental payments under a contract of sale under section 17 of the Principal Act for the period commencing on a date fixed by the Director, that date being not earlier than the day on which this Act receives the royal assent, and ending on the first date in respect of that contract which is determined by the Director under section 17AB (1) of the Principal Act. Transitional.

(2) An amount fixed pursuant to subsection (1) shall not exceed \$3·00.

(3) The Director shall give notice in writing of the amount fixed by him under subsection (1), and of the date fixed by him as the date on which the period referred to in that subsection commences, to all purchasers under section 17 of the Principal Act.

(4) Subsections (5B), (5C), and (5D) of section 17 of the Principal Act apply to the amount fixed by the Director under subsection (1) as if that amount were a charge imposed pursuant to section 17 (5) (b) (v) of the Principal Act.