
HOMES AMENDMENT ACT 1988

No. 55 of 1988

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HOMES AMENDMENT ACT 1988

No. 55 of 1988

AN ACT to amend the Homes Act 1935.

[Royal Assent 19 December 1988]

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* Short title. 1988.

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

3—Section 3 (1) of the Principal Act is amended by omitting the definition of “Department” and substituting the following definition:— Amendment of section 3 of Principal Act (Interpretation).

“Department” means Housing Tasmania;

* 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, Nos. 24 and 88 of 1983, Nos. 2 and 29 of 1984, and No. 14 of 1987.

Amendment of section 15B of Principal Act (Interpretation of Part IV).

4—Section 15B of the Principal Act is amended by inserting after the definition of “adjustment rate” the following definition:—

“dwelling-house” means a dwelling-house acquired or erected under Part III and includes its appurtenances, outbuildings, fences, lighting, water supply, drainage, and sewerage and the land on which it is erected;

Amendment of section 16 of Principal Act (Power to let dwelling-houses).

5—Section 16 of the Principal Act is amended as follows:—

(a) by omitting from subsection (1) “acquired or erected in pursuance of Part III, together with the land on which it is erected, or to be held therewith,”;

(b) by omitting from subsection (2) (a) “and lands”;

(c) by omitting from subsection (2) (b) “and lands”.

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

6—Section 17 of the Principal Act is amended as follows:—

(a) by omitting from subsection (1) “acquired or erected in pursuance of Part III, together with the land on which it is erected or to be held therewith,” and substituting “or a share of or interest in a dwelling-house”;

(b) by omitting from subsection (1A) “acquired or erected in pursuance of Part III,” and substituting “or a share of or interest in a dwelling-house”;

(c) by omitting from subsection (1B) “in respect of which the application is made, together with the land on which it is erected or which is to be held therewith” and substituting “or share of or interest in the dwelling-house”;

(d) by omitting from subsection (2) “, as may be prescribed or, in the absence of regulations in that behalf,”;

(e) by omitting from subsection (4) “, together with the land on which it is erected, or to be held therewith,” and substituting “or a share of or interest in the dwelling-house”;

(f) by omitting from subsection (5) “may occupy as a tenant the dwelling-house and land” and substituting “of a dwelling-house may occupy as a tenant the dwelling-house”;

(g) by omitting from subsection (5) (b) (i) “property” and substituting “dwelling-house”;

(h) by omitting from subsection (5B) (b) “property” and substituting “dwelling-house”;

(i) by omitting from subsection (5C) “property” and substituting “dwelling-house”;

- (j) by omitting from subsection (6) “the land” and substituting “a dwelling-house or a share of or interest in a dwelling-house”;
- (k) by omitting from subsection (6C) “land” where twice occurring and substituting “dwelling-house or a share of or interest in the dwelling-house”;
- (l) by omitting from subsection (6CA) “land” and substituting “dwelling-house or a share of or interest in the dwelling-house”;
- (m) by omitting from subsection (6D) (b) “land” and substituting “dwelling-house or share of or interest in the dwelling-house”;

7—Section 17A of the Principal Act is amended as follows:— Amendment of section 17A of Principal Act (Sale by Director subject to mortgage).

- (a) by omitting from subsection (1) “acquired or erected in pursuance of Part III together with the land on which it is erected or with which it is to be held” and substituting “or a share of or interest in a dwelling-house”;
- (b) by omitting from subsection (2) “acquired or erected in pursuance of Part III together with the land on which it is erected or with which it is to be held,” and substituting “or a share of or interest in the dwelling-house”;
- (c) by omitting from subsection (4) “, together with the land on which it is erected or with which it is to be held” and substituting “or a share of or interest in a dwelling-house”;
- (d) by omitting from subsection (4) “applicant shall” and substituting “Director may require the applicant to”;
- (e) by omitting from subsection (4) (b) “the total purchase-price” and substituting “any money unpaid and”;
- (f) by adding the following subsection after subsection (5):—
 - (6) For the purposes of subsection (4) (b), it is not necessary for a mortgage to be a first mortgage.

8—Section 17B (1) of the Principal Act is amended by Amendment of section 17B of Principal Act (Contract of sale subject to mortgage). omitting “, the subject matter of that contract, together with the land on which it is erected or with which it is to be held” and substituting “or a share of or interest in the dwelling-house to which that contract relates”.

Insertion in
Principal Act of
new Part IVB.

9—After Part IVA of the Principal Act, the following Part is inserted:—

PART IVB

GUARANTEE

Guarantee by
Treasurer.

18C—(1) The Treasurer may execute a guarantee guaranteeing the repayment of any loan to be made by a person to any other person lending money to another person for housing purposes.

(2) A guarantee given by the Treasurer under subsection (1)—

(a) shall be in such form and subject to such terms and conditions as are prescribed and such other terms and conditions as the Treasurer thinks fit; and

(b) shall not be enforceable against the Treasurer unless the person making the loan has, to the Treasurer's satisfaction, exercised that person's rights and remedies under all securities held by or for that person in respect of the loan and interest charges and expenses.

(3) Such sums as may from time to time become due and payable by the Treasurer under any guarantee authorized by this section shall be paid out of the Consolidated Fund, which is hereby to the necessary extent appropriated accordingly.

Guarantee and
indemnity by
Treasurer.

18D—(1) The Treasurer may execute a guarantee, in favour of any person guaranteeing the repayment of any amount borrowed for the purposes of this Act other than a loan referred to in section 18C (1).

(2) The Treasurer may provide an indemnity in favour of any person and in respect of any liability approved by the Director where that liability is incurred in the carrying out of the objects of this Act or in achieving its purposes.

(3) A guarantee executed or an indemnity provided by the Treasurer under subsection (1) or (2) is subject to any terms and conditions that the Treasurer thinks fit.

(4) Any amounts that from time to time become due and payable under a guarantee or an indemnity authorized by this section shall be paid out of the Consolidated Fund which is hereby to the necessary extent appropriated accordingly.

18E—(1) Before a guarantee is given under section 18C or 18D, the borrower shall, if the Treasurer so requires, give to the Treasurer such security as the Treasurer may specify and shall execute such instruments as may be necessary for the purpose.

Guarantee subject to security, &c.

(2) A guarantee under section 18C or 18D operates so as to guarantee—

- (a) the repayment of money lent, or agreed to be lent, to the borrower; and
- (b) the payment of interest and other charges in respect of that money,

only to the extent that the aggregate of those amounts does not exceed \$3 000 000.

10—The heading to Part V of the Principal Act is amended by inserting “BY AUTHORITY” after “ADVANCES”.

Amendment of heading to Part V of Principal Act.

11—Section 20 (1) of the Principal Act is amended by omitting “Act” and substituting “Part”.

Amendment of section 20 of Principal Act (Application for advance).

12—Section 21 (1) of the Principal Act is amended by omitting “Act” and substituting “Part”.

Amendment of section 21 of Principal Act (Advances by instalments).

13—Section 23 (1) of the Principal Act is amended by omitting “Act” and substituting “Part”.

Amendment of section 23 of Principal Act (Advances made only on first mortgage).

14—Section 25 of the Principal Act is amended by omitting “Act” and substituting “Part”.

Amendment of section 25 of Principal Act (Provisions relating to advances).

