

STATUTORY RULES.

1926. No. 171

REGULATIONS UNDER THE WAR SERVICE HOMES ACT 1918-1926.

I THE GOVERNOR-GENERAL, in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *War Service Homes Act* 1918-1926, to come into operation forthwith.

Dated this seventeenth day of December, 1926.

STONEHAVEN,
Governor-General.

By His Excellency's Command,
W. C. HILL,
Minister of State for Works and Railways.

WAR SERVICE HOMES REGULATIONS.

PART I.—PRELIMINARY.

1. These Regulations may be cited as the War Service Homes Regulations. Short title.

2. These Regulations are divided into parts as follows:—

Parts.

Part I.—Preliminary.

Part II.—Applications for homes and advances.

Part III.—Mortgage to secure balance of purchase money.

Part IV.—Conditions of contracts of sale and advances.

Part V.—Modifications and adaptations of the *Lands Acquisition Act* 1906-1916.

Part VI.—Miscellaneous.

Part VII.—Advances on mortgage for the purpose of homes.

Division 1.—General.

Division 2.—Advances by Instalments.

Part VIII.—Insurance of dwelling houses and building material.

3. In these Regulations, unless the contrary intention appears—

Definitions.

“Deputy Commissioner” means the Deputy Commissioner for War Service Homes for a State, appointed under the Act;

“Home” means a dwelling-house and the land upon which it is erected;

“The Act” means the *War Service Homes Act* 1918 and any amendments made thereto from time to time.

PART II.—APPLICATIONS FOR HOMES AND ADVANCES.

4. Applications for homes or for advances under the Act shall be made to a Deputy Commissioner in writing in the manner and on the form approved by the Commissioner. Applications for homes.

5. Applications shall be dealt with in the manner laid down in the General Orders issued by the Commissioner. Applications—how dealt with.

C.18013.—PRICE 8D.

Certificate of
Deputy
Commissioner
as to eligibility
&c., of
applicant.

6. A Deputy Commissioner or such other person as the Commissioner may authorize shall, on receipt of an application for a home or for an advance certify whether the applicant is an eligible person and whether the Deputy Commissioner or the person so authorized is satisfied that the applicant has a reasonable prospect of carrying out the terms of the contract of sale or the mortgage in respect of the advance into which he is desirous of entering.

Appeals.

7. (1) Where an applicant is dissatisfied with the certificate given in pursuance of the last preceding regulation, he may appeal in writing to the Deputy Commissioner stating fully the grounds of his appeal.

(2) Upon receipt of the appeal the Deputy Commissioner shall reconsider the case, and may either grant a fresh certificate, or forward, together with the appeal, the file and such report as he considers necessary to the Commissioner for decision.

(3) The decision of the Commissioner shall be final.

PART III.—MORTGAGE TO SECURE BALANCE OF PURCHASE MONEY.

Form of
mortgage.

8. For the purposes of sub-section (6.) of section 19 of the Act, the prescribed form of mortgage shall be such form as is required for registration under the Acts of the States relating to registration.

Notice of
intention to
execute
mortgage.

9. Any purchaser may execute a mortgage to the Commissioner in pursuance of sub-section (6) of section 19 of the Act upon giving to the Commissioner one month's notice of his intention to do so.

PART IV.—CONDITIONS OF CONTRACTS OF SALE AND ADVANCES.

Fees, charges,
and costs.

10. (1) The following fees charges and costs shall be payable by the applicant :—

Valuation fee ;

Survey fee ;

Charges for services of architects and inspectors as determined by the Commissioner ;

All fees in connexion with transfers and mortgages (searches, registrations, new titles, extra titles, &c.) ;

Stamp duty ; and

Costs payable to the Commonwealth Crown Solicitor or his representatives.

(2) The Commissioner may require the applicant to pay the fees charges and costs referred to in this regulation as soon as they become due or immediately after they have been paid, or may direct that they be added to the amount of the purchase money or advance or deducted from the amount of any advance, and in the last-mentioned case the borrower will be deemed to have received the advance in full.

Rate of interest.

11. The rate of interest to be charged to any purchaser or borrower in respect of any purchase money or advance shall be Five pounds per centum per annum.

Commissioner
to hold title
deeds till
mortgage
discharged.

12. The title deeds of land mortgaged to the Commissioner shall remain in the custody of the Commissioner so long as any money remains due and unpaid under the mortgage.

Borrower to
observe Acts
and regulations
applicable to
home, &c.

13. Each borrower shall in all respects conform to the provisions and regulations of any general or local Act of Parliament or local authority which may be applicable to the home or the work of erecting completing or enlarging the dwelling-house.

14. A certificate signed by the Commissioner, the Secretary to the War Service Homes Commission, or a Deputy Commissioner containing a statement of the account of a purchaser, a borrower, a tenant or an applicant with the Commissioner shall be evidence of the matters stated.

Proof of account with Commissioner.

15. Should any land mortgaged to the Commissioner be seized in execution the Commissioner may by notice in writing at once call in the amount due under the mortgage whether as principal interest or otherwise.

Power of Commissioner where mortgage property seized in execution to call in amount due.

16. Whenever the Commissioner calls in an amount due under a mortgage the borrower shall forthwith pay that amount and in default the Commissioner shall have the same remedies for the recovery of the amount called in as are provided by the Act or these Regulations for the recovery of sums payable by the borrower.

Power of Commissioner to receive amount due.

17. (1) Notwithstanding the cancellation of any Contract of Sale, the Commissioner may sue for and recover any instalment of purchase money or any other money which became due under the Contract at any time prior to the date of cancellation.

Recovery of money due.

(2) In the event of the cancellation taking place during any period in respect of which an instalment is accruing due, a proportionate sum shall be deemed to have fallen due up to the date of cancellation.

18. The Commissioner may consent to the transfer of land or a home or of any estate or interest therein to an eligible person where the person proposing to transfer is suffering hardship by reason of—

Conditions of transfer to eligible persons.

- (a) loss of employment ;
- (b) financial stress ;
- (c) illness ;
- (d) unsuitability of the locality to the health of the person or any member of his family ; or
- (e) such other cause as the Commissioner deems sufficient.

19. (1) Where the Commissioner effects repairs in pursuance of sub-section (2.) of section 31 of the Act the expenses thereby incurred together with interest at the same annual rate as that which is payable on the purchase money shall be repayable by the purchaser or borrower over a period not exceeding three years in weekly, fortnightly, or monthly instalments as the Commissioner determines.

Payment for repairs.

(2) The Commissioner shall estimate the cost of the repairs prior to the repairs being effected, and shall notify the estimated cost to the purchaser or borrower.

(3) Any failure by the Commissioner to notify the estimated cost of repairs to the purchaser or any notification of an estimated cost which is lower than the actual cost shall not relieve the purchaser or borrower from his liability to repay the expenses incurred in effecting the repairs, and the interest.

20. For the purposes of section 38 of the Act the other prescribed risks shall be lightning, flood, and tempest.

Prescribed insurance risks.

21. If the dwelling-house or any part thereof or any materials of which it is constructed or any fittings or fixtures thereon or therein are, without the consent in writing of the Commissioner, removed from land subject to a contract of sale or mortgage, the Commissioner may exercise all or any of the powers conferred upon him by section 31 of the Act to the same extent as if after notice in writing by the Commissioner the purchaser or borrower had not complied with the requirements of that section.

Removal of fittings or fixtures.

Power of
Commissioner
where purchaser
or borrower
not an eligible
person.

22. If it is proved to the satisfaction of the Commissioner that at the date of the contract of sale or advance the purchaser or borrower was not an eligible person under the Act the Commissioner may exercise all or any of the powers conferred upon him by section 36 of the Act to the same extent as if an instalment or money payable in respect of the contract of sale or advance had been unpaid for three calendar months next after the time appointed for the payment thereof.

Failure by
purchaser or
borrower to
pay rates, &c.

23. (1) Except in cases where a condition has been inserted in the contract of sale, mortgage or other security in pursuance of section 37 of the Act, upon a failure by a purchaser or borrower to pay as it falls due any sum payable for rates, taxes, charges, assessments or outgoings in respect of the land or dwelling-house which is subject to a contract of sale or mortgage, the Commissioner may, if he thinks fit, pay the sum due, and may recover the amount paid, or any portion thereof, together with interest at the rate payable under the contract or mortgage, by action against the purchaser or borrower in any Court of competent jurisdiction.

(2) In any action for the recovery of rates, taxes, charges, assessments or outgoings under the last preceding sub-regulation, a certificate in writing signed by the Commissioner, Secretary to the War Service Homes Commission, or Deputy Commissioner, certifying that the sum named in the certificate was due by the purchaser or borrower and that it was still unpaid shall be *prima facie* evidence of the facts stated in the certificate.

appropriation
of amounts
paid to
Commissioner.

24. Whenever any amount is paid to the Commissioner by a purchaser or borrower the amount may be appropriated by the Commissioner—

Firstly—in payment of any sums owing by the purchaser or borrower in respect of fees, charges or costs, or in repayment of any sums paid by the Commissioner on behalf of the purchaser or borrower ;

Secondly—in payment of any insurance premiums due by the purchaser or borrower ;

Thirdly—in payment of interest due by the purchaser or borrower ; and

Fourthly—in payment or repayment as the case may be of the purchase money or advance.

Inspection and
valuation of
land and
dwelling house.

25. Every purchaser and every borrower shall for the purposes of section 46 of the Act at all times permit any inspector or valuer of the Commissioner to enter upon and view the land or land and dwelling-house in respect of which the contract of sale has been entered into or the advance has been made, and if the occupier of the land or the land and dwelling-house fails or refuses on demand to permit an inspector or valuer so to enter and view or if the land or land and dwelling-house is unoccupied the inspector or valuer may enter if necessary by force upon and view the land or land and dwelling-house.

Terms and
conditions of
tenancy created
under s. 30A of
Act.

26. In the case of a tenancy created under section 30A of the Act—

(a) the term of the tenancy shall be the same as the period allowed for the payment of the purchase money or the repayment of the advance ;

(b) The rental payable in respect of the tenancy shall be the same, both as to amounts and as to times of payment, as the instalments in which the purchase money or advance, together with interest thereon, is to be paid or repaid ; and

- (c) if at any time any part of the rental payable in respect of the tenancy is unpaid for a period of three months after the time appointed for the payment thereof the tenancy shall be liable to determination at the discretion of the Commissioner.

27. Where the Commissioner erects a dwelling-house on behalf of an applicant, the applicant shall be liable to the Commissioner for interest on progress payments made to a contractor from the date of each respective payment by the Commissioner, and such interest shall be paid to the Commissioner on or before the last day of the calendar month during which the final instalment to a contractor is paid by the Commissioner.

Payment by applicant of interest on progress payments to contractor.

PART V.—MODIFICATIONS AND ADAPTATIONS OF THE LANDS
ACQUISITION ACT 1906–1916.

28. The *Lands Acquisition Act* 1906–1916, in its application in relation to land acquired or to be acquired by the Commissioner for the purposes of the Act shall be modified and adapted as follows:—

Modifications and adaptations of the *Lands Acquisition Act* 1906–1916.

- (a) Every reference, to the Commonwealth, or to the Governor-General, or to the Attorney-General or to the Minister in any section other than in sections 5, 20, 41, 44, 57, 58, 62, 62A, 63, 64, 66 and 67 shall be read as a reference to the War Service Homes Commissioner:

Provided that the War Service Homes Commissioner shall not acquire any Crown lands of a State without first obtaining the approval of the Minister thereto;

- (b) Section 5 shall be modified—

- (a) as if for the definition of “Convey” there were substituted the following definition:—“‘Convey’ includes grant, convey, release and transfer”;
- (b) as if from the definition of “land” there were omitted all the words following the words “Crown land”; and
- (c) as if in the definition of “Owner” there were substituted for the word “Commonwealth” the word “Commissioner”;

- (c) Section 8 shall be modified as if for the words “sell and convey the land to the Commonwealth and may enter into any agreement for that purpose” there were substituted the following words:—

- “ (i) sell or convey the land to the Commissioner; and
- (ii) if the land is acquired by the Commissioner by compulsory process—
- (a) subject to this Act, make or join with any person in making a claim for compensation; and
- (b) accept or not accept any offer of compensation by the Commissioner; and
- (c) take any action authorized by this Act to be taken by a claimant to determine a disputed claim for compensation; and
- (iii) enter into any agreement incidental to the exercise of any power conferred by this section.”;

(d) Section 9 shall be modified as if the words “The power to sell and convey land may be exercised” there were substituted the words “The powers conferred by the last preceding section may be exercised”;

(e) Section 10 shall be modified to read as follows :—

“(1.) Where any land is sold or conveyed to the Commissioner by or acquired from any person who was not entitled to sell or convey the land to the Commissioner except under this Act (which person is in this section referred to as the person under disability) the purchase money or compensation may be applied in the manner provided in this section.

“(2.) With the consent of all parties interested the purchase money or compensation may be paid to a trustee subject to such trusts as are declared by a deed of trust approved by the Commissioner.

“(3.) Where any infant, lunatic or idiot is interested in or entitled to receive any purchase money or compensation, his consent to any application or disposition thereof may be given by a guardian or committee on his behalf.

“(4.) The purchase money or compensation may be paid to a Registrar of the High Court or the Master-in-Equity or other proper officer of the Supreme Court to be applied in accordance with any order of the Court.

“(5.) The High Court or the Supreme Court may on the application of any person interested order any purchase money or compensation to be applied as follows :—

- (a) in the discharge of any debt or encumbrance affecting the land, or affecting other land settled therewith to the same or the like uses, trusts and purposes ; or
- (b) in the purchase of other land or of Government securities of the Commonwealth, or of a State, to be conveyed, limited and settled upon the like uses, trusts and purposes and in the same manner as the land in respect of which the purchase money or compensation was paid ; or
- (c) if the purchase money or compensation has been paid in respect of any buildings acquired under the authority of this Act, in removing or replacing the buildings or substituting others in their stead ; or
- (d) in such manner as the High Court or the Supreme Court directs ; or

- (e) in payment to any person becoming absolutely entitled to the purchase money or compensation.

“(6.) If the person under disability is a Corporation the purchase money or compensation may be paid to the Corporation

“(7.) If the person under disability is a trustee or feoffee in trust the purchase money or compensation may be paid to the trustee or feoffee in trust to be dealt with by him as nearly as may be in accordance with the trusts upon which the land is held.

“(8.) If the person under disability is an executor or administrator, the purchase money or compensation may be paid to the executor or administrator to be dealt with by him in accordance with his duties as such executor or administrator.

“(9.) If the person under disability is an infant, lunatic or idiot, the purchase money or compensation may be paid to his guardian or committee.

“(10.) Whenever the amount of purchase money or compensation does not exceed Fifty pounds it may be paid to the persons who would for the time being have been entitled to the rents and profits of the land.

“(11.) In this section ‘ Compensation ’ includes compensation together with any interest payable thereon and any amount payable in addition thereto under this Act.” ;

- (f) Section 14 shall be modified to read as follows :—

“ The Commissioner may execute or accept any conveyance or document and enter into any covenant or agreement and do anything necessary for the purpose of effecting the acquisition of the land.” ;

- (g) Section 15 shall be modified as if for sub-sections (1.) and (2.) there were substituted the following sub-section :—

“(1.) The Commissioner may by notification published in the *Gazette* declare that the land specified in the notification has been acquired by compulsory process for the purposes of the *War Service Homes Act 1918.*” ;

- (h) Section 19 shall be modified to read as follows :—

“ Whenever any land has been acquired by the Commissioner by compulsory process—

- (a) either House of Parliament may within thirty days after a copy of the notification of acquisition has been laid before it, pass a resolution that the notification shall be void and of no effect either wholly or as to any part of the land acquired ; or

- (b) the Commissioner may by declaration published in the *Gazette* within six months after the date of the publication in the *Gazette* of the notification of acquisition, revoke the notification of acquisition either wholly or as to any part of the land acquired,

and thereupon, to the extent specified in the resolution or declaration of revocation the notification shall be void and of no effect, and the land shall be deemed not to have been vested in the Commissioner, and the owner of the land shall be entitled to compensation for any damage which he may actually and unavoidably have suffered by reason of the notification or of the exercise of the powers of the Commissioner consequent thereupon.”;

- (i) Section 20 shall be modified—

- (a) as if for the word “Attorney-General” there were substituted the word “Commissioner”;
- (b) as if for the words “transfer of the land to the Commonwealth” there were substituted the words “transfer of the land to the Commissioner”; and
- (c) as if there were added thereto the following sub-section:—

“(2.) Whenever there is lodged with him a certificate under the hand of the Commissioner certifying that pursuant to the last preceding section a notification of acquisition is void and of no effect either wholly or in part, the Registrar-General or Registrar of Titles or other officer by whom the notification of acquisition was registered shall, to the extent set forth in the certificate, cancel the registration of the notification and any certificate of title issued thereunder and restore the Register to the same condition as if to that extent the notification had not been published or registered.”;

- (j) Section 23 shall be modified as if there were added thereto the following sub-section:—

“(3.) The lessee of any land acquired by compulsory process shall be entitled to compensation in respect only of that portion (if any) of the term of the lease which is unexpired on the date upon which he ceases occupation of the land, but in determining the compensation payable to the owner of the reversion the lessee shall be deemed to have ceased occupation of the land on the date of acquisition.”;

- k) Section 29 shall be modified to read as follows:—

“The value of any land acquired by compulsory process shall be taken not to exceed its unimproved

value or the interest of the owner therein on the first day of January, 1919, together with the value of his interest in the improvements on the land at the date of the acquisition of the land.”;

- (l) Section 30 shall be modified as if for the words “tenant holding from year to year” there were substituted the words “monthly tenant”;

- (m) Section 34 shall be modified to read as follows:—

“(1.) On the expiration of the time limited for making claims for compensation, the Commissioner shall cause any claims made to be examined and a report made to him as to the compensation payable.

“(2.) After receipt of the report, the Commissioner or any person authorized by him in that behalf shall—

(a) notify the claimant that the claim for compensation is admitted, and that the compensation claimed will be paid to him on compliance with this Act; or

(b) offer the claimant such amount as the Commissioner thinks reasonable in satisfaction of the claim for compensation and notify the claimant that the amount offered will be paid to him on compliance with this Act if he accepts the offer; or

(c) notify the claimant that he disputes the claim for compensation.

“(3.) The claimant shall within sixty days after the receipt of the offer of the Commissioner by notice in writing notify the Commissioner whether he does or does not accept the offer.

“(4.) Where more than one claim for compensation is made in respect of the acquisition of the same land the Commissioner may if he thinks fit make an offer to all or any two or more of the claimants jointly, without apportioning the amount offered among the claimants to whom the joint offer is made.”;

- (n) Section 37 shall be modified as if there were added thereto the following sub-sections:—

“(2.) For the purpose of this section—

(a) the Supreme Court shall be a Court of competent jurisdiction in all cases; and

(b) a County, District or Local Court having jurisdiction over the place where the land is situated shall, when constituted or presided over by a Judge or a Police, Stipendiary or Special Magistrate, be a Court of competent jurisdiction in cases where the total compensation claimed does not exceed £500.

“(3.) When an action for compensation has been instituted the Court may, on the application of the Commissioner, by order direct any person who has

claimed compensation or who appears to have had at the date of acquisition any estate or interest in the land, to join as a plaintiff in the action within a time specified in the order.

“(4.) If any person so ordered fails to join as a plaintiff in the action within the time fixed by the order, he shall be absolutely debarred from thereafter instituting any action for compensation against the Commissioner in respect of the land.

“(5.) When in an action for compensation in a County, District or Local Court, by reason of joinder of new plaintiffs or otherwise, the total compensation claimed exceeds £500, the action shall, on the application of the Commissioner to—

(a) the High Court, be removed into the High Court; or

(b) the Supreme Court, be removed into the Supreme Court,

and shall thereafter proceed in the Court to which it is removed as if it had been instituted in that Court.

“(6.) On the trial of the action the Court shall—

(a) determine the total amount of compensation payable by the Commissioner to the plaintiffs; and

(b) where two or more persons are entitled to share in the compensation, determine the amount payable to each person and the manner in which it shall be paid.

“(7.) It shall not in any action for compensation be necessary for the Commissioner to pay compensation into Court, and the Commissioner shall not in any way be prejudiced in the defence of the action by reason of non-payment into Court.”;

(c) Section 38 shall be modified—

(a) as if in sub-section (1.) for the word “claim” (last occurring) there were substituted the words “amount of compensation payable by the Commissioner”;

(b) as if for sub-section (2.) there were substituted the following sub-section:—

“(2.) The Court shall, after such notice to such persons as it directs, hear the application, and—

(a) determine the amount of compensation payable by the Commissioner; and

(b) where two or more persons are entitled to share in the compensation, determine the amount payable to each person and the manner in which it shall be paid”; and

(c) as if for sub-section (4.) there were substituted the following sub-section :—

“ (4.) The determination of the Court shall be final and conclusive and without appeal and shall be binding upon all persons having any right to compensation in respect of the acquisition of the land, whether represented before the Court on the hearing of the application or not.” ;

(p) Section 39 shall be modified as if for sub-section (4.) there were substituted the following sub-section :—

“ (4.) The Court shall, after such notice to such persons as it directs, hear the application, and—

(a) determine the amount of compensation payable by the Commissioner ; and

(b) where two or more persons are entitled to share in the compensation, determine the amount payable to each person and the manner in which it shall be paid.” ;

(pa) Section 47 shall be modified as if for the word “ which ” there were substituted the word “ who ” ;

(q) Section 48 shall be modified—

(a) as if for sub-sections (1.) to (4.) there were substituted the following sub-sections :—

“ (1.) If any land acquired under this Act by agreement is subject to a mortgage, the Commissioner may pay off the mortgage at any time at which the principal secured by the mortgage is repayable.

“ (2.) If the principal secured by the mortgage is not repayable at the date of acquisition or at any time within six months thereafter, the Commissioner may give notice to the mortgagee that he intends at the expiration of six months from the date of the notice, to pay off the mortgage and may at any time after that period has expired pay to the mortgagee the amount to which he is entitled under this section.

“ (3.) The amount to which a mortgagee is entitled under this section shall be—

(a) the principal secured by the mortgage ;

(b) the interest due under the mortgage at the lowest rate secured by the mortgage (whether for prompt payment or otherwise) at the date upon which the amount to which the mortgagee is entitled under this section is paid or tendered to the mortgagee ;

(c) the costs and charges (if any) due to the mortgagee under the mortgage ;

(d) the reasonable costs of the mortgagee of discharging the mortgage and conveying his interest in the land to the Commissioner ; and

(e) if the principal is not repayable under the mortgage (with or without notice) at the time the mortgage is paid off—

- (i) the costs of the mortgagee of re-investing the principal paid off; and
- (ii) should a loss of interest reasonably be expected, regard being had to the rate of interest secured by the mortgage and the rate of interest obtained or likely to be obtained on the re-investment—a reasonable allowance for loss of interest until the date on which the principal would have been repayable (with or without notice).

“(4.) The mortgagee shall upon payment or tender to him of the amount to which he is entitled under this section execute a discharge of the mortgage and any conveyances necessary to convey his interest in the land to the Commissioner.”; and

(b) as if from sub-section (6.) there were omitted the words “for and on behalf of the Commonwealth.”;

(r) Sections 49 and 50 shall be modified to read as follows:—

“49.—(1.) Where any land acquired by compulsory process is at the time of acquisition subject to a mortgage, the mortgagee may either—

- (a) claim compensation under division 2 of Part IV. of this Act; or
- (b) refrain from claiming compensation under this Act and rely upon his rights and remedies against the mortgagor under the mortgage.

“(2.) The mortgagee shall set forth in his claim—

- (a) the amount of principal due under the mortgage at the date of the acquisition of the land; and
- (b) the amount of interest, costs and charges due to the mortgagee under the mortgage at that date.

“(3.) When a mortgagee claims compensation under this Act the acquisition of the land shall to the extent to which the compensation payable to the mortgagor in respect of the land mortgaged is sufficient to satisfy the mortgage debt, have the effect of discharging the mortgage debt and extinguishing the liability of the mortgagor under the mortgage as from the date of acquisition.

“(4.) The Commissioner may by notice in writing sent by post addressed to the mortgagee at the address given in the mortgage, require the mortgagee to—

- (a) furnish particulars of—
 - (i) the amount of principal due under the mortgage at the date of the acquisition of the land, and

- (ii) the amount of interest, costs and charges due to the mortgagee under the mortgage at that date ; and

(b) make a claim under this Act for compensation as mortgagee.

“(5.) If the mortgagee fails to furnish the particulars to the Commissioner, and to make a claim for compensation within thirty days (or such further period as the Commissioner may in writing allow for that purpose) after the date of the notice, he shall be deemed to have waived all rights under this Act to compensation as mortgagee and shall be absolutely debarred from claiming or recovering as mortgagee any compensation or other amounts from the Commissioner.

“(6.) The Commissioner may by notice in writing served upon the owner of the land, either personally or by registered letter posted to his last-known place of abode, require the owner to furnish the following particulars :—

(a) whether or not the land is subject to a mortgage ; and

(b) if so—

(i) the name and address of the mortgagee ; and

(ii) the amount of principal due under the mortgage at the date of acquisition ; and

(iii) the amount of interest, costs and charges due to the mortgagee under the mortgage at that date.

“(7.) If the owner of the land fails to furnish the particulars to the Commissioner within thirty days (or such further period as the Commissioner may in writing allow for that purpose) after the service of the notice, the Commissioner may agree with any person claiming to be a mortgagee of the land as to the amounts due under the mortgage and the owner shall be absolutely debarred from disputing the correctness of any amounts so agreed upon.” ;

(s) Section 51 shall be modified as follows :—

“(1.) The compensation payable to a mortgagee shall be—

(a) the principal due under the mortgage at the date of acquisition ; and

(b) any interest, costs or charges due to the mortgagee under the mortgage at that date,

but not exceeding in any case the amount of compensation payable to the mortgagor in respect of the land.

“(2.) In addition to the compensation mentioned in sub-section (1.) of this section the mortgagee shall be entitled to the following amounts :—

(a) (i) if the principal was repayable (with or without notice) at the date of the acquisition of the land, interest on the amount of principal included in the compensation at the lowest rate (whether for prompt payment or otherwise) secured by the mortgage from the date of acquisition until payment of the compensation to the mortgagee ; or

(ii) if the principal was not repayable (with or without notice) at the date of the acquisition of the land, interest on the amount of principal included in the compensation at the lowest rate (whether for prompt payment or otherwise) secured by the mortgage from the date of acquisition until the principal would be repayable (with or without notice) or until payment of the compensation to the mortgagee (whichever is the later) but not in any case exceeding six months from the date of acquisition ; and

(b) the reasonable costs of the mortgagee of executing any discharge or mortgage required by the mortgagor or the Commissioner ; and

(c) if the principal was not repayable (with or without notice) at the date when interest ceases to be payable under this section—

(i) the costs of the mortgagee of re-investing the principal paid off ; and

(ii) should a loss of interest reasonably be expected, regard being had to the rate of interest secured by the mortgage and the rate of interest obtained or likely to be obtained on the re-investment—a reasonable allowance for loss of interest until the date on which the principal would have been repayable (with or without notice).

“(3.) Where the Commissioner gives notice to the mortgagee that the compensation is ready for payment, and the mortgagee does not, on or before a date specified in the notice, attend and receive payment of the compensation, interest under sub-section (2.) of this section shall be payable only to the date specified in the notice.”;

(t) Section 52 shall be modified to read as follows :—

“(1.) The compensation payable to a mortgagee under sub-section (1.) of section 51 shall be deducted from the compensation payable to the mortgagor.

“(2) Upon payment or tender of the compensation to the mortgagee, he shall if so required by the mortgagor or the Commissioner execute a discharge of the mortgage to the extent to which the amount paid or tendered is sufficient to satisfy the mortgage.

“(3.) The rights and remedies of the mortgagee shall not be affected as regards the remainder (if any) of the mortgage debt, or as regards any other land subject to the mortgage.”;

(u) Section 53 shall be modified as if for the words “ has waived his rights to ” there were substituted the words “ refrains from claiming ”;

(v) Section 56 shall be modified as if for sub-section (3.) there were substituted the following sub-section :—

“(3.) After the apportionment has been settled, then—

(a) in respect of the part not acquired—

(i) the lessee shall as to future accruing rent be liable only to the lessor for the rent apportioned to such part; and

(ii) the lessor shall have the same rights and remedies, both against the land and against the lessee, for the rent so apportioned as he had previously to the apportionment for the whole rent; and

(iii) all covenants, conditions and agreements in the lease (except as to the amount of rent) shall remain in force; and

(b) in respect of the land acquired, if the lessee continues after the date of acquisition in occupation of such land—

(i) the lessee shall as to future accruing rent be liable to the Commissioner for the rent apportioned to such land;

(ii) and the Commissioner shall have the same rights and remedies both against the land and against the lessee, for the rent so apportioned as the lessor previously had for the whole rent.”.

PART VI.—MISCELLANEOUS.

Prescribed
institutions.

29. The Governments of the several States of the Commonwealth and the Commonwealth Bank of Australia shall, for the purposes of section 50 of the Act, be prescribed institutions.

Service of
notices.

30. Any notice to be given by the Commissioner or a Deputy Commissioner under the Act or these Regulations shall be deemed to have been duly given if signed for or on behalf of the Commissioner and posted in a prepaid letter to—

(a) a purchaser or borrower at the dwelling-house purchased from, or in respect of which an advance has been made by the Commissioner; or

(b) the last known address of the person to whom the notice is required to be given—

and shall be deemed to have been duly received at the time at which in the ordinary course of post it would have reached the dwelling-house or that address.

Proof of
signature of
Commissioner,
&c.

31. Any certificate, insurance policy, notice or other document purporting to bear the written, stamped or printed signature of the Commissioner, the Secretary to the War Service Homes Commission, or a Deputy Commissioner shall, until the contrary is proved, be deemed to have been duly signed by the person by whom it purports to be signed.

Proof of
account with
Commissioner.

32. A certificate signed by the Commissioner, the Secretary to the War Service Homes Commission or a Deputy Commissioner containing a statement of the account of a purchaser or tenant, to whom land has been sold or leased under section 48 of the Act, shall be evidence of the matters stated.

Delegation of
powers by
Commissioner.

33. (1) The Commissioner may by writing under his hand and seal delegate any of his powers under these Regulations (except this power of delegation) in relation to any matters or class of matters or to any particular State or Territory so that the delegated powers may be exercised by the delegate with respect to the matters specified or the State or Territory defined in the instrument of delegation.

(2) Every delegation by the Commissioner shall be revocable in writing at will and no delegation shall prevent the exercise of any power by the Commissioner.

(3) Whenever a certified copy of a delegation by the Commissioner of any of his powers or functions under the Act or these Regulations is lodged with the Registrar-General or other proper officer of a State or Territory, the Registrar-General or such other officer may, if he thinks fit, until—

(i) the expiration of the time stated in the delegation for the operation thereof; or

(ii) notice of revocation of the delegation has been lodged with him—
(whichever shall first occur) register any deed, instrument, or document executed or signed by the delegate, and purporting to be executed or signed pursuant to such delegation.

(4) If any such deed, instrument, or document is registered pursuant to this regulation, the Commissioner shall not be entitled to maintain any action against the Registrar-General or such other officer by reason only that—

(a) the delegation had in fact been revoked prior to the execution or signature of the deed, instrument, or document; or

(b) the deed, instrument, or document was not authorized by the Act or the Regulations; or

(c) the delegation did not authorize the delegate to execute or sign the deed, instrument, or document.

34. The Deputy Comptroller of Repatriation for a State appointed under the *Australian Soldiers' Repatriation Act 1917-1918* shall for the purposes of section 47 of the Act be a prescribed authority of the Department of Repatriation. Prescribed authority of Department of Repatriation.

35. (1) Notice of the intention of the Commissioner to make an application for a warrant pursuant to sub-section (3) of section 30A of the Act shall be served upon the tenant not less than seven days before the time stated in the notice as the time at which the application will be made (Form B). Procedure under section 30A.

(2) Service of the notice shall be deemed to have been duly effected if the notice or a true copy thereof is—

- (a) delivered to the tenant personally ; or
- (b) delivered to a person apparently over the age of sixteen years at and apparently an inmate of the dwelling house and land the subject of the tenancy ; or
- (c) affixed in a prominent position on the front or other door of the dwelling-house and land the subject of the tenancy ; or
- (d) posted by prepaid registered post addressed to the tenant at the dwelling-house and land the subject of the tenancy.

(3) Service of the notice may be proved by affidavit indorsed upon the notice or a copy thereof (Form C). The affidavit may be sworn before a justice of the peace, or a commissioner for affidavits.

(4) The notice or a copy thereof with an affidavit of service duly completed indorsed thereon shall be left with the clerk of the court before the day upon which the application is to be made and the application shall be included in the list of matters to be dealt with by the court upon that day.

(5) Forms B, C and D in the Schedule to these Regulations or forms to the like effect shall suffice as forms of notice, affidavit and warrant respectively under section 30A of the Act and this regulation.

PART VII.—ADVANCES ON MORTGAGE FOR THE PURPOSE OF HOMES.

Division 1.—General.

36. Each application for an advance shall specify the purpose for which the advance is required and the amount of the advance required. Purpose of advance to be specified.

37. No advance shall be made and no instalment thereof shall be paid until the borrower has executed a mortgage in accordance with a form and containing conditions approved by the Commissioner and securing the full amount of the advance. Advance not to be made until mortgage executed.

38. The plans and specifications of a dwelling-house, in respect of which an application for an advance is made for any of the purposes specified in paragraphs (a), (b), (d) and (e) of section 20 of the Act, shall comply with the following conditions :— Plans and specifications.

(a) Each plan shall show :—

- (i) a plan of the building, section and two elevations ;
- (ii) general construction ; and
- (iii) figured dimensions.

(b) Every specification shall clearly describe the whole of the work and materials required for carrying out the construction of the building.

Account of
disbursement of
advance.

39. The borrower shall whenever required so to do by a Deputy Commissioner or by a State Savings Bank or other institution prescribed under section 50 of the Act, furnish a full and true account, verified by statutory declaration, of the manner in which the advance or any instalment thereof has been disbursed.

Division 2.—Advances by Instalments.

Advances by
instalments.

40. Advances may be made by instalments for the purpose of erecting completing or enlarging dwelling-houses.

Definition of
“work.”

41. In this division of this Part the word “work” means the work of erecting completing or enlarging a dwelling-house.

Application for
advance by
instalments.

42. The applicant for an advance by instalments shall in his application state the approximate number of instalments he will require and the date of completion of the work for which the advance is required.

Notice for
payment of
instalment.

43. Whenever an applicant for an advance or a borrower desires payment of an instalment or further instalment of an advance he shall give to the Commissioner notice in writing of such desire.

Certificates
of value.

44. (1) The Commissioner may authorize officers to give certificates of value of dwelling-houses which are being erected completed or enlarged.

(2) A certificate of value signed by an authorized officer and approved by the Deputy Commissioner shall as against the applicant for an advance or the borrower be conclusive evidence of the value of the dwelling-house at the date of the certificate.

Amount of
instalments.

45. The amount of any instalment of an advance shall not exceed 90 per centum of the value of the dwelling-house as certified by a certificate of value under these Regulations less all amounts previously advanced under the Act in respect of the dwelling-house and unrepaid.

Valuation fee.

46. The borrower shall for each certificate of value given for the purpose of an instalment pay to the Commissioner such valuation fee (if any) as is fixed by the Commissioner.

Deduction of
valuation fee
from amount of
instalment.

47. The Commissioner may, if he thinks fit, deduct the valuation fee from the amount of the instalment and in that case the borrower shall, notwithstanding the deduction, be deemed to have received the instalment in full.

Preservation of
dwelling house.

48. The applicant for an advance or the borrower shall at all times during the progress of the work to the best of his ability preserve the dwelling-house from destruction or damage.

Time of
payment of
instalments.

49. No instalment of an advance shall be paid after the expiration of the time specified in the application for the completion of the work unless the Commissioner approves in writing of the payment.

Failure by
borrower to
proceed with
work
satisfactorily.

50. If an applicant for an advance or a borrower—

- (a) fails to proceed with the work at a rate and in a manner satisfactory to the Commissioner; or
- (b) fails to proceed with the work in accordance with the plans and specifications of the dwelling-house approved by the Commissioner—

the Commissioner may—

- (i) by notice in writing require the applicant or borrower to proceed with the work at the rate and in the manner specified in the notice; and

- (ii) withhold payment of any instalment or further instalment of the advance until the applicant or borrower proceeds with the work to his satisfaction.

51. If an applicant for an advance or a borrower—

Default of
borrower.

- (a) fails to proceed with the work at the rate and in the manner specified in a notice given by the Commissioner ; or
- (b) fails in the opinion of the Commissioner during the progress of the work to preserve to the best of his ability the dwelling-house from destruction or damage ; or
- (c) fails in any way to comply with the conditions under which the advance is being made—

he shall be deemed to be in default under the mortgage and the Commissioner may—

- (i) by notice in writing at once call in the amount due under the mortgage whether for principal or interest or otherwise ; or
- (ii) enter on the mortgage land and complete the work either by contract or otherwise as he thinks fit and the amount expended by the Commissioner shall be deemed to have been advanced to and be due by the applicant or borrower under the mortgage.

52. Interest at the prescribed rate on each and every instalment of an advance—

Interest.

- (a) shall be payable by the borrower from the date of payment of the instalment by the Commissioner ; and
- (b) shall be paid to the Commissioner on the last day of the calendar month during which the final instalment is paid by the Commissioner.

PART VIII.—INSURANCE OF DWELLING-HOUSES AND BUILDING MATERIAL.

53. (1) In this Part unless the contrary intention appears—

Definitions.

- “ authorized officer ” means an officer authorized by the Commissioner to make inspections and valuations of property ;
- “ property ” includes any dwelling-house or building material which may be insured in pursuance of section 38 of the Act ;
- “ the assured ” means the person (other than the Commissioner) for whose benefit any property is insured in pursuance of the Act.

(2) For the purposes of this Part—

- (a) property shall only be deemed to be damaged by lightning if it is damaged by reason of the property or any adjoining premises being struck by lightning ;
- (b) property shall not be deemed to be damaged by flood or tempest where the damage so caused was due to the omission of the assured—
 - (i) in the case of building material, to take all reasonable precautions to safeguard the material from any such damage ; or
 - (ii) in the case of a dwelling-house, to keep the dwelling-house, and in particular the roofs, drains and spouting thereof, in good order and repair ; and

(c) a dwelling-house shall not be deemed to be damaged by tempest unless the damage is caused by reason of a breach being made in the dwelling-house by the tempest.

All insurances to be effected with Commissioner.

54. All insurances in pursuance of the Act shall, unless the Commissioner otherwise directs, be effected with the Commissioner, and all premiums for such insurances effected with the Commissioner shall be paid to the Commissioner and credited to the War Services Homes Insurance Trust Account in accordance with section 40 of the Act.

Inspections and valuations of property.

55. The Commissioner shall from time to time for the purpose of insurance in pursuance of the Act cause inspections and valuations of property to be made by authorized officers.

Report by authorized officer.

56. The authorized officer after inspection of any property shall report to the Commissioner—

- (a) the value at the time of inspection of the property exclusive of the land on which it is situated ;
- (b) the presence of any special or unusual danger to the property from prescribed risks ; and
- (c) any other matter or thing relevant to the question of insurance or which may be required by the Commissioner for the purpose of insurance.

Value of property stated by authorized officer—conclusive.

57. The value of the property as stated in the report of the authorized officer shall as against the purchaser or borrower be conclusive for the purpose of insurance.

Amount of insurance and premium.

58. The Commissioner shall from time to time determine the amount for which any property shall be insured in pursuance of the Act and the amount of the premium payable for the insurance.

Limitation of amount of insurance.

59. No property shall be insured in pursuance of the Act for an amount greater than the value thereof as stated in the report of the authorized officer together with an amount equal to the sum of the instalments (if any) payable in respect thereof by a purchaser or borrower for a period of six months.

Certain property not to be insured for benefit of purchaser or borrower.

60. (1) Water tanks shall not be insured for the benefit of a purchaser or borrower against flood or tempest.

(2) Such outbuildings as the Commissioner specifies shall not be insured for the benefit of a purchaser or borrower against any prescribed risk.

Special danger to property.

61. (1) If at any time it appears to the Commissioner that there is a special or unusual danger to any property from a prescribed risk the Commissioner may—

- (a) require the purchaser or borrower to forthwith remove the cause of danger if it is capable of removal ;
- (b) decline to insure or may cancel any insurance of the property against that particular risk otherwise than for the benefit of the Commissioner until the cause of danger is removed ; and
- (c) insure the property against that particular risk for the benefit of the Commissioner until the cause of danger is removed.

(2.) If a purchaser or borrower fails to remove a cause of danger to a dwelling-house within the time specified by the Commissioner for that purpose—

- (a) the presence of the cause of danger shall be deemed to be a want of repair within the meaning of section 31 of the Act ; and

- (b) the Commissioner may exercise all the powers conferred upon him by that section to the same extent as if after notice in writing by the Commissioner the purchaser or borrower had not complied with the requirements of that section.

62. No explosive or dangerously inflammable substance shall, without the consent in writing of the Commissioner, at any time be brought or kept upon a dwelling-house insured in pursuance of the Act. Explosives not to be brought upon a dwelling-house.

63. (1) The purchaser or borrower shall give to the Commissioner not less than three days' notice in writing before— Notice of carrying on trade in dwelling-house.

- (a) carrying on or permitting to be carried on any trade or manufacture in the dwelling-house; or
- (b) making any alteration in the manner in which a trade or manufacture is carried on in the dwelling-house.

(2) Whenever a change takes place in the purpose for which any premises adjoining a dwelling-house are occupied, the purchaser or borrower shall forthwith notify the Commissioner in writing of the change

64. (1) The purchaser or borrower shall give to the Commissioner not less than three day's notice in writing before making any improvements, alterations or additions to the dwelling-house. Notice of alterations or additions to dwelling-house.

(2) If the purchaser or borrower fails to give the notice required by the last preceding sub-regulation, the improvements, alterations and additions shall not, until the Commissioner otherwise determines, be deemed to be insured in pursuance of the Act for the benefit of the purchaser or borrower.

65. (1) When the Commissioner has determined the amount for which any property shall be insured in pursuance of the Act he shall sign a certificate of insurance in accordance with Form A in the Schedule to these Regulations, and thereupon the property shall be deemed to be insured in pursuance of the Act against the risks and for the amount stated in the certificate for the benefit of the person named in the certificate. Certificate of insurance

(2) When the insurance is for the benefit of any person other than the Commissioner a copy of the certificate shall be forwarded to the assured.

(3) If a dwelling-house is destroyed or damaged by a prescribed risk before a certificate of insurance has been signed by the Commissioner, the Commissioner may if he thinks fit treat the property as having been covered by insurance in pursuance of the Act for the benefit of the purchaser or borrower, and, upon the purchaser or borrower complying with all the obligations of an assured under these Regulations, may exercise for the benefit of the purchaser or borrower any of the powers conferred upon the Commissioner by section 41 of the Act.

66. On the destruction or damage by fire, lightning, flood or tempest or from any other cause whatsoever of any property insured in pursuance of the Act the assured shall forthwith— Duty of assured to notify damage to property.

- (a) notify the Commissioner thereof in writing at the place specified in the certificate of insurance;
- (b) furnish to the Commissioner full particulars of the destruction or damage and all information in his possession in regard thereto and of the cause thereof; and
- (c) furnish to the Commissioner all further information required by the Commissioner in connexion with the matter.

Failure of
assured to
notify damage.

67. If the assured—

- (a) fails within three days after the destruction or damage of the property to notify the Commissioner thereof in writing; or
- (b) fails to forthwith furnish to the Commissioner the particulars or information required by these Regulations or by the Commissioner—

the Commissioner may if he thinks fit treat the insurance of the assured as having been thereby avoided.

Power of
Commissioner
where property
damaged or
destroyed.

68. On the destruction or damage of any property by a prescribed risk the Commissioner may—

- (a) enter and take possession of the property; and
- (b) remove and sell or convert to his own use any damaged material and pay the proceeds or value thereof into the War Service Homes Insurance Trust Account.

Contribution
by purchaser
or borrower
towards making
good damage
or loss.

69. (1) Where in the case of damage or loss from flood or tempest the damage to, or loss of, the property insured does not, in the opinion of the Commissioner, amount to Five pounds in value, the Commissioner may refuse to draw any amount from the War Service Homes Insurance Trust Account to make good the damage or loss and may require the purchaser or borrower to make good the damage or loss.

(2) Where in the case of damage or loss from flood or tempest the damage to, or loss of, the property insured amounts to more than Five pounds in value the Commissioner may refuse to draw from the War Service Homes Insurance Trust Account any amount greater than that necessary to make good the damage or loss less Five pounds, and may require the purchaser or borrower to make good the damage or loss to the extent of Five pounds in value.

(3) Where the purchaser or borrower fails, neglects, or refuses to comply with any requirement of the Commissioner under this regulation, the Commissioner may exercise all the powers conferred upon him by section 31 of the Act to the same extent as if, after notice in writing by the Commissioner, the purchaser or borrower had not complied with the requirements of that section.

Application of
insurance
money where
property is
damaged or
destroyed and
not rebuilt.

70. If the property is destroyed or damaged by a prescribed risk and the Commissioner is of the opinion that it is undesirable to rebuild the dwelling-house, and the amount for which the property is insured is less than the balance of the purchase money and interest or the balance of the principal and interest unpaid under a contract of sale or mortgage, the Commissioner may draw from the War Service Homes Insurance Trust Account the amount for which the property is insured and apply that amount in reduction of the balance of purchase money and interest or the balance of the principal and interest unpaid under the contract of sale or mortgage, and thereupon the deficiency shall immediately become due to and recoverable by the Commissioner and, until payment, shall bear interest at the prescribed rate.

Reparation of
damage or loss
from prescribed
risk.

71. (1) If the property is destroyed or damaged by a prescribed risk and the Commissioner decides to make good the loss or damage, it shall not be necessary for him to reinstate exactly or completely that which has been lost or damaged, but he may make good the loss or damage to the extent and in a manner that he determines to be reasonably sufficient, and his determination in this connexion shall be final and conclusive.

(2) On the loss or damage referred to in the last preceding sub-regulation being made good to the extent and in the manner determined by the Commissioner, the authorized officer shall certify to that effect, and this certificate shall, as between the Commissioner and the assured, be conclusive evidence of the completion of the work incidental to making good the loss or damage.

72. If anything is without the knowledge and approval of the Commissioner done, or omitted to be done, to or in connexion with any property whereby the danger to the property from a prescribed risk is increased, the Commissioner may if he thinks fit treat any insurance against that particular risk (other than an insurance for the benefit of the Commissioner) as having been thereby avoided.

Avoidance of insurance where risk increased.

73. (1) Every applicant for an advance shall furnish to the Commissioner with his application full particulars of—

Existing insurances to be notified.

(a) any existing insurances of the dwelling-house in respect of which the advance is desired; and

(b) any claims previously made by the applicant upon an insurance company in respect of damage by a prescribed risk to the dwelling-house or any other property of the applicant.

(2) Any property insured in pursuance of the Act shall not at any time be insured or kept insured otherwise than in pursuance of the Act.

74. If a dwelling-house insured in pursuance of the Act remains unoccupied without the consent in writing of the Commissioner for a period exceeding 30 consecutive days the Commissioner may treat any insurance in pursuance of the Act for the benefit of the purchaser or borrower as having been thereby avoided.

Avoidance of insurance for failure to occupy dwelling-house.

75. Every purchaser or borrower shall at all times to the best of his ability preserve the property from danger from prescribed risks.

Duty of purchaser or borrower to protect property.

76. If on the destruction or damage by a prescribed risk of any property insured in pursuance of the Act the assured fails to prove to the satisfaction of the Commissioner—

Destruction or damage arising from negligence.

(a) that the destruction or damage did not arise from or in consequence of any wilful or grossly negligent act or omission of the purchaser or borrower or of any other person with the knowledge and connivance of the purchaser or borrower;

(b) that the claim is made bona fide and without fraud or concealment and that no false or misleading information has been given by the assured in connexion with the insurance or the claim; and

(c) that the assured has complied in all respects with the provisions of the Act and these Regulations relating to insurance—

the Commissioner may treat the insurance of the assured as having been thereby avoided.

77. All property shall at all times be deemed to be insured in pursuance of the Act for the benefit of the Commissioner.

Property deemed to be insured for benefit of Commissioner.

78. If, before the expiration of the period for which a premium has been paid, an insurance in pursuance of the Act ceases to have effect, or is cancelled, or treated as avoided, under these Regulations no person shall be entitled to a refund of any portion of the premium.

No refund of premium on avoidance or cancellation of insurance.

79. The Commissioner may determine the amount of, and pay into the War Service Homes Insurance Trust Account, premiums for the insurance of any property in pursuance of the Act for the benefit of the Commissioner.

Insurance for benefit of Commissioner.

Avoidance of insurance for non-payment of premium.

80. (1) The Commissioner may, if he thinks fit, treat any insurance in pursuance of the Act (other than an insurance for the benefit of the Commissioner) as having been avoided if a premium due by the assured remains unpaid for a period of one month after the date upon which it becomes payable.

(2) Upon payment to him of all premiums due and unpaid the Commissioner may again insure the property in pursuance of the Act for the benefit of the purchaser or borrower as the case may be.

(3) Notwithstanding anything contained in these Regulations the Commissioner may if he thinks fit pay any premiums due and unpaid by the assured and may charge the assured with the amount so paid.

Insurance to cease on property ceasing to be subject to Act.

Destruction of or damage to property by third persons.

81. Every insurance in pursuance of the Act shall forthwith cease and be of no effect upon the insured property ceasing to be subject to the Act.

82. On the destruction or damage of any property insured in pursuance of the Act in circumstances entitling the assured to recover damages or compensation from any other person the Commissioner may—

(a) decline to exercise his powers under section 41 of the Act for the benefit of the assured until the assured has recovered from the other person all damages and compensation to which the assured is entitled; or

(b) exercise his powers under section 41 of the Act for the benefit of the assured and recover for his own benefit from the other person all damages and compensation to which the assured is entitled.

Damage by fire brigade.

83. Any damage done to property by a fire brigade in extinguishing or preventing or locating fire shall for the purpose of insurance in pursuance of the Act be deemed to be damage by fire.

Waiver of conditions by Commissioner to be in writing.

84. No provision, condition or requirement under these Regulations requiring any act, matter or thing to be done or written shall be deemed to be waived by reason of any alleged notice or waiver which has not been expressly written, and the Commissioner shall not be deemed to have waived any provision, requirement or condition of these Regulations or of the insurance under these Regulations or any forfeiture, cancellation or avoidance of the insurance, unless the provision, requirement, condition, forfeiture-cancellation or avoidance is expressly stated in writing by or on behalf of the Commissioner to have been waived by the Commissioner.

Repeal.

85. The War Service Homes Regulations 1919 (Statutory Rules 1919, No. 177, as amended by Statutory Rules 1919, Nos. 191, 265, 293; 1920, Nos. 7, 80, 186; 1921, Nos. 153, 191, 228; 1922, No. 26; 1923, Nos. 34, 111, 114; 1924, Nos. 36, 86, 173; 1925, Nos. 5, 142; and 1926, Nos. 18, 28, 62 and 80) are repealed.

War Service Homes Act 1918-1926.

1. The War Service Homes Commissioner has, in pursuance of the *War Service Homes Act 1918-1926*, insured against fire, lightning, flood, and tempest the property described in column 7 of the Schedule hereto.

2. The insurance is for the benefit of the War Service Homes Commissioner and the person mentioned in column 1 of the said Schedule, which person is hereinafter called the Assured.

3. The amount of the insurance is as shown in column 6 of the said Schedule, which amount is made up in the manner shown in column 7 of the said Schedule. The first premium for the period ending 30th April now next ensuing as shown in column 2 of the said Schedule is payable forthwith.

4. Annual premiums each of the amount shown in column 4 of the said Schedule are payable by the Assured in advance on the 30th day of April in each year, the first of such premiums being payable on the 30th day of April now next ensuing.

5. Premiums are payable to the Deputy Commissioner for War Service Homes at the place mentioned in column 5 of the said Schedule.

6. Should the property be destroyed or damaged, notice in writing thereof must forthwith be given by the Assured to the Deputy Commissioner for War Service Homes at the place at which premiums are payable.

7. The insurance commences on the date shown in column 3 of the said Schedule.

8. The insurance and all matters stated in this Certificate are subject to withdrawal, cancellation, variation, or amendment at any time by the Commissioner.

Certificate of Insurance No.

9. The insurance is effected subject in all respects to the *War Service Homes Act 1918-1926* and any amendment thereof and to the Regulations in force for the time being thereunder.

10. The Commissioner will not be responsible for the first £5 of any claim where the damage or loss is caused by flood or tempest.

11. No claim will be allowed in respect of damage by tempest to the interior of a dwelling-house unless caused by reason of a breach being made in such dwelling-house by the tempest.

12. Water tanks are not insured against damage by flood or tempest.

13. No explosive or dangerously inflammable substance shall, without the consent in writing of the Commissioner, be brought upon the property.

14. Whenever a change takes place in the purpose for which the property or any adjoining property is occupied, notice in writing must forthwith be given by the Assured to the Commissioner.

15. The property shall not at any time be insured or kept insured otherwise than in pursuance of the *War Service Homes Act 1918-1926* and any amendment thereof.

16. If any additions, alterations or improvements are made to the property notice in writing must forthwith be given by the Assured to the Commissioner for the purpose of including such additions, alterations or improvements in this insurance and, if approved, of having the amount of insurance increased. If additions, alterations or improvements are not so notified to the Commissioner and same are destroyed by fire, flood or tempest then no moneys will be paid under this insurance in respect thereof.

THE SCHEDULE.
FORM A.

23

SCHEDULE.

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7. Description of Property Insured and manner in which amount of Insurance is made up.			
						Location.	Construction.		
Insurance for the benefit of the War Service Homes Commissioner and	Amount of First Premium payable.	Insurance Commences on—	Amount of Annual Premium payable on 30th April each year.	Premiums payable at—	Amount of Insurance.		—	Walls.	Roof.
	£ s. d.		£ s. d.		£ s. d.				£ s. d.
							Main Dwelling ..		
							Garage ..		
							Laundry ..		
							Woodshed ..		
							Fowlhouses ..		
							Stables ..		
							W.C. ..		
							Tank and Stand ..		
							Fencing ..		
							Six Month's Instalments ..		

Dated at Melbourne this

day of

192

Insurance Officer

Commissioner.

Authorised Version C1926L00171 registered 10/09/2022

FORM B.

*War Service Homes Act 1918-1926.*NOTICE OF APPLICATION TO A COURT OF SUMMARY JURISDICTION FOR
A WARRANT UNDER SECTION 30A (3).

To

of

TAKE NOTICE that your tenancy under the *War Service Homes Act 1918-1926* of the dwelling-house and land situate at _____ has been determined by the War Service Homes Commissioner under the powers conferred upon him by section 30A of the said Act. And that you are hereby required to forthwith quit and deliver up the said dwelling-house and land to the said Commissioner.

And take further notice that if possession of the said dwelling-house and land is not delivered up to the said Commissioner before the _____ day of _____ 19____, application will be made to the _____ Court, at _____, a Court of summary jurisdiction at the hour of _____ in the _____ noon on the said day or so soon thereafter as the Commissioner may be heard for the issue of a warrant under the said section authorizing entry to be made upon the said dwelling-house and land and possession thereof to be given to the said Commissioner.

Dated this

day of

19 ____

War Service Homes Commissioner.

FORM C.

In the

Court

at

in the State of

AFFIDAVIT OF SERVICE.

I, _____ of _____ in the _____ State of _____ make oath and say that I served the within-named tenant with a true copy of the within notice by—

- (a) delivering the said copy to the tenant personally at _____
- (b) delivering the said copy to a person apparently over the age of sixteen years at, and apparently an inmate of, the dwelling-house and land the subject of the tenancy ;
- (c) affixing the said copy in a prominent position on the _____ door of the dwelling-house and land the subject of the tenancy ;
- (d) enclosing the said copy in an envelope addressed as follows :—

and by affixing all necessary postage stamps to such envelope and paying all necessary fees for registration thereof and by posting such envelope at the Post Office at _____ ;

on the _____ day of _____ 192____, at the hour of _____ o'clock in the _____ noon.

Signed and sworn at
in the said State the
day of _____

192 ____

Before me—

A Justice of the Peace.
Authorised Version C1926L00171 registered 10/09/2022

Note.—Strike out the clauses which are not applicable.

FORM D.

In the
at
in the State of

Court,

War Service Homes Act 1918-1926, Section 30A (3).

WARRANT TO ENTER AND GIVE POSSESSION TO THE WAR SERVICE
HOMES COMMISSIONER.

Whereas (hereinafter called the tenant) was deemed to be the tenant of the War Service Homes Commissioner within the meaning of the *War Service Homes Act 1918-1926* of the dwelling-house and land situate at , in the State of

And whereas the said tenant failed to comply with the terms and conditions of the tenancy and the said Commissioner in pursuance of section 30A (2) of the said Act determined the said tenancy.

And whereas the said tenant has failed to deliver up possession of the said dwelling-house and land to the said Commissioner and still retains the same.

And whereas the said Commissioner has this day made application to the Court, a Court of summary jurisdiction, at in the said State before me a Magistrate for the issue of a warrant directed to such person as the Court thinks fit, requiring him, within a period to be specified in the warrant, to enter (if need be by force) into the said dwelling-house and land and to give possession of the same to the said Commissioner.

And whereas the above recited grounds for such application have been duly proved to the satisfaction of the said Court.

Now therefore this Court of summary jurisdiction doth hereby under the powers conferred by the said section 30A authorize and command you on any day (except on Sunday) between the hours of Nine o'clock in the forenoon and Four o'clock in the afternoon within a period of days next after the date of this warrant to enter (if need be by force) into the said dwelling-house and land and to give possession of the same to the said War Service Homes Commissioner and for so doing this shall be your warrant.

Given under my hand this day of 192 .
To
of

Magistrate sitting as a Court of Summary Jurisdiction.