



Home Deposit Assistance Act 1982

No. 40 of 1982

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Home Deposit Assistance Act 1982

No. 40 of 1982

An Act to assist persons to purchase or build their own homes

[Assented to 2 June 1982]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Home Deposit Assistance Act 1982*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Objects of Act

3. The objects of this Act are to encourage and assist persons to purchase or build their own homes and to encourage persons to save for the purpose of purchasing or building their own homes, and, in the construction and the administration of this Act, regard shall be had to those objects.

PART II—INTERPRETATION

Interpretation

4. (1) In this Act, unless the contrary intention appears—

“acceptable savings” means acceptable savings as defined by section 21;

“amount of the prescribed earnings”, in relation to a sole applicant or joint applicants, means the amount of the prescribed earnings of the applicant or applicants as defined in section 33;

“applicant” means a person who, in accordance with sub-section 16 (2), signs, or is deemed by virtue of a direction under sub-section 16 (3) to have signed, an application, other than a person in respect of whom a direction under section 5 is in force in relation to that application;

“application” means an application for a grant;

“approved interest” means—

- (a) an estate in fee simple;
- (b) an interest as purchaser of an estate in fee simple from the Crown in right of a State or of the Northern Territory where payment of the purchase price is to be made by instalments over a period of years;
- (c) an estate for life approved by the Secretary for the purposes of this Act;
- (d) a lease for a term of years if the Secretary is satisfied that the lease gives reasonable security of tenure to the lessee for a substantial period;
- (e) a licence or right of occupancy from the Crown in right of the Commonwealth, of a State or of the Northern Territory if the Secretary is satisfied that the licence or right of occupancy gives reasonable security of tenure to the licensee or holder of the right;
- (f) an interest of the kind referred to in section 13; or
- (g) any other interest declared by the regulations to be an approved interest for the purposes of this Act;

“building society” means a society registered or incorporated as a building society or as a co-operative housing society under the law in force in a State or internal Territory relating to building societies or co-operative housing societies, and includes a society registered under Part I of the Building and Co-operative Societies Act, 1901, of New South Wales;

“credit union” means a society or other body of persons—

- (a) that is registered or incorporated as a credit union or credit society under the law in force in a State or internal Territory relating to credit unions or credit societies; or
- (b) whose principal business consists of borrowing moneys from its members and lending those moneys to its members and which is registered or incorporated under the law in force in a State or internal Territory relating to such societies or bodies of persons;

“deceased spouse”, in relation to an applicant, means a person who died before the prescribed date and was, on the date of his or her death, the spouse of the applicant;

“Department” means the Department of Housing and Construction;

“grant” means a grant under this Act;

“joint applicant” means any one of 2 or more persons who are applicants in respect of the same application;

“lease” includes sub-lease;

“officer” means a person exercising powers, or performing duties or functions, under or in relation to this Act;

“prescribed date”, in relation to a sole applicant who has, or joint applicants one of whom has, or 2 or more of whom together have, entered into a contract of a kind referred to in paragraph 15 (1) (a) or (b), or commenced the construction of a dwelling as referred to in paragraph 15 (1) (c) (whether or not the construction has been completed), means the date that is the date of the contract for the purposes of section 15 or the date on which the construction commenced, as the case may be;

“prescribed person”, in relation to a dwelling, means a person who is a prescribed person in relation to that dwelling by virtue of sub-section 15 (1), other than a person in respect of whom a direction under section 5 is in force in relation to that dwelling;

“relevant savings period”, in relation to a sole applicant or joint applicants, means the period that, under sub-section (2), is the relevant savings period in relation to the applicant or applicants, as the case may be;

“rural property” means—

- (a) land used wholly or substantially for carrying on the business of primary production; or
- (b) land that the Secretary is satisfied should, having regard to its extent, location, use or zoning, be regarded as a rural property for the purposes of this Act;

“savings bank” means—

- (a) a savings bank within the meaning of the *Banking Act* 1959;
- (b) State Bank of Victoria;
- (c) The State Bank of South Australia;
- (d) The Savings Bank of South Australia;
- (e) The Rural and Industries Bank of Western Australia;
- (f) The Cairns Co-operative Weekly Penny Savings Bank Limited; and
- (g) any other bank determined by the Secretary, by notice published in the *Gazette*, to be a savings bank for the purposes of this Act;

“Secretary” means the Secretary to the Department;

“sole applicant” means an applicant other than a joint applicant;

“trading bank” means—

- (a) a trading bank within the meaning of the *Banking Act* 1959;
- (b) State Bank of New South Wales;
- (c) The State Bank of South Australia;
- (d) The Rural and Industries Bank of Western Australia; and
- (e) any other bank determined by the Secretary, by notice published in the *Gazette*, to be a trading bank for the purposes of this Act.

(2) Where the Secretary is satisfied, in relation to a sole applicant or joint applicants, that acceptable savings were held continuously by the applicant or by any of the applicants throughout a period that commenced on a particular date and ended immediately before the prescribed date, that period is, for the purposes of this Act, the relevant savings period in relation to the applicant or applicants.

(3) A reference in this Act to moneys borrowed by a person shall be read as including a reference to moneys borrowed by that person together with another person or other persons.

(4) For the purposes of this Act, a dwelling shall not be taken to be a dwelling, in relation to a person or persons, if the Secretary is satisfied that it would be unreasonable to regard that dwelling as suitable for the purposes of constituting the principal place of residence of the person or persons.

Person not intending to reside in dwelling

5. Where a person is—

- (a) a prescribed person in relation to a dwelling; or
- (b) an applicant in respect of an application in relation to a dwelling,

and the Secretary is satisfied that—

(c) the person—

- (i) was, on the prescribed date, the spouse of a prescribed person in relation to the dwelling;
- (ii) has resided in the dwelling as his principal place of residence; and
- (iii) no longer so resides and does not intend so to reside within a reasonable time; or

(d) the person has not resided in the dwelling as his principal place of residence and does not intend so to reside within a reasonable time,

the Secretary may, in his discretion, direct that, for the purposes of this Act, the person is to be deemed not to be, and never to have been—

- (e) where paragraph (a) applies—a prescribed person in relation to the dwelling; or
- (f) where paragraph (b) applies—an applicant in respect of the application.

Retrospective approval of savings banks and trading banks

6. A determination by the Secretary for the purposes of the definition of “savings bank” or “trading bank” in sub-section 4 (1) that a bank is a savings bank or a trading bank for the purposes of this Act may be expressed to have taken effect from a date before the date on which the determination is published in the *Gazette* (including a date before the commencement of this Act).

References to spouse

7. (1) A reference in this Act, in relation to a date, to the spouse of a person shall be read as a reference to—

- (a) a person who, on that date, was legally married to the first-mentioned person, except where, by virtue of a direction of the Secretary under sub-section (2), the persons are to be treated, for the purposes of this paragraph, as if they were not spouses on that date; or
- (b) a person who, on that date, was living with the first-mentioned person as husband or wife on a *bona fide* domestic basis although not legally married to that person.

(2) Where the Secretary is satisfied that, on a particular date, persons who were legally married to each other were living apart and had no intention of resuming co-habitation, he may direct that, for the purposes of paragraph (1) (a), they shall be treated as persons who were not spouses on that date.

Moneys deposited in banks in external Territories

8. A reference in this Act to a branch in Australia of a savings bank or of a trading bank shall be read as including a reference to a branch of a savings bank or of a trading bank, as the case may be, in an external Territory.

Commencement and completion of construction of dwelling

9. (1) For the purposes of this Act—

- (a) the construction of a dwelling shall be taken to have commenced on—
 - (i) the day on which work commenced on the laying of the foundations of the dwelling; or
 - (ii) if the Secretary determines that, having regard to all the circumstances, the construction of the dwelling should be treated as having commenced on a later day—that later day; and
- (b) the completion of the construction of a partly constructed dwelling shall be taken to have commenced on such date as the Secretary determines, having regard to all the circumstances, should be treated as the date on which that construction commenced to be completed.

(2) Unless the contrary intention appears, a reference in this Act to the construction of a dwelling by a person (whether through a building-contractor or not) shall, if the construction of the dwelling was commenced by another person (whether through a building-contractor or not), be read as a reference

to the completion of the construction of the dwelling by the first-mentioned person.

Dwelling consisting of part of a building

10. (1) A reference in this Act to the construction of a dwelling shall be read, in the case of a dwelling that is, or is to be, a part of a building, as a reference to the construction of that building.

(2) A reference in this Act to the land on which a dwelling is, or is to be, erected shall be read, in the case of a dwelling that is, or is to be, a part of a building, as a reference to the land on which that building is, or is to be, erected.

Purchase or ownership of land or dwelling

11. (1) A reference in this Act (other than sections 26 and 27) to purchase, or to ownership, in relation to land or an undivided share in land, shall be read as a reference to purchase or ownership, as the case may be, otherwise than as trustee, of an approved interest in the land or in the undivided share, as the case may be.

(2) A reference in this Act to purchase, or to ownership, in relation to a dwelling, shall be read as a reference to purchase or ownership, as the case may be, otherwise than as trustee, of—

- (a)** whether or not the dwelling is a dwelling of a kind referred to in paragraph (b)—the land on which the dwelling is, or is to be, erected; or
- (b)** where the dwelling is, or is to be, a part of a building or is, or is to be, one of 2 or more buildings erected on a single parcel of land—
 - (i)** an approved interest in the dwelling in pursuance of a law of a State or internal Territory that enables the holding or enjoyment by different persons of proprietary rights in respect of different parts of that building or of different buildings erected on that parcel of land, as the case may be;
 - (ii)** shares in the capital of a company that is the owner of the land on which the dwelling is, or is to be, erected, being shares that entitle the holder to a right of occupancy (whether under a lease or otherwise) in respect of the dwelling; or
 - (iii)** an undivided share in the land on which the dwelling is, or is to be, erected, where the owner of that share is, or is to be, entitled to a right of occupancy in respect of the dwelling.

(3) For the purposes of this section—

- (a)** the purchase or ownership of an approved interest in land or in a dwelling by a person or persons (in this sub-section referred to as the “relevant person” or “relevant persons”) jointly with another person or other persons; or
- (b)** the purchase or ownership of an undivided share in an approved interest in land or in a dwelling by a person or persons (in this

sub-section also referred to as the “relevant person” or “relevant persons”),

being land or a dwelling in respect of which the relevant person is, or the relevant persons are, entitled to an exclusive right of occupancy, shall, if the Secretary in his discretion so determines, be treated as if it were the purchase or ownership, as the case may be, of that approved interest in the land or dwelling by the relevant person or relevant persons, as the case may be.

(4) For the purposes of this section, the purchase or ownership of shares in the capital of a company by a person or persons (in this sub-section referred to as the “relevant person” or “relevant persons”) jointly with another person or other persons, being shares that, together with an agreement between the relevant person or relevant persons and that other person or those other persons, entitle the relevant person or relevant persons to an exclusive right of occupancy in respect of a dwelling, shall, if the Secretary in his discretion so determines, be treated as if it were the purchase or ownership, as the case may be, of those shares by the relevant person or relevant persons, as the case may be.

Purchase of home to be moved to other land

12. Where a person has, or persons together have, entered into a contract for the purchase of a structure for removal to land situated in Australia, being a structure intended for use as a dwelling on that land, then, for the purposes of this Act—

- (a) that contract and any other contract relating to the removal of that structure to, or its siting on, that land shall be deemed to be a contract for the construction by a building-contractor of a dwelling on that land; and
- (b) construction under that last-mentioned contract shall be deemed to have commenced on the date on which the contract for the purchase of the structure was entered into.

Dwelling on rural property

13. Where—

- (a) on or after 18 March 1982, a person has, or persons together have—
 - (i) entered into a contract for the construction by a building-contractor, on land situated in Australia, of a dwelling the construction of which commenced on or after that date; or
 - (ii) commenced to construct a dwelling on land situated in Australia, otherwise than through a building-contractor; and
- (b) the Secretary is satisfied that the land forms part of a rural property owned by another person (whether that other person holds the land as a trustee or not) who has given permission to the first-mentioned person or persons to occupy the dwelling when completed,

then, for the purposes of this Act, that permission shall be deemed to create an interest in the land in favour of that first-mentioned person or those first-mentioned persons, and that first-mentioned person or those

first-mentioned persons shall be deemed to be the owner or owners of that interest.

Trusts, &c.

14. (1) Where—

- (a) the owner of land or a dwelling holds the land or dwelling in trust for another person; or
- (b) a person has entered into a contract for the purchase of land or a dwelling to be held in trust for another person,

and the Secretary is satisfied that the other person will become the owner of the land or dwelling, the other person shall, for the purposes of this Act, other than sections 26 and 27, be deemed to be the owner of the land or dwelling or to have entered into the contract for the purchase of the land or dwelling, as the case may be.

(2) Where—

- (a) a person has entered into a contract for the construction by a building-contractor of a dwelling, being a dwelling that the Secretary is satisfied will be owned by the person as trustee for another person; or
- (b) a person has, at the request of another person, entered into a contract, otherwise than as an agent of the other person, for the construction by a building-contractor of a dwelling, being a dwelling that the Secretary is satisfied will be owned by the other person,

the other person shall, for the purposes of this Act, be deemed to have entered into the contract.

(3) Section 11 has effect in relation to paragraphs (1) (a) and (b) and (2) (a) of this section as if there were omitted from sub-sections 11 (1) and (2) the words “, otherwise than as trustee,” (wherever occurring).

(4) For the purposes of this Act, where, on a particular date—

- (a) moneys are held in trust; and
- (b) a person has, or 2 or more persons jointly have, a beneficial interest in respect of an ascertainable amount of those moneys,

an amount equal to that amount shall be deemed to be held by the person or persons in the same form as that in which those moneys are held by the trustee, and where an amount of those moneys is paid or expended by the trustee on account of the interest of the person or persons for a particular purpose, an amount equal to the amount so paid or expended shall be deemed to have been paid or expended for that purpose by that person or those persons.

PART III—GRANTS OF ASSISTANCE

Division 1—Application for, and Making of, Grants

Persons who, subject to section 16, may apply

15. (1) Where, on or after 18 March 1982, a person (in this section referred to as the “home acquirer”) has, or 2 or more persons (in this section referred to as the “home acquirers”) together have—

- (a) entered into a contract for the purchase of a dwelling situated in Australia;
- (b) entered into a contract for the construction by a building-contractor of a dwelling on land situated in Australia, being a dwelling that the Secretary is satisfied will be owned—
 - (i) by the home acquirer or by any of the home acquirers, as the case may be;
 - (ii) by a person who, on the date of the contract, was the spouse of the home acquirer or of any of the home acquirers, as the case may be; or
 - (iii) jointly by 2 or more persons, each of whom is a person to whom sub-paragraph (i) or (ii) applies,other than a dwelling the construction of which was commenced before 18 March 1982; or
- (c) commenced the construction, otherwise than through a building-contractor, of a dwelling on land situated in Australia, being a dwelling that the Secretary is satisfied will be owned—
 - (i) by the home acquirer or by any of the home acquirers, as the case may be;
 - (ii) by a person who, on the date on which the construction commenced, was the spouse of the home acquirer or of any of the home acquirers, as the case may be; or
 - (iii) jointly by 2 or more persons, each of whom is a person to whom sub-paragraph (i) or (ii) applies,

then, subject to sub-section (2) and section 5, the home acquirer or each of the home acquirers, as the case may be, is, and any person who, on the date of the contract, or the date on which construction commenced, as the case may be, was the spouse of the home acquirer or of any of the home acquirers, as the case may be, is, for the purposes of this Act, a prescribed person in relation to the dwelling.

(2) Sub-section (1) does not apply to a person unless, on the relevant date, the person—

- (a) has attained the age of 16 years; or
- (b) is married or engaged to be married.

(3) Where—

- (a) a person is a prescribed person in relation to a dwelling; and

(b) subject to sub-section (5), a grant under a prescribed Act or under this Act has not been made to the prescribed person, either alone or jointly with another person,
the prescribed person is, for the purposes of section 16, a person to whom this sub-section applies.

(4) Where—

- (a) on the date on which a person entered into a contract or commenced construction of a dwelling as mentioned in sub-section (1), the person was engaged to be married to another person; and
- (b) the Secretary is satisfied that the other person has consented to being treated as the spouse of the first-mentioned person for the purposes of this section,

a reference in this section to a person who, on the date of the contract or on the date on which construction commenced, as the case may be, was the spouse of the first-mentioned person shall be read as including a reference to that other person.

(5) For the purposes of paragraph (3) (b), a grant under a prescribed Act or under this Act shall be deemed not to have been made to a person, or to persons jointly, if, in pursuance of that Act or of this Act, as the case may be, the grant has been repaid to the Commonwealth or the Commonwealth has recovered the grant.

(6) For the purposes of this section, the date of a contract is such date as is determined by the Secretary, being a date—

- (a) where paragraph (1) (a) applies—not earlier than the earliest date on which the home acquirer or home acquirers entered into contractual relations with the owner of the dwelling in respect of the purchase of the dwelling; or
- (b) where paragraph (1) (b) applies—not earlier than—
 - (i) the earliest date on which the home acquirer or home acquirers entered into contractual relations with the building-contractor in respect of the construction of the dwelling; or
 - (ii) the date on which the construction of the dwelling commenced, whichever is the sooner.

(7) In this section—

“prescribed Act” means the *Homes Savings Grant Act 1964* or the *Homes Savings Grant Act 1976*;

“relevant date” means—

- (a) in relation to a person who is a prescribed person by reason of the entering into by that person or by another person of a contract of the kind mentioned in paragraph (1) (a) or (b)—the date of the contract; and
- (b) in relation to a person who is a prescribed person by reason of the commencement of the construction of a dwelling by that

person or by another person as mentioned in paragraph (1) (c)—the date on which the construction commenced.

Applications

16. (1) Where the person, or each person, who is a prescribed person in relation to a dwelling is a person to whom sub-section 15 (3) applies in relation to the dwelling, an application for a grant in respect of the dwelling may be made in accordance with this section.

(2) An application for a grant in respect of a dwelling—

- (a)** shall be in writing in accordance with a form made available by the Secretary;
- (b)** subject to sub-section (3), shall be signed by the person, or by each person, who is a person to whom sub-section 15 (3) applies in relation to the dwelling; and
- (c)** shall be furnished to the Secretary.

(3) Where—

- (a)** an application that is required to be signed by 2 or more persons has been signed by any, but not all, of those persons; and
- (b)** the Secretary is satisfied, in respect of a person who has not signed the application as mentioned in paragraph (a), that—
 - (i)** the person is unable to sign the application because of physical or mental incapacity, absence or any other reason that the Secretary considers sufficient;
 - (ii)** the person has refused to sign the application;
 - (iii)** the whereabouts of the person are not known; or
 - (iv)** the person has died,

the Secretary may, if he considers that the person who has not signed the application should be treated as an applicant, direct that the person is to be deemed to have signed the application.

(4) An applicant for a grant shall furnish to the Secretary such declarations and other documents as the Secretary requires.

Making of grant

17. Subject to this Act, the Secretary may make, on behalf of the Commonwealth, a grant of moneys in accordance with this Act in respect of a dwelling to the applicant or applicants, as the case may be, for the grant.

Grant not payable where applicant previously owned home

18. (1) A grant in respect of a dwelling shall not be made to a sole applicant if the applicant has, or to joint applicants if any of the joint applicants has or have, before the prescribed date, (whether alone or together with another person or other persons)—

- (a)** owned another dwelling in Australia; or

- (b) been a party to a contract, other than a contract that was discharged (otherwise than by performance of the contract) before the expiration of 3 months after it was entered into, for the purchase of another dwelling, being a contract that provided for payment of the whole or part of the purchase price by instalments.

(2) Sub-section (1) does not apply in relation to the ownership of a dwelling, or the entering into of a contract for the purchase of a dwelling, by a person or persons if the Secretary is satisfied that it would be unreasonable to regard that dwelling as the principal place of residence of the person or of those persons.

Grant not payable unless acceptable savings held and other conditions satisfied

19. (1) A grant shall not be made to a sole applicant or to joint applicants unless the Secretary is satisfied that acceptable savings were held by the applicant or by any of the applicants, as the case may be, on the prescribed date and throughout the period of one year ending immediately before the prescribed date.

(2) A grant shall not be made in respect of a dwelling in relation to which paragraph 15 (1) (c) applies unless the dwelling has been completed or the Secretary is satisfied that substantial progress on the construction has been made.

(3) A grant shall not be made in respect of a dwelling unless the Secretary is satisfied that the applicant has or will have, or the applicants have or will have, adequate financial resources (including resources obtained or to be obtained by borrowing) to perform in relation to the dwelling the contract referred to in paragraph 15 (1) (a) or (b), or to complete the construction referred to in paragraph 15 (1) (c), as the case may be.

(4) Sub-section (3) does not apply in relation to a contract for the purchase of a dwelling, being a contract that provides for the payment of the whole or part of the purchase price by instalments, if the Secretary is satisfied that it would be unreasonable for that sub-section to apply having regard to all the circumstances.

(5) A grant shall not be made to a sole applicant or to joint applicants unless the sole applicant or at least one of the joint applicants is—

- (a) an Australian citizen; or
- (b) a person normally resident in Australia whose continued presence in Australia is not subject to any limitation as to time imposed by law.

(6) A grant shall not be made to a sole applicant or to joint applicants if the amount of the prescribed earnings of the applicant or applicants, as the case may be, exceeds the amount that is the higher relevant amount for the purposes of sub-section 39 (4).

Division 2—Acceptable Savings

Interpretation

20. (1) In this Division—

“bonds” means Australian Savings Bonds;

“Inscribed Stock Act” means the *Commonwealth Inscribed Stock Act* 1911, and includes regulations under that Act;

“stock” means Commonwealth Government Inscribed Stock that is issued in relation to a prospectus in relation to which bonds are also issued.

(2) For the purposes of this Division, where stock is, or bonds are, purchased otherwise than at face value, the amount of moneys paid for the purchase shall be deemed to be the amount that would have been paid if the purchase had been made at face value.

Acceptable savings

21. For the purposes of this Act, the acceptable savings of a sole applicant or of joint applicants on a particular date are the moneys that, by virtue of any of the succeeding provisions of this Division, are included in the acceptable savings of the applicant or applicants on that date.

Sole applicant—bank deposits, &c.

22. (1) For the purposes of this Act, the acceptable savings of a sole applicant on a particular date (in this section referred to as the “relevant date”) include moneys (other than borrowed moneys)—

- (a) that were maintained at the expiration of the relevant date by the applicant on deposit with a branch in Australia of a savings bank, on fixed deposit with a branch in Australia of a trading bank, or on deposit with a building society or credit union;
- (b) that were paid on or before the relevant date by the applicant to a building society as subscriptions in respect of shares in the capital of the society (not being shares listed for quotation for sale or purchase on a Stock Exchange) and were not repaid on or before that date; or
- (c) that were paid by the applicant under the Inscribed Stock Act—
 - (i) for the purchase of stock that was, at the expiration of the relevant date, inscribed under that Act in the name of the applicant; or
 - (ii) for the purchase of bonds in respect of which an equivalent amount of stock was, at the expiration of the relevant date, inscribed under that Act in the name of a bank.

(2) The reference in sub-section (1) to moneys maintained on deposit by the applicant as mentioned in paragraph (1) (a), or paid by the applicant as subscriptions for shares as mentioned in paragraph (1) (b), or paid by the applicant for the purchase of stock or bonds as mentioned in paragraph (1) (c),

shall be read as including a reference to one-half of any moneys so maintained on deposit or paid by the applicant jointly with another person, being—

- (a) a person to whom the applicant was legally married on the prescribed date and to whom a direction under sub-section 7 (2) applies;
- (b) a person (not being a deceased spouse of the applicant) who was the spouse of the applicant on the relevant date; or
- (c) a person who, on the relevant date, was engaged to be married to the applicant.

(3) In this section, “borrowed moneys” means—

- (a) in relation to moneys maintained on deposit, or paid, by the applicant—moneys borrowed by the applicant; and
- (b) in relation to moneys maintained on deposit, or paid, jointly by the applicant and another person as mentioned in sub-section (2)—moneys borrowed by the applicant, by that other person or by both of them.

Joint applicants—bank deposits, &c.

23. (1) For the purposes of this Act, the acceptable savings of joint applicants on a particular date (in this section referred to as the “relevant date”) include moneys (other than borrowed moneys)—

- (a) that were maintained at the expiration of the relevant date by any of the applicants, or jointly by 2 or more of the applicants, on deposit with a branch in Australia of a savings bank, on fixed deposit with a branch in Australia of a trading bank, or on deposit with a building society or credit union;
- (b) that were paid on or before the relevant date by any of the applicants, or jointly by 2 or more of the applicants, to a building society as subscriptions in respect of shares in the capital of the society (not being shares listed for quotation for sale or purchase on a Stock Exchange) and were not repaid on or before that date; or
- (c) that were paid by any of the applicants, or jointly by 2 or more of the applicants, under the Inscribed Stock Act—
 - (i) for the purchase of stock that was, at the expiration of the relevant date, inscribed under that Act in the name of that applicant or in the joint names of those applicants, as the case may be; or
 - (ii) for the purchase of bonds in respect of which an equivalent amount of stock was, at the expiration of the relevant date, inscribed under the Act in the name of a bank.

(2) The reference in sub-section (1) to moneys maintained on deposit by a joint applicant as mentioned in paragraph (1) (a), or paid by a joint applicant as subscriptions for shares as mentioned in paragraph (1) (b), or paid by a joint applicant for the purchase of stock or bonds as mentioned in paragraph (1) (c), shall be read as including a reference to one-half of any moneys so maintained

on deposit or paid by the applicant jointly with another person (not being another joint applicant), being—

- (a) a person to whom the applicant was legally married on the prescribed date and to whom a direction under sub-section 7 (2) applies;
- (b) a person (not being a deceased spouse of the applicant) who was the spouse of the applicant on the relevant date; or
- (c) a person who, on the relevant date, was engaged to be married to the applicant.

(3) In this section, “borrowed moneys” means—

- (a) in relation to moneys maintained on deposit, or paid, by any joint applicant or jointly by 2 or more joint applicants—moneys borrowed by any of the joint applicants; and
- (b) in relation to moneys maintained on deposit, or paid, by a joint applicant jointly with another person as mentioned in sub-section (2)—moneys borrowed by the applicant, by that other person or by both of them.

Sole applicant—moneys expended in connection with dwelling

24. (1) For the purpose of determining the acceptable savings on a particular date (in this section referred to as the “relevant date”) of a sole applicant who has made an application for a grant in respect of a dwelling, where any moneys, other than borrowed moneys, were expended on or before the relevant date by the applicant in connection with the purchase or construction of the dwelling, the Secretary—

- (a) shall treat the acceptable savings of the applicant on the relevant date as including so much of those moneys as were expended—
 - (i) in the payment of the whole or a part of the purchase price of the dwelling;
 - (ii) in the payment of a deposit in respect of the purchase or construction of the dwelling; or
 - (iii) in the purchase of materials to be used in the construction of the dwelling; and
- (b) may treat the acceptable savings of the applicant on the relevant date as including the whole or any part of the remainder of those moneys.

(2) The reference in sub-section (1) to moneys expended by the applicant on or before the relevant date as mentioned in that sub-section shall be read as including a reference to one-half of any moneys so expended by the applicant jointly with another person, being—

- (a) a person to whom the applicant was legally married on the prescribed date and to whom a direction under sub-section 7 (2) applies;
- (b) a person (not being a deceased spouse of the applicant) who was the spouse of the applicant on the relevant date; or

- (c) a person who, on the relevant date, was engaged to be married to the applicant.
- (3) In this section, “borrowed moneys” means—
 - (a) in relation to moneys expended by the applicant—moneys borrowed by the applicant; and
 - (b) in relation to moneys expended by the applicant jointly with another person as mentioned in sub-section (2)—moneys borrowed by the applicant, by that other person or by both of them.

Joint applicants—moneys expended in connection with dwelling

25. (1) For the purpose of determining the acceptable savings on a particular date (in this section referred to as the “relevant date”) of joint applicants who have made an application for a grant in respect of a dwelling, where any moneys, other than borrowed moneys, were expended on or before the relevant date by any of the joint applicants, or jointly by 2 or more of the joint applicants, in connection with the purchase or construction of the dwelling, the Secretary—

- (a) shall treat the acceptable savings of the applicants on the relevant date as including so much of those moneys as were expended—
 - (i) in the payment of the whole or a part of the purchase price of the dwelling;
 - (ii) in the payment of a deposit in respect of the purchase or construction of the dwelling; or
 - (iii) in the purchase of materials to be used in the construction of the dwelling; and
- (b) may treat the acceptable savings of the applicants on the relevant date as including the whole or any part of the remainder of those moneys.

(2) The reference in sub-section (1) to moneys expended by an applicant on or before the relevant date as mentioned in that sub-section shall be read as including a reference to one-half of any moneys so expended by that applicant jointly with another person (not being another joint applicant), being—

- (a) a person to whom the applicant was legally married on the prescribed date and to whom a direction under sub-section 7 (2) applies;
- (b) a person (not being a deceased spouse of the applicant) who was the spouse of the applicant on the relevant date; or
- (c) a person who, on the relevant date, was engaged to be married to the applicant.
- (3) In this section, “borrowed moneys” means—
 - (a) in relation to moneys expended by any joint applicant or jointly by 2 or more applicants—moneys borrowed by any of the joint applicants; and
 - (b) in relation to moneys expended by an applicant jointly with another person as mentioned in sub-section (2)—moneys borrowed by the applicant, by that other person or by both of them.

Sole applicant—moneys expended on residential land

26. (1) For the purpose of determining the acceptable savings of a sole applicant on a particular date (in this section referred to as the “relevant date”), where moneys, other than borrowed moneys, were expended by the applicant before the relevant date in payment of the whole or a part of the purchase price in respect of the purchase by the applicant of land that could, on the date on which the moneys were expended, lawfully be used for residential purposes (not being land on which there has been, is being, or is to be, constructed a dwelling in respect of which the applicant is an applicant for a grant) and—

- (a) the applicant has, before the expiration of 6 months after the prescribed date, become entitled to receive a refund of the whole or a part of the moneys expended but had not, before the relevant date, received the whole of that refund; or
- (b) the applicant has, before the expiration of 6 months after the prescribed date, entered into a contract for the sale of the land, but had not, before the relevant date, received the whole of the moneys that were payable to the applicant in respect of the sale,

the Secretary may, having regard to the area and the number of separate parcels of the land and the amount (if any) received by the applicant before the relevant date as a refund of the moneys expended or in respect of the sale of the land, treat the acceptable savings of the applicant on the relevant date as having included the whole, or such part as the Secretary considers reasonable, of the moneys expended.

(2) In sub-section (1)—

- (a) the reference to moneys expended by the applicant before the relevant date shall be read as including a reference to one-half of any moneys expended by the applicant jointly with another person, being—
 - (i) a person to whom the applicant was legally married on the prescribed date and to whom a direction under sub-section 7 (2) applies;
 - (ii) a person (not being a deceased spouse of the applicant) who was the spouse of the applicant on the relevant date; or
 - (iii) a person who, on the relevant date, was engaged to be married to the applicant;
- (b) the reference to the purchase of land by the applicant shall be read as including a reference to the purchase of land by the applicant and that other person jointly;
- (c) the reference to the entering into by the applicant of a contract for the sale of the land shall be read as including a reference to the entering into of such a contract by the applicant and that other person jointly; and
- (d) the reference to moneys received by the applicant as a refund shall be read as including a reference to one-half of any moneys received as a refund by the applicant and that other person jointly.

(3) In this section, “borrowed moneys” means—

- (a) in relation to moneys expended by the applicant—moneys borrowed by the applicant; and
- (b) in relation to moneys expended by the applicant jointly with another person as mentioned in sub-section (2)—moneys borrowed by the applicant, by that other person or by both of them.

(4) A reference in this section to the purchase or sale by a person of land shall be read as a reference to the purchase or a sale, as the case may be, of an estate or interest in the land by the person (otherwise than as trustee) or by another person as trustee for the first-mentioned person.

(5) A reference in this section to moneys expended by a person shall be read as including a reference to moneys expended by that person by way of payment of interest.

Joint applicants—moneys expended on residential land

27. (1) For the purpose of determining the acceptable savings of joint applicants on a particular date (in this section referred to as the “relevant date”), where moneys, other than borrowed moneys, were expended before the relevant date by any of the applicants, or jointly by 2 or more of the applicants, in payment of the whole or a part of the purchase price in respect of the purchase by any of the applicants, or jointly by 2 or more of the applicants, of land that could, on the date on which the moneys were expended, lawfully be used for residential purposes (not being land on which there has been, is being, or is to be, constructed a dwelling in respect of which the applicants are applicants for a grant) and—

- (a) one or more of the applicants has or have, before the expiration of 6 months after the prescribed date, become entitled to receive a refund of the whole or a part of the moneys expended but had not, before the relevant date, received the whole of that refund; or
- (b) one or more of the applicants has or have, before the expiration of 6 months after the prescribed date, entered into a contract for the sale of the land, but had not, before the relevant date, received the whole of the moneys that were payable in respect of the sale,

the Secretary may, having regard to the area and the number of separate parcels of the land and the amount (if any) received by the joint applicant or joint applicants before the relevant date as a refund of the moneys expended or in respect of the sale of the land, treat the acceptable savings of the joint applicants on the relevant date as having included the whole, or such part as the Secretary considers reasonable, of the moneys expended.

(2) In sub-section (1)—

- (a) the reference to moneys expended by an applicant before the relevant date shall be read as including a reference to one-half of any moneys

expended by that applicant jointly with another person (not being another joint applicant), being—

- (i) a person to whom the applicant was legally married on the prescribed date and to whom a direction under sub-section 7 (2) applies;
 - (ii) a person (not being a deceased spouse of the applicant) who was the spouse of the applicant on the relevant date; or
 - (iii) a person who, on the relevant date, was engaged to be married to the applicant;
- (b) the reference to the purchase of land by the applicant shall be read as including a reference to the purchase of land by the applicant and that other person jointly;
- (c) the reference to the entering into by the applicant of a contract for the sale of land shall be read as including a reference to the entering into of such a contract by the applicant and that other person jointly; and
- (d) the reference to moneys received by the applicant as a refund shall be read as including a reference to one-half of any moneys received as a refund by the applicant and the other person jointly.

(3) In this section, “borrowed moneys” means—

- (a) in relation to moneys expended by any joint applicant or jointly by 2 or more applicants—moneys borrowed by any of the joint applicants; and
- (b) in relation to moneys expended by an applicant jointly with another person as mentioned in sub-section (2)—moneys borrowed by the applicant, by that other person or by both of them.

(4) A reference in this section to the purchase or sale by a person or persons of land shall be read as a reference to the purchase or a sale, as the case may be, of an estate or interest in the land by the person or persons (otherwise than as trustee or trustees) or by another person as trustee for the first-mentioned person or persons.

(5) A reference in this section to moneys expended by a person shall be read as including a reference to moneys expended by that person by way of payment of interest.

Moneys held outside Australia by members of Defence Force, &c.

28. (1) This section applies to a person in relation to a date if, on that date—

- (a) the person was serving outside Australia as a member of the Defence Force;
- (b) the person was the spouse of a person mentioned in paragraph (a); or
- (c) the person was a child, within the meaning of Part IV, of a person mentioned in paragraph (a) and was wholly or substantially dependent on that person, on the spouse of that person or on both of them.

(2) For the purposes of this Act, the acceptable savings of a sole applicant on a date on which the applicant was a person to whom this section applies,

include moneys, other than borrowed moneys, that were held on that date outside Australia by the applicant (or by the applicant jointly with a person who was, on that date, the spouse of the applicant) in a form approved by the Secretary.

(3) For the purposes of this Act, the acceptable savings of joint applicants on a date on which any of the applicants was a person to whom this section applies include moneys, other than borrowed moneys, that were held on that date outside Australia by the applicant (or by the applicant jointly with a person who was, on that date, the spouse of the applicant) in a form approved by the Secretary.

(4) In the application of sub-section (3) in relation to a joint applicant to whom this section applies, the reference in that sub-section to moneys held on a date by that applicant and a person who was the spouse of the applicant on that date shall, if the spouse is also a joint applicant in respect of the same application, be read as a reference to one-half only of the moneys so held jointly.

(5) In this section, "borrowed moneys" means—

- (a) in relation to moneys held by an applicant—moneys borrowed by the applicant; and
- (b) in relation to moneys held jointly by an applicant and the spouse of the applicant—moneys borrowed by the applicant, by the spouse of the applicant or by both of them.

(6) Without limiting the operation of section 7, a reference in this section to a person who was the spouse of an applicant on a particular date shall be read as including a reference to a person who was, on that date, engaged to be married to the applicant.

Interruption of holding of acceptable savings

29. Where, during a period of not more than 30 days, a sole applicant or joint applicants did not hold acceptable savings, or the acceptable savings of a sole applicant or of joint applicants were less than they would otherwise have been, by reason of the transfer of moneys from one place to another place or from one form of savings into another form or for any other reason, the Secretary may, in his discretion, treat the applicant or applicants as having held throughout that period acceptable savings equal to—

- (a) the acceptable savings that the applicant or applicants held immediately before the commencement of that period; or
- (b) the acceptable savings that the applicant or applicants held immediately after the expiration of that period,

whichever is the lesser.

Moneys held by deceased spouse

30. For the purposes of this Act—

- (a) moneys held, paid or expended on any date by an applicant jointly with a deceased spouse of the applicant shall be deemed to have been

held, paid or expended, as the case may be, on that date by the applicant alone;

- (b) moneys held on any date by a deceased spouse of an applicant shall be deemed to have been held on that date by the applicant;
- (c) where moneys that were held by a deceased spouse of an applicant on the date of death of the deceased spouse are, by reason of paragraph (b), deemed to have been held on that date by the applicant, the Secretary may treat those moneys as having continued, in whole or in part, to be held by the applicant for such period after that date as the Secretary thinks reasonable and as having continued to be so held in the same form as the form in which the moneys were held by the deceased spouse of the applicant on that date;
- (d) moneys paid or expended on any date by a deceased spouse of an applicant shall be deemed to have been paid or expended, as the case may be, on that date by the applicant; and
- (e) moneys borrowed by a deceased spouse of an applicant shall be deemed to have been borrowed by the applicant.

Secretary may treat moneys as paid or expended

31. Where the Secretary is satisfied that—

- (a) a person has done an act or thing for the purpose of effecting the payment or expenditure of moneys by the person; and
- (b) after the doing of that act or thing, the moneys have been so paid or expended,

the Secretary may, for the purposes of this Act, treat the moneys as having been paid or expended on the date on which the act or thing was done.

Division 3—Prescribed Earnings

Interpretation

32. (1) In this Division—

“Assessment Act” means the *Income Tax Assessment Act 1936*;

“current year of income”, in relation to an applicant, means the year of income that includes the prescribed date in relation to the applicant;

“preceding year of income”, in relation to an applicant, means the year of income next preceding the current year of income;

“relevant year of income”, in relation to an applicant, except as provided in section 37, means the preceding year of income.

(2) A reference in this Division to a certificate stating the amount of the taxable income of a person for a year of income shall be read as a reference to a notice, certificate or other document (including a notice of assessment or amended assessment) issued by or on behalf of the Commissioner, whether for the purposes of the Assessment Act or of this Act, stating, or including a

statement of, the amount of the taxable income of the person for the year of income.

(3) Except so far as the contrary intention appears, an expression used in this Division and in the Assessment Act has the same meaning in this Division as in that Act.

Prescribed earnings

33. (1) For the purposes of this Act, the amount of the prescribed earnings of a sole applicant or of joint applicants is—

- (a) in the case of a sole applicant—the amount of the taxable income of the applicant for the relevant year of income; or
- (b) in the case of joint applicants—subject to sub-section (2), the sum of the amounts of the taxable income of each applicant for the relevant year of income in relation to that applicant.

(2) Where—

- (a) an application is made by joint applicants; and
- (b) the relevant year of income is not the same year of income in relation to both or all of the applicants,

the amount of the prescribed earnings of the applicants is the sum referred to in paragraph (1) (b) adjusted in accordance with the regulations.

Assessment, &c., of taxable income

34. (1) For the purposes of ascertaining the amount of the taxable income of an applicant for a year of income, the succeeding provisions of this section apply.

(2) The applicant shall furnish to the Secretary—

- (a) except where paragraph (b) applies—a certificate stating the amount of his taxable income for the year of income or, if 2 or more such certificates have been issued, the later or latest of those certificates; or
- (b) if the Secretary, in his discretion, so directs—a statement in writing, in accordance with a form made available by the Secretary, of the amount of his taxable income for the year of income and of such other particulars as are required by the form.

(3) Notwithstanding that an applicant has furnished a statement in relation to the year of income under paragraph (2) (b), he shall, if the Secretary, in his discretion, so directs, furnish to the Secretary a certificate stating the amount of his taxable income for the year of income.

(4) The Secretary may request the Commissioner to furnish to the Secretary a certificate stating the amount of the taxable income of the applicant for the year of income.

(5) Where the applicant has furnished, in pursuance of the Assessment Act, a return in respect of income derived by him during the year of income,

nothing in this Division shall be taken to require the application to be dealt with by the Secretary before a certificate is issued to the applicant stating the amount of his taxable income for the year of income.

Amount of taxable income

35. For the purposes of this Division, the amount of the taxable income of an applicant for a year of income is, subject to sub-section 36 (2), that amount—

- (a) as stated in a certificate or, where 2 or more certificates have been issued, in the later or latest of those certificates; or
- (b) if no such certificate has been issued—as stated in a statement made under paragraph 34 (2) (b).

Adjustment of taxable income in certain cases

36. (1) This section does not apply in relation to an applicant where the relevant year of income in relation to the applicant ends immediately before the prescribed date.

(2) Where an applicant, by notice in writing furnished to the Secretary, requests the Secretary to give a direction under this section and the Secretary is satisfied that the applicant—

- (a) ceased, on any day after the first day of the relevant year of income and before the prescribed date, to carry on an income-earning activity and, throughout the period commencing on the first-mentioned day and including the prescribed date, did not carry on any income-earning activity;
- (b) has not carried on, or is not likely to carry on, as the case requires, any income-earning activity for a substantial period after the prescribed date; and
- (c) will be advantaged by the making of such a direction,

the Secretary shall direct that, for the purposes of section 33, the amount of the taxable income of the applicant for the relevant year of income shall be the amount ascertained in accordance with sub-section (3).

(3) For the purposes of sub-section (2), an amount shall be ascertained in accordance with the formula—

$$\frac{a(365-b)}{365-c}$$

where—

- a is the amount of the taxable income of the applicant for the relevant year of income ascertained otherwise than in accordance with this section;
- b is the number of days in the period that commenced on the day first referred to in paragraph (2) (a) and ended at the expiration of the prescribed date or, if that number is greater than 365, 365; and

c is the number (if any) by which the number of days in the period that commenced at the expiration of the relevant year of income and ended at the expiration of the prescribed date is less than b.

(4) In sub-section (2), “income-earning activity”, in relation to an applicant, means an activity that results in the applicant deriving income from personal exertion.

Relevant year of income in certain cases

37. (1) Where an applicant, by notice in writing furnished to the Secretary, requests the Secretary to give a direction under this section and the Secretary is satisfied that—

- (a) by reason of circumstances that occurred before the prescribed date, the estimated amount, or the actual amount, of the taxable income of the applicant for the current year of income is less than the amount of his taxable income for the preceding year of income;
 - (b) the applicant took reasonable steps to avoid those circumstances or to mitigate their effect; and
 - (c) the applicant will be advantaged by the making of such a direction,
- the Secretary shall direct that this section shall apply in relation to the applicant.

(2) Subject to sub-section (3), where a direction is given under sub-section (1) in relation to an applicant, the relevant year of income in relation to the applicant is the current year of income.

(3) Where a direction is given under sub-section (1) in relation to an applicant on the basis of an estimated amount of taxable income and the actual amount is greater than that estimated amount, the relevant year of income in relation to the applicant is the current year of income or the preceding year of income, whichever is of greater advantage to the applicant.

Directions under sections 36 and 37

38. The Secretary shall not give a direction under both sections 36 and 37 in respect of the same applicant in relation to the same application.

Division 4—Amount of Grant

Amount of grant

39. (1) In ascertaining the amount of a grant to a sole applicant or to joint applicants, the succeeding provisions of this section apply.

(2) Subject to this section, if the relevant savings period is not less than 1 year but less than 2 years, the amount of the grant is \$1,250 or the amount of the acceptable savings as at the prescribed date, whichever is the lesser.

(3) Subject to this section, if the relevant savings period is not less than 2 years, the amount of the grant is—

- (a) the amount of the acceptable savings as at the prescribed date;

- (b) the sum of the amount of the acceptable savings as at the first day of the period of 1 year ending immediately before the prescribed date and \$1,500; or

- (c) \$2,500,

whichever is the least.

(4) Subject to this section, where the amount of the prescribed earnings exceeds the lower relevant amount but does not exceed the higher relevant amount, the amount of the grant is the amount ascertained in accordance with the formula—

$$\frac{a(b-c)}{(b-d)}$$

where—

a is the amount that, but for this sub-section and sub-sections (6) and (7), would be the amount of the grant;

b is the higher relevant amount;

c is the amount of the prescribed earnings; and

d is the lower relevant amount.

(5) For the purposes of sub-section (4)—

(a) the lower relevant amount is \$18,900 or, if the regulations otherwise provide, such amount as is ascertained in accordance with the regulations; and

(b) the higher relevant amount is \$21,700 or, if the regulations otherwise provide, such amount as is ascertained in accordance with the regulations.

(6) Where, but for this sub-section, the amount of the grant would include a fraction of a dollar, then—

(a) if the fraction is less than one-half—the fraction shall be disregarded; or

(b) in any other case—the fraction shall be treated as a dollar.

(7) The grant shall not be made if the amount ascertained in accordance with this section is less than \$10.

(8) Where an application has been made, or any documents furnished by an applicant or applicants have been prepared, on the basis that the prescribed date is a date (in this sub-section referred to as the “assumed date”) that is earlier or later, but not more than 14 days earlier or later, than the prescribed date, the Secretary may, in his discretion, direct that this section shall apply as if the references in sub-sections (2) and (3) to the prescribed date were references to the assumed date.

PART IV—FAMILY BONUSES

Interpretation

40. (1) Except as otherwise provided in sub-section (2), expressions used in this Part have the same respective meanings as in Part VI of the *Social Services Act 1947*.

(2) In this Part—

“bonus” means a bonus payable under this Part;

“child” means—

(a) a child within the meaning of Part VI of the *Social Services Act 1947*; or

(b) a student child within the meaning of that Part;

“endowment” means an endowment, or a family allowance, whichever expression is for the time being defined in Part VI of the *Social Services Act 1947*, and “endowment period” shall be construed accordingly;

“prescribed period”, in relation to a sole applicant or joint applicants, means an endowment period, or that part of an endowment period, that falls within a period commencing on the prescribed date in relation to the applicant or applicants and ending 11 months after that date.

Entitlement to bonus

41. Where the Secretary is satisfied that—

(a) a grant, or an advance under section 56, is payable or would, but for sub-sections 39 (6) and (7), or sub-section 39 (7), as the case may be, be payable to a sole applicant or to joint applicants; and

(b) an endowment has been, or endowments have been, paid or would, but for section 95A or 95B of the *Social Services Act 1947*, be payable to the applicant or any of the applicants in respect of the prescribed period,

the Secretary shall, on behalf of the Commonwealth, pay a bonus to the applicant or applicants in accordance with this Part.

Amount of bonus

42. The amount of the bonus payable to a sole applicant or to joint applicants is—

(a) where there are 2 or more children in respect of whom an endowment has been, or endowments have been, paid or would, but for section 95A or 95B of the *Social Services Act 1947*, be payable to the sole applicant or to one or more of the joint applicants in respect of the prescribed period—\$1,000; or

(b) in any other case—\$500.

Application of Act

43. Section 16 and Parts V and VI (except sections 56 and 60) apply in relation to a bonus in like manner as they apply in relation to a grant.

PART V—ADMINISTRATION

Delegation

44. (1) The Secretary may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to an officer of the Department all or any of his powers under this Act, other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Secretary.

(3) A delegation under this section does not prevent the exercise of a power by the Secretary.

Interpretation

45. In sections 46 and 47, a reference to a decision of the Secretary shall be read as a reference to a determination, direction, decision or approval of the Secretary, or of a delegate of the Secretary, under this Act.

Review of decisions

46. Where it appears to the Secretary that sufficient reason exists for reviewing a decision of the Secretary, he may review the decision and may affirm, revoke or vary it.

Reconsideration by Secretary

47. (1) A person whose interests are affected by a decision of the Secretary, other than a decision under section 34, may, within such time (if any) as is prescribed, request the Secretary to reconsider the decision.

(2) Upon receipt of the request, the Secretary shall reconsider the decision, and may affirm, revoke or vary it.

Notification of rights under section 49

48. (1) A written notification of a decision made under section 47 to the person at whose request the decision was made shall be accompanied by a statement of the terms of section 49.

(2) The validity of a decision made under section 47 shall not be taken to be affected by a failure to comply with sub-section (1).

Appeals to Administrative Appeals Tribunal

49. A person whose interests are affected by a decision made under section 47 may make application to the Administrative Appeals Tribunal for a review of the decision.

Officers to observe secrecy

50. (1) A person who is or has been an officer shall not, directly or indirectly, except for the purposes of this Act, make a record of, or divulge or communicate to any person, any information with respect to the affairs of another person acquired by him in the exercise of his powers, or the performance of his duties or functions, under this Act.

Penalty: \$2,000 or imprisonment for 12 months, or both.

(2) Notwithstanding anything contained in sub-section (1), an officer may—

- (a)** if the Minister or the Secretary certifies that it is necessary in the public interest that any information acquired by the officer in the exercise of his powers, or the performance of his duties or functions, under this Act should be divulged, divulge that information to such person as the Minister or the Secretary directs;
- (b)** divulge any such information to any authority or person prescribed by the regulations; or
- (c)** divulge any such information to a person who, in the opinion of the Secretary, is expressly or impliedly authorized by the person to whom the information relates to obtain it.

(3) An authority to which, or person to whom, information is divulged under sub-section (2), and any person under the control of that authority or person, is, in respect of that information, subject to obligations and liabilities under sub-section (1) as if the authority or person were a person exercising powers, or performing duties or functions, under this Act and had acquired the information in the exercise of those powers or the performance of those duties or functions.

Information as to applicants

51. (1) Where the Secretary has reason to believe that a person is in possession of any information in relation to any matter that might affect the payment of a grant to any other person, he may, by notice in writing served by post on the first-mentioned person at the address of the person last known to the Secretary, require the person to furnish to him a confidential report relating to that matter within 14 days after the notice is served.

(2) A person on whom a notice is so served shall not—

- (a)** without lawful excuse, refuse or fail to comply with the notice; or
- (b)** furnish a report in response to the notice that, to his knowledge, is false or misleading in a material particular.

Penalty: \$500.

(3) The Secretary shall not exercise his powers under sub-section (1) except with the approval of the Minister.

Powers as to taking of evidence and production of documents

52. (1) The Secretary may, for the purposes of this Act—

- (a) summon witnesses;
- (b) receive evidence on oath or affirmation; and
- (c) require the production of documents.

(2) A person who has been summoned to appear before the Secretary shall not, without lawful excuse, after tender of reasonable expenses, fail to appear in obedience to the summons.

(3) A person, whether summoned or not, who appears before the Secretary shall not, without lawful excuse—

- (a) refuse to be sworn as a witness or to make an affirmation;
- (b) fail to answer any question that he is lawfully required to answer; or
- (c) fail to produce any document that he is lawfully required to produce.

Penalty: \$1,000.

(4) The Secretary shall not exercise his powers under paragraph (1) (a) or (c) except with the approval of the Minister.

Directions

53. A direction by the Secretary under this Act shall be by instrument in writing.

Indemnity to certain persons

54. Nothing contained in any law of a State or Territory operates so as to prevent a person from furnishing any information, or making any books, documents or papers available, to the Secretary or to an officer for the purposes of this Act.

PART VI—MISCELLANEOUS

Payment of grants

55. (1) A grant to a sole applicant shall be paid to the applicant or, if the applicant so requests in writing and the Secretary approves, to another person nominated by the applicant.

(2) Subject to sub-sections (3) and (4), a grant to joint applicants shall be paid to the joint applicants or, if the joint applicants so request in writing and the Secretary approves, to a person or persons nominated by the joint applicants.

(3) Where a joint applicant has died before the payment of a grant, sub-section (2) applies in relation to the payment of the grant as if the reference in that sub-section to the joint applicants did not include a reference to the deceased joint applicant.

(4) Where, for any reason, the Secretary considers that it is not practicable to pay a grant to all the joint applicants in respect of an application, he may pay the grant to such of those joint applicants as he considers appropriate.

(5) A grant paid in accordance with a request under sub-section (1) to a person other than the sole applicant or paid under sub-section (2) or (4) otherwise than to all the joint applicants in respect of an application shall, for the purposes of this Act, be deemed to have been paid to the sole applicant, or to all the joint applicants, as the case may be.

Advances

56. (1) Where—

(a) the Secretary is satisfied that—

(i) the amount of the prescribed earnings of a sole applicant or of joint applicants has not been ascertained in accordance with Division 3 of Part III at the time of the making of the application and cannot be so ascertained within a reasonable period after that time; and

(ii) the applicant has, or applicants have, taken all reasonable steps to supply the information necessary to ascertain that amount; and

(b) he estimates, from such information in his possession as he considers sufficient, that an amount of a grant will be payable to the applicant or applicants,

he may make an advance on account of the grant of an amount not exceeding 80% of the amount so estimated.

(2) Part V and this Part (except section 60) apply in relation to an advance in like manner as they apply in relation to a grant.

(3) Nothing in sub-section (1) shall be taken to limit the amount of any bonus that may be payable under Part IV in connection with an advance.

Appropriation

57. Grants are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

Repayments of grants in certain circumstances

58. (1) This section applies where a grant has been paid in respect of a dwelling whose purchase or construction had not been completed on the date on which the application for the grant was made.

(2) Where—

(a) in the case of a dwelling the purchase of which had not been completed on the date on which the application for the grant was made—

(i) the purchase of the dwelling is not completed within 3 months after the date specified in the application as the date on which it was expected that the purchase would be completed or, if no

date was so specified, within 3 months after the date of payment of the grant; or

- (ii) the contract for the purchase of the dwelling is discharged otherwise than by performance of the contract; or
- (b) in the case of a dwelling the construction of which had not been completed on the date on which the application for the grant was made—
 - (i) the construction of the dwelling is not completed within 6 months after the date specified in the application as the date on which it was expected that the construction would be completed or, if no date was so specified, within 6 months after the date of payment of the grant;
 - (ii) if the dwelling was being, or was to be, constructed by a building-contractor—the contract for the construction of the dwelling is discharged otherwise than by performance of the contract; or
 - (iii) before the expiration of 12 months after the prescribed date, the applicant, in the case of a sole applicant, does not become the owner, or none of the applicants, in the case of joint applicants, becomes the owner, of the dwelling,

and the Secretary is not forthwith notified in writing of the fact, then the sole applicant, or each of the joint applicants, as the case may be, is guilty of an offence punishable, upon conviction, by a fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months, or both.

(3) Upon the occurrence of any of the circumstances referred to in paragraph (2) (a) or (b), the Secretary may require the sole applicant or each of the joint applicants, as the case may be, by notice in writing served by post on the applicant, or each of the applicants, as the case may be, at the address of the applicant last known to the Secretary, to pay to the Commonwealth an amount equal to the amount of the grant and, in that case, the amount so payable is recoverable by the Commonwealth in a court of competent jurisdiction from the applicant, or jointly or severally from the applicants, as a debt due to the Commonwealth.

(4) The reference in sub-section (3) to each joint applicant shall be read as not including a reference to a joint applicant who died before the payment of the grant.

(5) The Commonwealth is not, by virtue of sub-section (3), entitled to recover from the persons referred to in that sub-section amounts that, in the aggregate, exceed the total amount of the debt due to the Commonwealth.

Notification of amount of taxable income

59. (1) Where—

- (a) an applicant has furnished to the Secretary a certificate, or a statement under paragraph 34 (2) (b), stating the amount of his taxable income for a year of income; and

- (b) he subsequently receives a certificate, or a further certificate, as the case may be, stating the amount of his taxable income for the year of income and the amount so stated is greater than the amount referred to in paragraph (a),

he shall forthwith furnish the certificate to the Secretary or, if he is unable to do so, furnish to the Secretary, in lieu of that certificate, a fresh certificate stating the amount of his taxable income for the year of income.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(2) An expression used in this section and in Division 3 of Part III has the same meaning in this section as in that Division.

Adjustments of grants, &c.

60. (1) Where—

- (a) an amount of a grant has been paid to a sole applicant or to joint applicants in consequence of a false or misleading statement or representation made by the applicant or by any of the applicants or a failure or omission by the applicant or by any of the applicants to comply with a provision of this Act;
- (b) an amount of a grant has been paid to a sole applicant or to joint applicants on the basis of an amount of the prescribed earnings of the applicant or applicants and the amount of those prescribed earnings is subsequently determined to be a greater amount; or
- (c) an advance has been paid to a sole applicant or to joint applicants on account of a grant and it is subsequently determined that no grant is payable or that the amount of the grant payable is less than the amount of the advance,

an amount equal to so much of the grant as is overpaid, the amount of the advance, or so much of the advance as exceeds the amount of the grant payable, as the case may be, is recoverable under this section from the applicant or applicants.

(2) Where—

- (a) an amount equal to the whole of a grant or of an advance is recoverable under this section from an applicant or applicants; and
- (b) a bonus has been paid in connection with the grant or the advance,

an amount equal to the bonus is recoverable under this section from the applicant or applicants.

(3) An amount recoverable under this section from an applicant or applicants is a debt due to the Commonwealth by the applicant, or by the applicants jointly and severally, as the case may be, and may be recovered by the Commonwealth in a court of competent jurisdiction.

(4) The Commonwealth is not, by virtue of sub-section (3), entitled to recover from the persons referred to in that sub-section amounts that, in the aggregate, exceed the total amount of the debt due to the Commonwealth.

(5) Where—

- (a) on the basis of an amount of the prescribed earnings of a sole applicant or of joint applicants it has been determined that no grant is payable, or that an amount of a grant is payable, to the applicant or applicants; and
- (b) the amount of those prescribed earnings is subsequently determined to be a lesser amount,

the Secretary may pay to the applicant or applicants any amount of grant, or increase in the amount of grant, as the case may be, determined on the basis of the second-mentioned amount of prescribed earnings.

(6) A payment shall not be made under sub-section (5) if the amount that would, but for this sub-section, be payable is less than \$10.

Misleading statements, &c.

61. (1) A person shall not—

- (a) in connection with, or in support of, an application for a grant; or
- (b) with intent to deceive an officer,

make, whether orally or in writing, a statement that, to his knowledge, is false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(2) A person shall not obtain payment of a grant by means of a statement that, to his knowledge, is false or misleading in a material particular or by means of impersonation or a fraudulent device.

Penalty: \$2,000 or imprisonment for 12 months, or both.

(3) Where a person is convicted of an offence against this section, the court may, in addition to imposing a penalty in respect of the offence, order him to pay to the Commonwealth an amount equal to the amount of any grant under this Act paid in consequence of the act, failure or omission in respect of which he was convicted.

Prosecutions for offences

62. Proceedings for an offence against this Act or the regulations may be commenced at any time within 3 years after the commission of the offence.

Evidence

63. (1) All courts shall take judicial notice of the signature of any person who holds or has held the office of Secretary, and of the fact that that person holds or has held that office, if the signature purports to be attached or appended to any official document, and any such document purporting to be so signed is *prima facie* evidence in all courts of the facts and statements contained in the document.

(2) A certificate in writing signed by a person who holds or has held the office of Secretary certifying—

- (a) that a grant of a specified amount was paid to a specified person or to specified persons on a specified date; or
- (b) that a specified amount is the amount of a grant paid to a specified person or to specified persons in consequence of a specified act, failure or omission,

is *prima facie* evidence in all courts of the matters certified.

Reports

64. (1) The Secretary shall, as soon as practicable after each 30 June, furnish to the Minister a report as to the administration and operation of this Act during the year that ended on that date.

(2) The Minister shall cause a copy of each report of the Secretary to be laid before each House of the Parliament within 15 sitting days of that House after the receipt of the report by the Minister.

Termination of operation of Act

65. A grant is not payable to a sole applicant or to joint applicants if the prescribed date, or the date that is the assumed date for the purposes of sub-section 39 (8), in relation to the applicant or applicants is later than 17 March 1985.

Regulations

66. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act,

and, in particular, prescribing penalties not exceeding a fine of \$500 for offences against the regulations.