

STATUTORY RULES.

1964. No. 55.

REGULATIONS UNDER THE WAR SERVICE HOMES ACT 1918-1962.*

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* 1918-1962.

Dated this *Twenty Third*
day of *April*, 1964.

DE L'ISLE

Governor-General.

By His Excellency's Command,

Leslie Bury
Minister of State for Housing.

AMENDMENTS OF THE WAR SERVICE HOMES REGULATIONS.†

1. Regulation 19 of the War Service Homes Regulations is amended by omitting paragraphs (c) and (d) and inserting in their stead the following paragraphs:—

- "(c) malicious damage, burglary and housebreaking (including an attempt at burglary or housebreaking);
- "(d) bursting, leaking and overflowing of boilers, water tanks, water pipes and associated apparatus;".

2. Regulation 45 of the War Service Homes Regulations is amended—

(a) by omitting sub-regulation (1.) and inserting in its stead the following sub-regulation:—

"(1.) In this Part, unless the contrary intention appears—
'applicant' means—

- (a) in relation to property that is a dwelling-house referred to in sub-section (1A.) of section 38 of the Act—a person who has made application under regulation 45A of these Regulations for the insurance of the property; or
- (b) in relation to property other than property referred to in the last preceding paragraph—a person who has made application under the Act for the purchase of the property or for an advance in respect of the property,

and includes a purchaser or a borrower;

* Notified in the *Commonwealth Gazette* on *30 April*, 1964.
† Statutory Rules 1936, No. 74, as amended by Statutory Rules 1945, No. 202; 1946, No. 66; 1947, No. 93; 1949, Nos. 13 and 29; 1951, No. 16; 1956, No. 17; 1957, Nos. 18 and 54; and 1962, No. 42.

- 'authorized officer' means a person authorized by the Director to make, for the purposes of this Part, inspections and valuations of property;
 - 'certificate of insurance' means a certificate of insurance issued under regulation 57 of these Regulations;
 - 'cover note' means a cover note issued under regulation 51A of these Regulations;
 - 'insured in pursuance of the Act' means insured in pursuance of the Act by virtue of regulation 48A, 51A or 57 of these Regulations and 'insurance in pursuance of the Act' has a corresponding meaning;
 - 'prescribed risk' means fire or a risk referred to in regulation 19 of these Regulations;
 - 'property' includes a dwelling-house or building material that may be insured in pursuance of section 38 of the Act;
 - 'the assured', in relation to property, means the person (other than the Director) for whose benefit the property is insured in pursuance of the Act;
 - 'voluntary insurance' means insurance in pursuance of the Act by virtue of regulation 48A, 51A or 57 of these Regulations of a dwelling-house referred to in subsection (1A.) of section 38 of the Act.”;
- (b) by omitting from paragraph (b) of sub-regulation (2.) the word “assured” and inserting in its stead the word “applicant”;
- (c) by omitting paragraph (d) of sub-regulation (2.) and inserting in its stead the following paragraph:—
- “ (d) property shall not be deemed to be damaged by explosion or fire where the explosion or fire is caused by the explosion or ignition of an explosive or dangerously inflammable substance brought or kept upon the property in contravention of regulation 54 of these Regulations; ”;
- (d) by omitting from paragraph (f) of sub-regulation (2.) the word “assured” and inserting in its stead the word “applicant”;
- (e) by omitting from paragraph (g) of sub-regulation (2.) the word “and”; and
- (f) by omitting paragraph (h) of sub-regulation (2.) and inserting in its stead the following paragraphs:—
- “ (h) property shall not be deemed to be damaged by the bursting, leaking or overflowing of boilers, water tanks, water pipes or associated apparatus where the applicant has failed to keep the same in good working order and repair; and
- “ (i) property shall not be deemed to suffer malicious damage where the damage is caused—
- (i) to glass or a dwelling-house under construction; or

- (ii) by the applicant or the occupier of the damaged property, or a member of the family of the applicant or the occupier.”.

3. Regulation 45A of the War Service Homes Regulations is amended— Voluntary insurance.

(a) by omitting from sub-regulation (1.) the words “ fire and ”; and

(b) by omitting sub-regulations (2.) and (3.).

4. After regulation 46 of the War Service Homes Regulations the following regulation is inserted:—

“ 46A.—(1.) In the event of loss or damage to property insured in pursuance of the Act being caused by a prescribed risk covered by the insurance, the Director is, subject to these Regulations, liable to indemnify the assured against the loss or damage and that liability may be discharged by whichever of the means specified in section 41 of the Act that the Director thinks fit. Extent of Director's liability.

“ (2.) The extent of the liability of the Director under the last preceding sub-regulation shall be the amount required to make good the loss or damage or the amount for which the property is insured, whichever is the less.”.

5. Regulation 47 of the War Service Homes Regulations is amended by omitting sub-regulation (2.) and inserting in its stead the following sub-regulation:— Inspections and valuations of property.

“ (2.) Where property is or is required or proposed to be insured in pursuance of the Act, the assured or the applicant, as the case may be, shall permit an authorized officer at any reasonable time to enter and inspect the property and shall take all reasonable steps to ensure that the authorized officer is not prevented from so entering and inspecting the property.”.

6. Regulation 48 of the War Service Homes Regulations is amended— Report by authorized officer.

(a) by inserting after the word “ inspection ” (wherever occurring) the words “ or valuation ”; and

(b) by inserting, after paragraph (a), the following paragraph:—

“ (aa) in the case of the first inspection or valuation of—

(i) property on which a dwelling-house is to be erected or is in course of erection; and

(ii) property that is a dwelling-house to which improvements, alterations or additions are to be or are being made,

the value of the property upon completion of the erection, improvements, alterations or additions, as the case may be, exclusive of the land on which the property is situated;”.

7. After regulation 48 of the War Service Homes Regulations the following regulation is inserted:—

“ 48A.—(1.) Where an authorized officer makes a report under the last preceding regulation in respect of property that is insured in pursuance of the Act immediately before the making of the report, the property is, upon Property insured after valuation report, &c.

the making of the report and until a cover note or certificate of insurance in respect of the property is issued by the Director, insured in pursuance of the Act, subject to these Regulations, against all prescribed risks for the benefit of all persons having an interest in the property and for the amount determined by the Director under regulation 50 of these Regulations or, until an amount is so determined, the amount shown in the report as the total amount recommended for insurance purposes, notwithstanding anything to the contrary contained in an earlier cover note or certificate of insurance.

“(2.) Where an authorized officer makes a report under the last preceding regulation in respect of property, other than property referred to in the last preceding sub-regulation, in which an applicant has an interest and in which the Director acquires an interest, the property is, upon the acquisition of the interest by the Director and until a cover note or certificate of insurance in respect of the property is issued by the Director, insured in pursuance of the Act, subject to these Regulations, against all prescribed risks for the benefit of the applicant, the Director and any other person who acquires an interest in the property after the Director acquires his interest and for the amount determined by the Director under regulation 50 of these Regulations or, until an amount is so determined, the amount shown in the report as the total amount recommended for insurance purposes.

“(3.) Where an authorized officer makes a report under the last preceding regulation in respect of property, other than property referred to in either of the last two preceding sub-regulations, in which the Director has an interest and in which an applicant acquires an interest, the property is, upon the acquisition of the interest by the applicant and until a cover note or certificate of insurance in respect of the property is issued by the Director, insured in pursuance of the Act, subject to these Regulations, against all prescribed risks for the benefit of all persons having an interest in the property and for the amount determined by the Director under regulation 50 of these Regulations or, until an amount is so determined, the amount shown in the report as the total amount recommended for insurance purposes.

8. Regulation 50 of the War Service Homes Regulations is amended by adding at the end thereof the following sub-regulation:—

Amount of
insurance and
premium.

“(2.) A determination under the last preceding sub-regulation may be made at any time before or after the property is destroyed or damaged by a prescribed risk.”.

9. After regulation 51 of the War Service Homes Regulations the following regulation is inserted:—

“51A.—(1.) Where the Director determines, under these Regulations, the amount for which property shall or may be insured in pursuance of the Act, he may issue a cover note in respect of the insurance of the property.

Cover notes.

“(2.) Upon the issue of a cover note under the last preceding sub-regulation, the property specified in the cover note is, subject to these Regulations and until a certificate of insurance is issued in respect of the property by the Director, insured in pursuance of the Act for the benefit of the person named in the cover note against the prescribed risks, for the period and amount, and subject to the conditions, if any, specified in the

cover note (in addition to the conditions specified in these Regulations), notwithstanding anything to the contrary contained in an earlier cover note or certificate of insurance.”.

10. Regulation 54 of the War Service Homes Regulations is repealed and the following regulation inserted in its stead:—

“54.—(1.) Where a dwelling-house is insured in pursuance of the Act, the assured shall not bring or keep or cause to be brought or kept upon the dwelling-house an explosive or dangerously inflammable substance except—

Explosives, &c., not to be brought or kept upon a dwelling-house.

(a) in accordance with the law for the time being in force in the State or Territory of the Commonwealth in which the dwelling-house is situated; and

(b) if the dangerously inflammable substance is a liquid in a quantity greater than sixteen gallons—

(i) with the consent of the Director; and

(ii) in accordance with the conditions, if any, imposed by the Director under the next succeeding sub-regulation.

“(2.) A consent referred to in the last preceding sub-regulation may be given subject to such conditions as the Director thinks necessary for the safety of the dwelling-house in any case where the law for the time being in force in the State or Territory of the Commonwealth in which the dwelling-house is situated does not include a law relating to the bringing or keeping of inflammable liquid on land upon which a dwelling-house is erected.

“(3.) A condition imposed upon a consent by virtue of the last preceding sub-regulation ceases to have effect when there is brought into force in the State or Territory of the Commonwealth a law referred to in that sub-regulation.”.

11. Regulation 55 of the War Service Homes Regulations is amended by omitting the word “assured” (wherever occurring) and inserting in its stead the word “applicant”.

Notice of carrying on trade in dwelling-house.

12. Regulation 56 of the War Service Homes Regulations is amended by omitting the word “assured” (wherever occurring) and inserting in its stead the word “applicant”.

Notice of alterations or additions to dwelling-house.

13. Regulations 57 and 57A of the War Service Homes Regulations are repealed and the following regulations inserted in their stead:—

“57.—(1.) After a determination is made of the amount for which property shall or may be insured in pursuance of the Act or after a cover note is issued in respect of the insurance of the property, the Director shall issue a certificate of insurance in accordance with Form A in the Schedule to these Regulations.

Certificates of insurance.

“(2.) Upon the issue of a certificate of insurance under the last preceding sub-regulation, the property is, subject to these Regulations, insured in pursuance of the Act against the prescribed risks and for the amount specified in the certificate for the benefit of the person named in the certificate, notwithstanding anything contained in an earlier cover note or certificate of insurance.

“(3.) The terms of a certificate of insurance shall be conditions of the insurance to which the certificate relates, in addition to any other conditions specified in these Regulations.

“(4.) Where the insurance of property is for the benefit of the Director and another person or for the benefit of a person other than the Director, the Director shall cause to be forwarded to the person a copy of the certificate of insurance relating to that insurance.

“57A.—(1.) Where—

- (a) the interest of the Director in a dwelling-house that is insured in pursuance of sub-section (1.) of section 38 of the Act ceases; and
- (b) the dwelling-house is, upon the cessation of that interest, a dwelling-house referred to in sub-section (1A.) of section 38 of the Act,

Insurance may continue on cessation of Director's interest.

the dwelling-house shall, until the Director cancels the certificate of insurance, continue to be insured in pursuance of the Act and the insurance shall be deemed to be voluntary insurance under regulation 57 of these Regulations.”.

14. Regulation 58 of the War Service Homes Regulations is amended—

- (a) by omitting the word “assured” and inserting in its stead the word “applicant”; and
- (b) by omitting from paragraph (a) the words “at the place specified in the certificate of insurance”.

Duty of applicant to notify damage to property.

15. Regulation 59 of the War Service Homes Regulations is amended by omitting the word “assured” (first occurring) and inserting in its stead the word “applicant”.

Failure of applicant to notify damage.

16. Regulation 64 of the War Service Homes Regulations is amended by adding at the end thereof the following sub-regulation:—

Existing insurance to be notified.

“(3.) Where property—

- (a) is destroyed or damaged by a prescribed risk; and
- (b) is, at the time of the loss or damage—
 - (i) insured in pursuance of the Act; and
 - (ii) with the permission of the Director, insured elsewhere against the loss or damage or a part of the loss or damage,

the Director is not liable for more than his ratable proportion of the loss or damage.”.

17. Regulation 70 of the War Service Homes Regulations is amended by adding at the end thereof the following sub-regulation:—

Avoidance of insurance for non-payment of premium.

“(4.) The provisions of this regulation do not apply to or in relation to the assured, if, in relation to the property insured in pursuance of the Act, he is a person in whose favour the applicant has executed a mortgage of the property.”.

18. Regulation 71 of the War Service Homes Regulations is amended by omitting from sub-regulation (1.) the words “Subject to sub-regulation (3.) of regulation 57A” and inserting in their stead the words “Subject to regulation 57A”.

Cessation of insurance.

19. Regulation 72 of the War Service Homes Regulations is amended by omitting the word “assured” (wherever occurring) and inserting in its stead the word “applicant”.

Rights against third persons.

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FORM A.

Regulation 57.

COMMONWEALTH OF AUSTRALIA.

War Service Homes Act 1918-1962.

CERTIFICATE OF INSURANCE No.

1. The Director of War Service Homes has, in pursuance of the *War Service Homes Act* 1918-1962 and the War Service Homes Regulations, insured the property described in Column 5 of the Schedule hereto, and situated at the location shown in Column 2 of the said Schedule, against fire and the other risks prescribed for the purposes of section 38 of that Act for the amount shown in Column 5 of the said Schedule.

2. The insurance is for the benefit of the persons mentioned in Column 1 of the said Schedule.

3. The insurance is effected subject in all respects to the *War Service Homes Act* 1918-1962 and any amendment thereof and to the War Service Homes Regulations in force for the time being.

SCHEDULE.

COLUMN 1.	COLUMN 2.		
Insurance for the benefit of	Location of property insured.		Issued at..... Date of issue.....
COLUMN 3.			COLUMN 4.
Premiums.			Premiums payable at—
Amount—£	From	to
COLUMN 5. Description of the Property Insured and Amount of the Insurance.			
	Walls.	Roof.	
Main dwelling			
Other buildings (if any):			Signature of Insurance Officer.
.....			
.....			
.....			
Fencing			Signature of Director.
AMOUNT OF THE INSURANCE			

File No.....

Previous Certificate No.....

21. Where, immediately before the commencement of these Regulations, property was insured by virtue of a cover note or certificate of insurance issued under the War Service Homes Regulations as then in force, the insurance shall, on that commencement, be deemed to have been effected under the War Service Homes Regulations as amended by these Regulations against fire and the risks prescribed by regulation 19 of the War Service Homes Regulations as so amended for the amount and the balance of the period, if any, specified in the cover note or certificate, as the case may be, subject to the conditions specified in the War Service Homes Regulations as so amended, and the cover note or certificate shall be deemed to be amended accordingly.

Provisions
relating to
existing
insurances.

By Authority: A. J. ARTHUR, Commonwealth Government Printer, Canberra.