

# Housing Indemnities Act 1962 No 4

[1962-4]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 September 1987 to 11 December 1994 (accessed 22 December 2024 at 12:47)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by Sch 4 to the [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 1994 No 95](#) with effect from 12.12.1994.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Housing Indemnities Act 1962 No 4



New South Wales

An Act to authorise the Treasurer to execute indemnities in respect of loans by certain institutions for housing purposes; to amend the *Co-operation Act 1923-1962*; and for purposes connected therewith.

## 1 Name of Act and commencement

- (1) This Act may be cited as the *Housing Indemnities Act 1962*.
- (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

## 2 Definitions

- (1) In this Act, unless the context or subject matter otherwise indicates or requires:

**Administrator** means the Administrator of Housing Indemnities.

**Dwelling house** means an existing dwelling house or a dwelling house to be erected or in course of erection, and includes the land on which the dwelling house is situated or is to be erected or is in course of erection.

**Institution** means any person or body of persons, corporate or unincorporate, including a permanent building society registered under the *Permanent Building Societies Act 1967*, approved by the Treasurer for the purposes of this Act.

**Value** means the value of the dwelling house, erected or to be erected, ascertained in such manner as the Administrator determines.

- (2) (Repealed)

## 3 Power to grant indemnities

- (1) The Treasurer may, subject to the provisions of this Act, with the approval of the Governor, enter into an agreement with an institution to undertake to indemnify that institution against such of the loss sustained by the institution as is attributable to the fact that it has lent upon the security of a first mortgage over a dwelling house a sum which exceeds either:

- (a) the maximum amount which the institution satisfies the Administrator that it would normally lend on the security of a first mortgage of the dwelling house apart from the provisions of this Act, or
- (b) an amount equal to sixty-six and two-thirds per centum of the value of the dwelling house,

whichever is the greater but does not exceed ninety-five per centum of the value of the dwelling house.

- (2) The approval of the Governor to the entering into of an agreement referred to in subsection (1) shall not be given except upon the recommendation of the Administrator.
- (3) Any such agreement may contain provisions limiting the amount of the Treasurer's liability under the agreement, relating to the reduction of such liability, and providing for the cessation of the operation and effect of the agreement, and, subject to section 4, such other provisions as the Treasurer may determine.

#### **4 Restrictions on execution of indemnities**

The Treasurer shall not execute any agreement under this Act:

- (a) if the amount to be lent by an institution in respect of a dwelling house exceeds ten thousand eight hundred dollars, or where some amount is prescribed such other amount,
- (b) (Repealed)
- (c) unless the terms and conditions of the loan provide for the repayment of the loan together with interest whether directly or by means of an amortization fund, in a period not exceeding thirty years, or where any other period is prescribed such other period, by regular instalments at intervals not exceeding three months with adjustment of capital, or some provision having the effect of adjustment of capital, to enable the calculation of interest at intervals not exceeding three months,
- (d) if the borrower or the wife or husband of the borrower already owns a dwelling house in this State at the date of the mortgage,
- (e) unless the borrower makes a statutory declaration that he intends to use the dwelling house as a home for himself and his family and dependants,
- (f) if the Treasurer has previously executed an agreement under this Act in respect of a loan made to the borrower or the wife or husband of the borrower:

Provided that the Treasurer may execute an agreement in the circumstances referred to in paragraphs (d) and (f) if the Governor is satisfied that there are special reasons for doing so.

## **5 Termination of liability**

An agreement under this Act shall terminate if a further advance under the mortgage is made by the institution without the consent of the Treasurer.

## **6 Power to institutions to disregard limits when making loans**

Every institution which may lawfully lend money on the security of a first mortgage of a dwelling house shall have full power and authority to make a loan in any case in which an agreement is executed by the Treasurer under this Act without regard to any limits or stipulations imposed upon any such loan by any Act or by any trust (whether as to the maximum amount of the loan made or the amount of the loan by reference to percentage of the value of the dwelling house or as to the method of valuation or as to the time and manner of repayment or otherwise), and every mortgage entered into in any case in which an agreement is executed in accordance with this Act shall be as valid and effectual for all purposes as if the loan to which it relates were one specifically authorised by the relevant Act or trust.

## **7 Payment of indemnities**

All sums which become payable to any institution by the Treasurer under any indemnity shall be paid out of moneys provided by Parliament for this purpose.

## **8 Signing of agreements**

The instrument evidencing any agreement entered into under this Act may be signed by the Treasurer or for and on behalf of the Treasurer by any other Minister of the Crown.

## **9 Evidence**

The approval of the Governor to enter into any agreement under this Act shall be conclusive evidence that the agreement has not been entered into in contravention of this Act.

## **10 Administrator**

- (1) There shall be an Administrator of Housing Indemnities who shall be the person for the time being holding the office of Director of Housing.
- (2) The duties, powers and authorities of the Administrator may be performed and exercised by a deputy appointed by the Governor and until such an appointment is made the Deputy Director of Housing or, if there is more than one Deputy Director of Housing, such one of them as is nominated for the purpose by the Director of Housing shall hold office as Deputy Administrator of Housing Indemnities. The Deputy Administrator shall exercise his office subject to such conditions and restrictions as the Director of Housing may impose. Section 115 (6A) of the *Co-operation Act 1923* shall apply, mutatis mutandis, to the imposition of such conditions and restrictions.

## **11 Regulations**

- (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act.
- (2) (Repealed)