

**NORTHERN TERRITORY OF AUSTRALIA**

**HOUSING ASSISTANCE SCHEMES REGULATIONS**

As in force at 26 September 1995

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 26 September 1995

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## HOUSING ASSISTANCE SCHEMES REGULATIONS

### Regulations under the *Housing Act*

#### 1 Citation

These Regulations may be cited as the *Housing Assistance Schemes Regulations*.

#### 2 Interpretation

(1) In these Regulations, unless the contrary intention appears:

***approved*** means approved by the Commission.

***gross weekly income***, in respect of a person, means the gross weekly income of the person and the persons spouse.

***interest subsidy*** means the payment, under and in accordance with Schedule 4, by the Commission on behalf of a person of a proportion of interest payable each month by that person in respect of a loan advanced to him or her.

***lender*** includes a bank, building society, credit union, finance company and insurance company.

***market rate***, in respect of the rate of interest payable on a housing loan advanced under these Regulations, means the Commonwealth Bank of Australia variable home lending rate as applying from time to time.

***purchase price***, in relation to Schedules 2 and 5, means the amount for which a dwelling (including the land on which the dwelling is situated) is sold in accordance with section 35 of the Act.

***Scheme*** means a prescribed housing scheme or a prescribed housing assistance scheme set out in a Schedule to these Regulations.

***spouse*** includes a de facto spouse.

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**market value** has the same meaning as in the Act except that, for the purposes of Schedules 1 and 3, a reference to a dwelling shall be read as a reference to premises.

**valuer** means a valuer within the meaning of the *Valuation of Land Act*.

**Valuer-General** means the Valuer-General within the meaning of the *Valuation of Land Act*.

- (2) Where, under these Regulations, an application is made by more than one person and a housing loan or other assistance is advanced to or paid on behalf of those persons, a reference to gross weekly income in these Regulations is to the combined gross weekly incomes of those persons.
- (3) In these Regulations, a reference to the spouse of a person is to the spouse with whom the person is living.
- (4) For the purposes of Schedule 4, a person has previously received financial assistance if the person has:
  - (a) under the Housing Act as in force at any time, including as in force at any time before the commencement of the *Housing Act 1982*, received financial assistance to purchase, construct, add to, alter, modify, repair or complete a house; or
  - (b) purchased a house under a scheme referred to in the Housing Act as in force at any time, including as in force at any time before the commencement of the *Housing Act 1982*.
- (5) Where, under these Regulations, an application for assistance under a Scheme is made by more than one person jointly, a reference in these Regulations to a person in relation to that assistance includes a reference to all those persons or the survivor or survivors of those persons, as the case may be.

### **3 Schemes**

- (1) The Schemes set out in Schedules 1,3 and 4 are prescribed housing assistance schemes for the purposes of section 24 of the Act.
- (2) The Scheme set out in Schedule 2 is a prescribed housing scheme for the purposes of section 22 of the Act and a prescribed housing assistance scheme for the purposes of section 24 of the Act.
- (3) The Scheme set out in Schedule 5 is a prescribed housing scheme for the purposes of section 22 of the Act.

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**3A False statement**

Where a person, who has entered into an agreement with the Commission under a Scheme set out in a Schedule to these Regulations, has knowingly supplied false information in respect of information required to be supplied for the purposes of the Scheme and the Commission has, relying on that information, made a payment under the Scheme:

- (a) the person shall be taken to have breached the agreement; and
- (b) the Commission may, on giving written notice, cease making further payments under the Scheme and recover the money it has paid under the Scheme from the person as a debt due and payable by the person to the Commission.

**4 Transitional**

Where, before the commencement of these Regulations, a person had been advanced a loan for the purchase of premises or a dwelling under a Scheme for providing assistance in the purchase of housing approved by the Minister under section 24 of the Act, the loan shall be deemed, on and from the commencement, where the loan was in respect of the purchase of:

- (a) premises, to have been advanced to the person under the Homenorth Easy Start Home Purchase Assistance Scheme as specified in Schedule 1; or
- (b) a dwelling, to have been advanced to the person under the Homenorth Sales Scheme as specified in Schedule 2,

and the provisions of that Scheme shall apply to and in relation to the loan and to the person to whom the loan was advanced as if the loan had been advanced under that Scheme, and a reference in the Scheme to the advance of a loan shall include that loan.

## **Schedule 1 Homenorth Easy Start Home Purchase Assistance Scheme**

regulation 3

### **1. Loan advances**

Subject to this Scheme, the Commission may advance a housing loan under clause 4 to a person for the purchase, erection, completion, repair or modification of premises.

### **2. Restrictions on advances under clause 4**

A person is not eligible for a housing loan under clause 4:

- (a) unless otherwise approved, if the person, the spouse or a dependant of the person owns or has previously owned premises in the Territory;
- (b) unless the Commission is satisfied that the person lives or will live in the premises to which the application relates;
- (c) to enable the purchase or construction of premises having a market value of more than \$120,000 or, where another amount is agreed on between the Minister and the Treasurer, of more than that other amount;
- (d) unless the person has an amount of not less than 5% of the market value of the premises to which the application relates:
  - (i) which will be, or form part of, the deposit for the purchase of the premises; and
  - (ii) of which not less than \$2,000 is the persons own savings and not obtained by way of a loan or in any other way encumbered or committed; or
- (e) unless the Commission is satisfied that the person has the financial ability to repay the housing loan.

### **3. Persons who may apply**

A person whose gross weekly income is not less than \$300 and not more than \$600 may apply to the Commission for a housing loan under clause 4.

**4. Determination of application**

Where the Commission receives an application under clause (3), it may:

- (a) grant the application and advance a housing loan to the person; or
- (b) reject the application.

**5. Maximum amount of assistance**

- (1) The amount that the Commission may advance as a housing loan under clause 4 shall not exceed:
  - (a) \$90,000 or such other amount as the Minister may, from time to time, determine; or
  - (b) 95% of the market value of the premises,  
whichever is the lesser.
- (2) Subclause (1) does not operate so as to require the Commission to advance to an applicant the maximum amount determined under that subclause and the Commission may advance such lesser amount to an applicant as it determines.

**6. Rate of interest**

- (1) Subject to this Scheme the rate of interest payable by a person on a housing loan advanced under this Scheme is:
  - (a) the rate specified in Column 2 of the Table to this clause opposite the range of gross weekly income into which the person's gross weekly income, as at the time the application for the loan is made, falls, specified opposite in column 1;
  - (b) the market rate; or
  - (c) the rate from time to time determined by the Minister by instrument in writing,  
whichever is the lesser.
- (2) Notwithstanding subclause (1), the rate of interest payable on a housing loan advanced under clause 4 shall, with effect on and from the expiration of each 12 months after interest first becomes payable under the housing loan, be from time to time increased by the Minister by instrument in writing, having given regard to prevailing economic conditions (in particular changes in current

bank interest rates and the consumer price index), but:

- (a) shall not be increased by more than 0.5% per annum at a time; and
  - (b) shall not be increased if the interest rate payable is equal to or greater than 1% more than the market rate.
- (3) Where the operation of subclause (2) varies the rate of interest payable by a person under this Scheme, the variation so made shall become due and payable on and from the monthly instalment next payable under the housing loan after that variation.
- (4) Where the gross weekly income of a person contains an amount which is not a whole dollar, the gross weekly income of the person shall, for the purposes of the Table to this clause, be calculated exclusive of that amount.

TABLE

Column 1			Column 2
Gross weekly income			Rate of interest
Not less than		Not more than	%
\$		\$	
300	–	350	5
351	–	400	6
401	–	450	7
451	–	500	8
501	–	550	9
551	–	600	10

## 7. **Loan to be secured by mortgage**

- (1) A housing loan advanced under clause 4 shall be secured by a mortgage over the premises in respect of which the loan is made and, unless otherwise approved, shall be secured by a first mortgage.
- (2) A mortgage referred to in subclause (1) shall contain the provisions contained in annexure "A" to the memorandum of common provisions lodged by the Commission with the Registrar-General under section 265A of the Real Property Act in so far as those provisions are not inconsistent with this Scheme.



**8. Application for transfer of loan arrangements**

- (1) Where a person has, by way of a housing loan under clause 4, purchased premises and:
- (a) the mortgage executed in relation to the housing loan has not been discharged; and
  - (b) the person has, unless otherwise approved, occupied the premises for a period of not less than 3 years after the mortgage was so executed,

the person may apply to the Commission to sell the premises and discharge the mortgage and, subject to this Scheme, for an advance from the Commission of an amount specified in the application, being an amount not more than the amount used to discharge the mortgage, for the purposes of the purchase of the premises or residential block specified in the application on the same terms and conditions on which the housing loan under clause 4 was granted.

- (2) A person making an application under subclause (1) shall provide the Commission with such information as it requires, including information in relation to the person's gross weekly income.

**9. Determination of application for transfer of loan arrangements**

- (1) Where the Commission receives an application under clause 8(1), it may:
- (a) subject to subclause (2) and clause 10, grant the application; or
  - (b) reject the application.
- (2) The Commission shall not grant an application under subclause (1)(a) unless it is satisfied that the person making the application will, if the application is granted, purchase and apply, in accordance with guide-lines, from time to time published by the Commission, all the proceeds received by the person from the sale of the premises referred to in clause 8(1) towards the purchase of the premises or residential block specified in the application.
- (3) Subject to this Scheme, where the Commission grants an application under subclause (1)(a), it shall make an advance to the person to whom the grant relates of an amount not more than:
- (a) the amount applied for in the application; or

- (b) the difference between:
  - (i) the amount required to purchase the premises or residential block specified in the application; and
  - (ii) the amount of proceeds referred to in subclause (2) received by the person,whichever is the lesser.

- (4) Notwithstanding subclause (3), the Commission may advance to an applicant under that subclause such lesser amount as it determines.

#### **10. Restrictions on advances under clause 9**

A housing loan shall not be advanced to a person under clause 9 -

- (a) unless otherwise approved, to enable the person to refinance an existing loan; or
- (b) if the person, the spouse or a dependant of the person owns premises in the Territory, other than the premises the subject of the person's housing loan under clause 4 or specified in the person's application under clause 8(1);
- (c) unless otherwise approved, if the person, the spouse or a dependant of the person has previously owned premises in the town in the Territory in which is situated the premises or residential block specified in the person's application under clause 8(1); or
- (d) unless the Commission is satisfied that the person lives or intends to live in the premises or on the residential block specified in the person's application under clause 8(1).

#### **11. Lapse of grant of transfer of loan arrangements**

- (1) Unless otherwise approved, the grant of an application under clause 9(1)(a) lapses immediately on the expiration of 3 months after the date of the grant unless the person to whom that grant relates has:
  - (a) sold the premises owned by the person;
  - (b) purchased the premises or residential block specified in the person's application under clause 8(1); and

- (c) in the case of the purchase of a residential block, has built or, in the opinion of the Commission, has entered into a binding agreement to build, a house on the block.
- (2) Nothing in subclause (1) prevents a person referred to in that subclause from making a further application under clause 8(1).

## **12. Transferred loan to be secured by mortgage**

- (1) A housing loan advanced under clause 9 shall be secured by a mortgage over the premises or residential block in respect of which the loan is made.
- (2) Subject to subclause (3), a mortgage referred to in subclause (1) shall contain the provisions contained in annexure "A" to the memorandum of common provisions lodged by the Commission with the Registrar-General under section 265A of the *Real Property Act* in so far as those provisions are not inconsistent with this Scheme.
- (3) In addition to subclause (2), a mortgage referred to in subclause (1) shall be deemed to contain a provision:
  - (a) that the mortgagor shall:
    - (i) apply all the proceeds referred to in clause 9(2) to the purchase of the premises or the residential block the subject of the mortgage; and
    - (ii) where the purchase to which the mortgage relates is of a residential block, complete, to the satisfaction of the Commission, the erection of a house on the block not later than 12 months, or such longer period as may be approved, after the date of execution of the mortgage; and
  - (b) that a failure to comply with paragraph (a) shall be deemed to be a breach of the mortgage and subject to the provisions of the mortgage relating to a breach of the mortgage.

## **13. Rate of interest**

- (1) Subject to this Scheme, the rate of interest payable by a person on a housing loan advanced under clause 9 is the rate that was payable by the person on the housing loan advanced to the person under clause 4, and in respect of which the application for the housing loan under clause 9 related, as at the date of the discharge of the mortgage securing that housing loan.

- (2) Notwithstanding subclause (1), the rate of interest payable on a housing loan advanced under clause 9 shall, with effect on and from the dates determined under subclause (4), be from time to time increased by the Minister by instrument in writing, having given regard to prevailing economic conditions (in particular changes in current bank interest rates and the consumer price index), but:
  - (a) shall not be increased by more than 0.5% per annum at a time; and
  - (b) shall not be increased if the interest rate payable is equal to or greater than 1% more than the market rate.
- (3) Where the operation of subclause (2) varies the rate of interest payable by a person under this Scheme, the variation so made shall become due and payable on and from the monthly instalment next payable under the housing loan after that variation.
- (4) For the purposes of subclause (2), the dates are those on which the rate of interest would have increased under clause 6(2) in respect of the housing loan advanced under clause 4 to the person, and in respect of which the application for the housing loan under clause 9 related, had the mortgage securing that housing loan not been discharged.

#### **14. Repayment of loan**

- (1) A person to whom a housing loan under this Scheme is advanced shall repay the loan to the Commission, together with such other amounts as fall due for repayment under this Scheme -
  - (a) subject to clause 15, unless otherwise approved, by monthly instalments of not less than 25% of the monthly equivalent of the person's gross weekly income; and
  - (b) not later than 45 years after the date on which the principal is first payable under the housing loan.
- (2) For the purposes of subclause (1)(b) and clause 15(1)(b), the date on which the principal is first payable under a housing loan advanced under clause 9 is the date on which the principal was first payable under the housing loan advanced under clause 4 to the person, and in respect of which the application for the housing loan under clause 9 related.

**15.      Review of repayment of loan**

(1) The Commission:

(a) may:

(i) at the request of the person to whom a housing loan is advanced under this Scheme; or

(ii) of its own volition; and

(b) shall at the expiration of each period of 3 years after the date on which the principal is first payable under the housing loan,

review the monthly instalments required by clause 14(1) to be made on the loan and, where the Commission is satisfied that the review shows that the gross weekly income referred to in that clause in relation to the loan has varied, it may, for that reason, but not otherwise, vary those monthly instalments, either by increasing or decreasing them, so that those monthly instalments are not less than 25% of the monthly equivalent of the person's gross weekly income.

(2) Where the Commission under subclause (1) varies the monthly instalments payable by a person under this Scheme, the variation so made shall become due and payable on and from the date of the monthly instalment next payable under the housing loan after the variation is made.

**15A.      Rate of interest where not residing in premises**

Notwithstanding anything to the contrary in this Scheme, where:

(a) a person is advanced a housing loan under this Scheme and the mortgage executed in relation to the housing loan has not been discharged; and

(b) the person to whom the housing loan is advanced does not reside, for whatever reason, in the premises to which the housing loan relates for a period of time,

the Commission may increase the rate of interest payable on the housing loan, with effect for that period only, to a rate it considers suitable, but that rate shall not be more than the Commonwealth Bank of Australia residential property investment loan reference rate as applicable from time to time.

**16.      *Building Act***

A housing loan under this Scheme shall not be advanced to a person for the purpose of the erection, completion, repair or modification of premises in a manner which does not comply with the Building Act.

**17.      *Commonwealth-Territory housing agreement***

For the purposes of paragraph 19(b)(ii) of the Housing Agreement between the Commonwealth of Australia and the Territory dated 24 May 1990, the difference between the amount paid by a person to whom a housing loan is advanced under this Scheme and the amount that would have been payable by that person if the rate of interest on the housing loan was equal to that payable under a Commonwealth Bank of Australia variable home loan is subsidy assistance to be recovered by the Territory, except in the case of hardship, in accordance with that paragraph.

## **Schedule 2 Homenorth Sales Scheme**

regulation 3

### **1. Sale of dwellings**

Subject to this Scheme, the Commission may sell to a person a dwelling and, for that purpose, may advance a housing loan under this Scheme to the person.

### **2. Restriction on Scheme**

A person is not eligible to purchase a dwelling and to an advance of a housing loan for that purpose under clause 4:

- (a) unless otherwise approved, if the person, the spouse or a dependant of the person owns a dwelling in the Territory;
- (b) unless the Commission is satisfied that the person lives or will live in the dwelling in respect of which the application relates;
- (c) unless the person has an amount of not less than 5% of the purchase price of the dwelling to which the application relates:
  - (i) which will be, or form part of, the deposit for the purchase of that dwelling; and
  - (ii) of which not less than \$2,000 is the person's own savings and not obtained by way of a loan or in any other way encumbered or committed.

### **3. Persons who may apply**

Subject to this Scheme, a person who is the tenant of a dwelling may apply, or that person and an approved person may jointly apply, to the Commission to purchase that dwelling and for the advance under clause 4 of a housing loan to purchase that dwelling.

### **4. Determination of application**

Where the Commission receives an application under clause 3, it may:

- (a) grant the application by selling the dwelling and making an advance to purchase the dwelling to the person making the application, or jointly to that person and an approved person, where that application is made in their joint names; or

- (b) reject the application.

**6. Maximum amount of advance**

- (1) The Minister may from time to time, having regard to the market value of dwellings, determine by instrument in writing the maximum amount the Commission may advance as a housing loan under clause 4.
- (2) Subclause (1) does not operate so as to require the Commission to advance to an applicant the maximum amount determined under that subclause and the Commission may advance such lesser amount to an applicant as it determines to be appropriate, but such amount:
  - (a) shall be based on the gross weekly income of the person making the application under clause 3; and
  - (b) shall not exceed the purchase price of the dwelling plus any costs of and incidental to the sale of the dwelling less the amount of the deposit referred to in clause 2(c).

**7. Rate of interest**

- (1) Subject to this Scheme, the rate of interest payable by a person on a housing loan advanced under this Scheme is:
  - (a) the rate specified in Column 2 of the Table to this clause opposite the range of gross weekly income into which the person's gross weekly income, as at the time the application for the loan is made, falls, specified opposite in Column 1; or
  - (b) the rate from time to time determined by the Minister by instrument in writing,

whichever is the lesser.

- (2) Notwithstanding subclause (1), the rate of interest payable on a housing loan advanced under clause 4 shall, with effect on and from the expiration of each 12 months after interest first becomes payable under the housing loan be from time to time increased by the Minister by instrument in writing, having given regard to prevailing economic conditions (in particular changes in current bank interest rates and the consumer price index), but:
  - (a) shall not be increased by more than 0.5% per annum at a time; and
  - (b) shall not be increased if the interest rate payable is equal to or greater than the market rate.



- (3) Where the operation of subclause (2) varies the rate of interest payable by a person under this Scheme, the variation so made shall become due and payable on and from the monthly instalment next payable under the housing loan after that variation.
- (4) Where the gross weekly income of a person contains an amount which is not a whole dollar, the gross weekly income of the person shall, for the purposes of the Table to this clause, be calculated exclusive of that amount.

TABLE

Column 1			Column 2
Gross weekly income			Rate of interest
Not less than		Not more than	%
\$		\$	
300	–	350	5
351	–	400	5
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451	–	500	6
501	–	550	6.5
551	–	600	6.5
601	–	650	7
651	–	700	7
701	–	750	7
751	–	800	7
801	–	850	8
851	–	900	9
901	–		market rate

## 8.      **Loan to be secured by mortgage**

- (1) A housing loan advanced under clause 4 shall be secured by a mortgage over the dwelling in respect of which the loan is made and, unless otherwise approved, shall be secured by a first mortgage.
- (2) A mortgage referred to in subclause (1) shall contain the provisions contained in annexure "A" to the memorandum of common provisions lodged by the Commission with the Registrar-General under section 265A of the *Real Property Act* in so far as those provisions are not inconsistent with this Scheme.

**9. Application for transfer of loan arrangements**

- (1) Where a person has, by way of a housing loan under clause 4, purchased a dwelling and:
  - (a) the mortgage executed in relation to the housing loan has not been discharged; and
  - (b) the person has, unless otherwise approved, occupied the dwelling for a period of not less than 3 years after the mortgage was so executed,

the person may apply to the Commission to sell the dwelling and discharge the mortgage and, subject to this Scheme, for an advance from the Commission of an amount specified in the application, being an amount not more than the amount used to discharge the mortgage, for the purposes of the purchase of the premises or residential block specified in the application on the same terms and conditions on which the housing loan under clause 4 was granted.

- (2) A person making an application under subclause (1) shall provide the Commission with such information as it requires, including information in relation to the person's gross weekly income.

**10. Determination of application for transfer of loan arrangements**

- (1) Where the Commission receives an application under clause 9(1), it may:
  - (a) subject to subclause (2) and clause 11, grant the application; or
  - (b) reject the application.
- (2) The Commission shall not grant an application under subclause (1)(a) unless it is satisfied that the person making the application will, if the application is granted, purchase and apply, in accordance with guide-lines, from time to time published by the Commission, all the proceeds received by the person from the sale of the dwelling referred to in clause 9(1) towards the purchase of the premises or residential block specified in the application.
- (3) Subject to this Scheme, where the Commission grants an application under subclause (1)(a), it shall make an advance to the person to whom the grant relates of an amount not more than:
  - (a) the amount applied for in the application; or

- (b) the difference between:
  - (i) the amount required to purchase the premises or residential block specified in the application; and
  - (ii) the amount of proceeds referred to in subclause (2) received by the person,whichever is the lesser.

- (4) Notwithstanding subclause (3), the Commission may advance to an applicant under that subclause such lesser amount as it determines.

#### **11. Restrictions on advances under clause 10**

A housing loan shall not be advanced to a person under clause 10:

- (a) unless otherwise approved, to enable the person to refinance an existing loan; or
- (b) if the person, the spouse or a dependant of the person owns premises in the Territory, other than the premises the subject of the person's housing loan under clause 4 or specified in the person's application under clause 9(1);
- (c) unless otherwise approved, if the person, the spouse or a dependant of the person has previously owned premises in the town in the Territory in which is situated the premises or residential block specified in the person's application under clause 9(1); or
- (d) unless the Commission is satisfied that the person lives or intends to live in the premises or on the residential block specified in the person's application under clause 9(1).

#### **12. Lapse of grant of transfer of loan arrangements**

- (1) Unless otherwise approved, the grant of an application under clause 10(1)(a) lapses immediately on the expiration of 3 months after the date of the grant unless the person to whom that grant relates has:
  - (a) sold the premises owned by the person;
  - (b) purchased the premises or residential block specified in the person's application under clause 9(1); and

- (c) in the case of the purchase of a residential block, has built or, in the opinion of the Commission, has entered into a binding agreement to build, a house on the block.
- (2) Nothing in subclause (1) prevents a person referred to in that subclause from making a further application under clause 9(1).

**13. Transferred loan to be secured by mortgage**

- (1) A housing loan advanced under clause 10 shall be secured by a mortgage over the premises or residential block in respect of which the loan is made.
- (2) Subject to subclause (3), a mortgage referred to in subclause (1) shall contain the provisions contained in annexure "A" to the memorandum of common provisions lodged by the Commission with the Registrar-General under section 265A of the *Real Property Act* in so far as those provisions are not inconsistent with this Scheme.
- (3) In addition to subclause (2), a mortgage referred to in subclause (1) shall be deemed to contain a provision;
  - (a) that the mortgagor shall:
    - (i) apply all the proceeds referred to in clause 10(2) to the purchase of the premises or the residential block the subject of the mortgage; and
    - (ii) where the purchase to which the mortgage relates is of a residential block, complete, to the satisfaction of the Commission, the erection of a house on the block not later than 12 months, or such longer period as may be approved, after the date of execution of the mortgage; and
  - (b) that a failure to comply with paragraph (a) shall be deemed to be a breach of the mortgage and subject to the provisions of the mortgage relating to a breach of the mortgage.

**14. Rate of interest**

- (1) Subject to this Scheme, the rate of interest payable by a person on a housing loan advanced under clause 10 is the rate that was payable by the person on the housing loan advanced to the person under clause 4, and in respect of which the application for the housing loan under clause 10 related, as at the date of the discharge of the mortgage securing that housing loan.

- (2) Notwithstanding subclause (1), the rate of interest payable on a housing loan advanced under clause 10 shall, with effect on and from the dates determined under subclause (4), be from time to time increased by the Minister by instrument in writing, having given regard to prevailing economic conditions (in particular changes in current bank interest rates and the consumer price index), but:
  - (a) shall not be increased by more than 0.5% per annum at a time; and
  - (b) shall not be increased if the interest rate payable is equal to or greater than the market rate.
- (3) Where the operation of subclause (2) varies the rate of interest payable by a person under this Scheme, the variation so made shall become due and payable on and from the monthly instalment next payable under the housing loan after that variation.
- (4) For the purposes of subclause (2), the dates are those on which the rate of interest would have increased under clause 7(2) in respect of the housing loan advanced under clause 4 to the person, and in respect of which the application for the housing loan under clause 10 related, had the mortgage securing that housing loan not been discharged.

**15.      Repayment of loan**

- (1) A person to whom a housing loan under this Scheme is advanced shall repay the loan to the Commission, together with such other amounts as fall due for repayment under this Scheme:
  - (a) subject to clause 16, unless otherwise approved, by monthly instalments of not less than 25% of the monthly equivalent of the person's gross weekly income; and
  - (b) not later than 45 years after the date on which the principal is first payable under the housing loan.
- (2) For the purposes of subclause (1)(b) and clause 16(1)(b), the date on which the principal is first payable under a housing loan advanced under clause 10 is the date on which the principal was first payable under the housing loan advanced under clause 4 to the person, and in respect of which the application for the housing loan under clause 10 related.

**16. Review of repayment of loan**

(1) The Commission:

(a) may:

- (i) at the request of the person to whom a housing loan is advanced under this Scheme; or
- (ii) of its own volition; and

(b) shall at the expiration of each period of 3 years after the date on which the principal is first payable under the housing loan,

review the monthly instalments required by clause 15(1) to be made on the loan and, where the Commission is satisfied that the review shows that the gross weekly income referred to in that clause in relation to the loan has varied, it may, for that reason, but not otherwise, vary those monthly instalments, either by increasing or decreasing them, so that those monthly instalments are not less than 25% of the monthly equivalent of the person's gross weekly income.

(2) Where the Commission under subclause (1) varies the monthly instalments payable by a person under this Scheme, the variation so made shall become due and payable on and from the date of the monthly instalment next payable under the housing loan after the variation is made.

**16A. Rate of interest where not residing in dwelling or premises**

Notwithstanding anything to the contrary in this Scheme, where:

- (a) a person is advanced a housing loan under this Scheme and the mortgage executed in relation to the housing loan has not been discharged; and
- (b) the person to whom the housing loan is advanced does not reside, for whatever reason, in the dwelling or premises to which the housing loan relates for a period of time,

the Commission may increase the rate of interest payable on the housing loan, with effect for that period only, to a rate it considers suitable having given regard to the person's reason for not residing in the dwelling or premises, but that rate shall not be more than the Commonwealth Bank of Australia residential property investment loan reference rate as applicable from time to time.

**17.      *Building Act***

A housing loan under clause 10 shall not be advanced to a person for the purpose of the erection, completion, repair or modification of premises in a manner which does not comply with the *Building Act*.

## **Schedule 3 Homenorth Early Start Assistance Scheme**

regulation 3

### **1. Payment of deposit by Commission**

Subject to this Scheme, the Commission may advance to or pay on behalf of a person a sum of money to be used as, or form part of, a deposit for the purchase or construction of premises.

### **2. Restrictions on Scheme**

- (1) A person is not eligible to participate in this Scheme:
  - (a) unless otherwise approved, if the person, the spouse or dependant of the person owns or has previously owned premises in the Territory;
  - (b) if the grant under this Scheme is to be used as a deposit or part of a deposit on a dwelling which the person is purchasing or proposes to purchase under the Homenorth Sales Scheme as specified in Schedule 2;
  - (c) unless the Commission is satisfied that the person intends to live in the premises to which the application for the grant relates;
  - (d) if the market value of the premises to which the application for the grant relates is more than \$120,000;
  - (e) if the person's gross weekly income is less than \$300 or more than \$900;
  - (f) if the contract for the purchase of the premises to which the application for the grant relates was entered into before the commencement of these Regulations; or
  - (g) if the application under this Scheme is in respect of the construction of premises, if the construction of the premises commenced before the commencement of these Regulations.
- (2) For the purposes of subclause (1)(g), construction of premises shall have commenced if any inspection of work relating to the construction of the premises has been carried out under the *Building Act*.



**3. Amount of assistance**

- (1) The amount that the Commission may advance to or pay on behalf of a person under this Scheme is, subject to subclause (2), that specified in Column 2 of the Table to this clause opposite the range of gross weekly income within which the person's gross weekly income, as at the time the application for the advance is made, falls, specified opposite in Column 1.
- (2) The amount that the Commission may advance to or pay on behalf of a single person under this Scheme is \$1,000.
- (3) Where the gross weekly income of a person contains an amount which is not a whole dollar, the gross weekly income of the person shall, for the purposes of this clause, be calculated exclusive of that amount.

TABLE

Column 1			Column 2
Gross weekly income			Amount of Assistance
Not less than		Not more than	%
\$		\$	
300	–	600	3,000
601	–	750	2,000
750	–	900	1,000

**4. Time of payment at discretion of Commission**

An amount to be advanced to or paid on behalf of a person under this Scheme may be advanced or paid at such time as the Commission thinks fit.

## **Schedule 4 Homenorth Assist Interest Subsidy Scheme**

regulation 3

### **1. Loan interest subsidy**

Subject to this Scheme, the Commission may pay an interest subsidy to an approved lender in respect of a loan advanced by that lender to a person to whom the Commission has issued a certificate of eligibility.

### **2. Restrictions on Scheme**

The Commission shall not pay an interest subsidy on behalf of a person in respect of a loan advanced to the person:

- (a) where the loan is advanced by a lender which the Commission has not approved;
- (b) unless the loan is advanced to the person for the purchase, construction, completion, repair or modification of a house by him or her;
- (c) unless otherwise approved, if the loan is for the purpose of refinancing an existing loan;
- (d) unless otherwise approved, where the loan is advanced to the person for the purchase or construction of a house, if, at the time of the person's application under clause 3, the person or the spouse or dependant of the person owns or has previously owned premises in the Territory;
- (e) where the person or the spouse or a dependant of the person owns a house in the Territory, unless the loan is advanced for the completion of that house or the repair or modification in an approved manner of that house;
- (f) unless otherwise approved, if the person or the spouse or a dependant of the person has previously received financial assistance;
- (g) if the Commission is not satisfied that the person, on obtaining the loan, intends to live in the house to which the loan relates;  
or
- (h) if the loan is advanced in respect of a house in respect of which a valuer is of the opinion that the house, including the land on which the house is or is to be situated, could be sold for more than \$120,000 or, where another amount is agreed

on between the Minister and the Treasurer, more than that other amount, if offered for sale by private treaty.

### **3. Certificate of eligibility**

- (1) A person whose gross weekly income is not less than \$600 or more than \$800, or such other amounts as the Minister may determine, may apply to the Commission for a certificate of eligibility.
- (2) The Commission, on receipt of an application under subclause (1), shall, subject to clause 2, determine whether the person is eligible for an interest subsidy and, if so, may, on the person entering into an agreement with the Commission specifying the conditions on which the certificate of eligibility shall be issued and on which the interest subsidy shall be paid by the Commission, issue to the person a certificate of eligibility.
- (3) A certificate of eligibility issued under this clause shall specify the maximum interest subsidy payable to an approved lender should the person to whom it relates be advanced a loan by such a lender.
- (4) Subject to subclauses (5) and (6), a certificate of eligibility issued under this clause shall remain in force for 3 months from the date of issue.
- (5) A certificate of eligibility:
  - (a) is of no force or effect if obtained by fraud; and
  - (b) remains in force only during such time as the information contained in the certificate remains unchanged.
- (6) The Commission may, at any time before a certificate of eligibility issued under this clause expires, renew the certificate for such period, not exceeding 3 months, as is specified in the certificate.

### **4. Level of interest subsidy**

- (1) The Minister shall, from time to time, by notice in writing, determine, based on gross weekly income, the interest subsidy that the Commission shall pay under this Scheme and the period that a person participating in this Scheme is entitled to an interest subsidy.
- (2) A determination of the Minister pursuant to subclause (1) has the effect of varying an interest subsidy the Commission is paying to an approved lender immediately before the date of the determination so that that interest subsidy shall, on and from the date of the determination, be paid in accordance with the determination and the Commission shall by notice in writing inform each person

affected by the variation of the new interest subsidy and the date on which the first of such interest subsidy payments shall be made.

- (3) The maximum interest rates on which subsidy levels shall be based is 12% per annum.

## **Schedule 5 Homenorth Shared Equity Home Ownership Scheme**

regulation 3

### **1. Sale of dwellings**

Subject to this Scheme, the Commission may enter into a contract to sell a person a dwelling (who shall purchase the dwelling by purchasing a share in the dwelling at a time) and, for that purpose, the Commission may advance a loan under this Scheme to the person.

### **2. Restriction on Scheme**

A person is not eligible to apply to purchase a dwelling and to an advance of a loan for that purpose under this Scheme:

- (a) unless otherwise approved, if the person, the spouse or a dependent of the person owns or has previously owned premises in the Territory;
- (b) unless the Commission is satisfied that the person lives or will live in the dwelling to which the application relates;
- (c) unless the person has an amount of not less than 10% of the value of the purchase price of the first share he or she proposes to buy in the dwelling to which the application relates:
  - (i) which will be, or form part of, the deposit for the purchase of the share; and
  - (ii) of which not less than \$2,000 is the person's own savings and not obtained by way of a loan or in any other way encumbered or committed; or
- (d) unless the Commission is satisfied that the person has the financial ability to repay the loan.

### **3. Persons who may apply**

Subject to this Scheme, a person:

- (a) who is the tenant of a dwelling; and
- (b) whose gross weekly income is not less than \$300 and not more than \$800,

may apply, or jointly apply together with an approved person, to the Commission to purchase the dwelling and for the advance of a loan for that purpose.

**4. Determination of application**

Where the Commission receives an application under clause 3, it may:

- (a) grant the application and enter into a contract to sell the dwelling to the person making the application, or jointly to that person and an approved person or approved persons where that application is made in their joint names, and, for that purpose, advance a loan to that person or those persons; or
- (b) reject the application.

**5. Rate of interest**

- (1) Subject to this Scheme, the rate of interest payable by a person on a loan advanced under this Scheme is:

- (a) the rate specified in Column 2 of the Table to this clause opposite the range of gross weekly income into which the person's gross weekly income, as at the time the application for the loan is made, falls, specified opposite in column 1;
- (b) the market rate; or
- (c) the rate from time to time determined by the Minister by notice in writing,

whichever is the lesser.

- (2) The rate of interest payable on a loan advanced under this Scheme shall, with effect on and from the expiration of each 12 months after interest first becomes payable under the loan, be from time to time increased by the Minister by instrument in writing, having regard to prevailing economic conditions (in particular changes in current bank interest rates and the consumer price index), but:

- (a) shall not be increased by more than 0.5% per annum at a time; and
- (b) shall not be increased if the interest rate payable is equal to or greater than 1% more than the market rate.

- (3) Where the operation of subclause (2) varies the rate of interest payable by a person under this Scheme, the variation so made shall become due and payable on and from the monthly instalment next payable under the housing loan after that variation.
- (4) Where the gross weekly income of a person contains an amount which is not a whole dollar, the gross weekly income of the person shall, for the purposes of the Table to this clause, be calculated exclusive of that amount.

TABLE

Column 1			Column 2
Gross weekly income			Rate of Interest
Not less than		Not more than	%
\$		\$	
300	–	350	5
351	–	400	6
401	–	450	7
451		500	8
501	–	550	9
551	–	600	10
601	–	650	11
651	–	700	12
701	–	750	13
751	–	800	14

## 6. Repayment of loan, &c.

- (1) Subject to clause 7, a person to whom a loan is advanced under this Scheme shall pay a total amount each month (but not being less than 25% of the value of the monthly equivalent of the person's gross income) to the Commission which shall be the person's:
- (a) repayment of the loan;
  - (b) payment of his or her rental in respect of the Commission's interest in the dwelling; and
  - (c) payment of all other amounts as fall due for payment by him or her under this Scheme,

(in the respective proportions as determined by the Commission) in respect of the month to which the amount relates.

- (2) The person purchasing the dwelling shall repay the loan advanced to him or her each time he or she agrees to purchase a share in the dwelling not later than 45 years after the date on which the principal is first repayable under that loan.

**7. Review of repayment of loan, &c.**

- (1) The Commission:
- (a) may:
- (i) at the request of the person to whom a loan is advanced under this Scheme; or
- (ii) of its own volition; and
- (b) shall at the expiration of each period of 3 years after the date on which the principal is first payable under the loan,

review the monthly payment required by clause 6 to be made and, where the Commission is satisfied that the review shows that the gross weekly income referred to in that clause has varied, it may, for that reason, but not otherwise, vary the monthly payment, either by increasing or decreasing it, so that the monthly payment is not less than 25% of the monthly equivalent of the person's gross weekly income.

- (2) Where the Commission under subclause (1) varies the monthly payment payable by a person under this Scheme, the variation so made shall become due and payable on and from the date the monthly payment or a portion of the monthly payment is next payable after the variation is made.

**8. Rate of interest where not residing in dwelling**

Notwithstanding anything to the contrary in this Scheme, where:

- (a) a person is advanced a loan under this Scheme and the contract of sale to which the loan relates has not been discharged; and
- (b) the person to whom the loan has been advanced does not reside, for whatever reason, in the dwelling the subject of the contract of sale for a period of time,

the Commission may increase the rate of interest payable on the loan, with effect for that period only, to a rate it considers suitable having given regard to the person's reason for not residing in the dwelling, but that rate shall not be more than the Commonwealth Bank of Australia residential property investment loan reference



rate as applicable from time to time.

## **9. Terms and conditions**

A contract for the sale of a dwelling entered into under this Scheme shall make provision for the following terms and conditions:

- (a) that the person purchasing the dwelling shall purchase the dwelling in shares, the first share to be purchased not being less than a 25% share in the dwelling and thereafter in shares each being not less than a 10% share in the dwelling;
- (b) that the person purchasing the dwelling has the right to possess the dwelling and that he or she, in consideration thereof, shall pay the Commission (in respect of the Commission's interest in the dwelling) a rental of an amount from time to time determined by the Minister;
- (c) that the person purchasing the dwelling shall make payments in respect of rates, taxes, charges and other outgoings in respect of the dwelling;
- (d) that the Commission is prohibited from determining the contract of sale on its own volition unless:
  - (i) the person purchasing the dwelling is in breach of the contract of sale and the Commission gives reasonable notice of its intention to determine the contract of sale to that person; or
  - (ii) the person purchasing the dwelling dies;
- (e) that the person purchasing the dwelling may, without fault, at any time during the term of the contract of sale, request in writing the Commission to determine the contract of sale and as soon as practicable after receiving the request the Commission shall determine the contract of sale;
- (f) that where the contract of sale is to be determined the Commission shall:
  - (i) purchase the person's interest in the dwelling for the current market value or sell the dwelling; and
  - (ii) pay to the person or the person's representative, as the case requires, the amount representing the value of the person's interest in the dwelling at the time of the purchase or the sale less any amounts payable by the person in respect of the dwelling in accordance with the terms and conditions of the contract of sale,

and thereupon the contract of sale is determined.

**10. Commonwealth-Territory Housing Agreement**

For the purposes of paragraph 19(b)(ii) of the Housing Agreement between the Commonwealth of Australia and the Territory dated 24 May 1990, the difference between the amount paid by a person to whom a housing loan is advanced under this Scheme and the amount that would have been payable by that person if the rate of interest on the housing loan was equal to that payable under a Commonwealth Bank of Australia variable home loan is subsidy assistance to be recovered by the Territory, except in the case of hardship, in accordance with that paragraph.

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## ENDNOTES

### 1 KEY

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

### 2 LIST OF LEGISLATION

***Housing Assistance Schemes Regulations (SL No. 61, 1991)***

Notified	29 November 1991
Commenced	29 November 1991

***Amendments of Housing Assistance Schemes Regulations (SL No. 2, 1994)***

Notified	1 March 1994
Commenced	1 March 1994

***Amendment to the Housing Assistance Schemes Regulations (SL No. 12, 1995)***

Notified	12 April 1995
Commenced	12 April 1995

***Amendments of Housing Assistance Schemes Regulations (SL No. 33, 1995)***

Notified	26 September 1995
Commenced	26 September 1995

### 3 LIST OF AMENDMENTS

r 2	amd No. 2, 1994, r 2
r 3	sub No. 2, 1994, r 3
r 3A	ins No. 2, 1994, r 3
r 4	amd No. 2, 1994, r 4
sch 1	amd No. 2, 1994, 5; No. 33, 1995, r 2
sch 2	amd No. 2, 1994, 6; No. 33, 1995, r 3
sch 3	amd No. 2, 1994, r 7; No. 12, 1995
sch 4	ins No. 2, 1994, r 8
sch 5	ins No. 2, 1994, r 8
	amd No. 33, 1995, r 4