

NORTHERN TERRITORY OF AUSTRALIA

HOME PURCHASE ASSISTANCE SCHEME REGULATIONS

As in force at 17 March 2004

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 17 March 2004

HOME PURCHASE ASSISTANCE SCHEME REGULATIONS

Regulations under the *Housing Act*

1 Citation

These Regulations may be cited as the *Home Purchase Assistance Scheme Regulations*.

2 Commencement

These Regulations shall come into operation on 1 September 1984.

3 Repeal and savings

- (1) Subject to this regulation, the *Home Loans Scheme Regulations 1983* (No. 52 of 1983) are repealed.
- (2) Where, immediately before the commencement of these Regulations, there was in existence:
 - (a) a Housing loan Class 1 or 2 within the meaning of the Scheme set out in the Schedule to the Regulations referred to in subregulation (1); or
 - (b) an application to the Commission for a loan referred to in paragraph (a),

the Regulations referred to in subregulation (1) shall continue to apply to and in relation to such a loan or application as if, for that purpose, these Regulations had never been made.

4 Scheme

The Scheme set out in the Schedule is:

- (a) a prescribed housing scheme for the purposes of section 22; and
- (b) a prescribed housing assistance scheme for the purposes of section 24,

of the Act.

Schedule Home Purchase Assistance Scheme

regulation 4

sections 22 and 24

1. Interpretation

- (1) In this Scheme, unless the contrary intention appears:

agreement, in relation to a Housing loan Class 1 or 2, includes a document given for the purpose of securing the Housing loan Class 1 or 2, as the case may be.

approved means approved by the Chief Executive Officer (Housing).

Housing loan Class 1 means an advance made under clause 2.

Housing loan Class 2 means an advance made under clause 9(2).

lender includes an ADI, a finance company and an insurance company.

- (2) For the purposes of clause 4(c), a person has previously received financial assistance if he 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*.

- (3) For the purposes of:

- (a) an application under clause 8(1);
- (b) the determination under clause 9 of the application; and
- (c) clauses 11(1) and 12,

purchase:

- (d) in relation to a house – includes the completion of, repairs to and modification of the house; and

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- (e) in relation to a residential block – shall always include the erection, in accordance with clauses 11(1)(a)(ii) and 12(b), of a house upon the block,

irrespective of whether the house or block, as the case may be, is or is not owned by the person making the application referred to in paragraph (a).

2. Loan advances

Subject to this Scheme, the Chief Executive Officer (Housing) may advance a loan to a person for the erection, purchase, completion, repair or modification of a house.

3. Persons who may apply for Housing loan Class 1

A person whose gross weekly income is within a range specified in Column 1 of the Schedule may, on or before 1 December 1988, apply to the Chief Executive Officer (Housing) for a Housing loan Class 1 of an amount not more than the amount specified in Column 2 of the Schedule opposite the range so specified where that person satisfies the Chief Executive Officer (Housing) that he has obtained approval, whether conditionally or unconditionally, for a loan from an approved lender, to be applied towards the purchase of the house for which the Housing loan Class 1 is applied for, of not less than the amount, if any, specified in Column 3 of the Schedule opposite the range so specified.

4. Restrictions on advance of Housing loan Class 1

A Housing loan Class 1 shall not be made:

- (a) to a person:
- (i) to enable that person, unless otherwise approved, to refinance an existing loan; or
 - (ii) who, whose spouse or whose dependant, at the time of the person's application for the loan, owns a house in Australia but outside the Territory;
- (b) to a person:
- (i) who;
 - (ii) whose spouse or de facto partner; or
 - (iii) whose dependant,

owns a house in the Territory except for the purpose of:

- (iv) completing a partly erected house; or
- (v) at the discretion of the Chief Executive Officer (Housing), modifying in an approved manner a house,

owned by the person and situated in the Territory;

- (c) unless otherwise approved, to a person:

- (i) who;
- (ii) whose spouse; or
- (iii) whose dependant,

has previously received financial assistance;

- (d) unless otherwise approved, to a person who, whose spouse or whose dependant, has previously owned a house in the town in the Territory in which is situated the house for which the loan is applied for;

- (e) to a person who does not satisfy the Chief Executive Officer (Housing) that the house in respect of which the loan is applied for is the house in which he lives or intends to live;

- (f) to a person whose weekly total earnings is more than 140% of the average weekly total earnings per employed male unit in the Territory as shown from time to time in Catalogue No. 6302.0 issued by the Australian Bureau of Statistics established under the *Australian Bureau of Statistics Act 1975* of the Commonwealth;

- (g) to a person who does not satisfy the Chief Executive Officer (Housing) that he has not less than \$5,000 or, where another amount is agreed upon between the Minister and the Treasurer, not less than that other amount, which:

- (i) will be, or form part of, the deposit for the house for which the loan is applied for; and
- (ii) has not been obtained by way of a loan or is in any other way encumbered or committed;

- (h) to purchase, or be applied towards the purchase, including the construction, of a house in relation to which the Valuer-General is of the opinion that the house, including the land on which the house is situated, could be sold for more than

\$100,000 or, where another amount is agreed upon between the Minister and the Treasurer, more than that other amount, if offered for sale by private treaty; or

- (j) unless otherwise directed by the Minister, to a person who has not been resident in the Territory for 6 months or more immediately prior to the date of application for the loan.

5. Maximum amount of assistance

- (1) The amount of a Housing loan Class 1 advanced to an applicant shall not exceed the maximum amount of such a loan which may be advanced under clause 3 to him or an amount greater than 95% of the Valuer-General's valuation of the property at the date of application, whichever is the lesser.
- (2) Subclause (1) does not operate so as to require the Chief Executive Officer (Housing) to advance the maximum amount stated therein to an applicant, and the Chief Executive Officer (Housing) may advance such lesser amount to an applicant as it determines in accordance with guidelines, from time to time published by the Commission, relating to the ability of a person to repay a Housing loan Class 1.

6. Repayment of Housing loan Class 1

- (1) A person purchasing under this Scheme a house shall repay a Housing loan Class 1 made to him, together with such other amounts as fall due for repayment under this Scheme:
 - (a) by, subject to this clause and clauses 7 and 7A, monthly instalments of not less than 20% of the gross monthly income received by:
 - (i) the person;
 - (ii) a spouse of the person, if any, irrespective of whether any such spouse is a party to the loan; and
 - (iii) other parties, if any, to whom the loan is made; and
 - (b) not later than 45 years after the date on which principal is first payable under the agreement relating to the loan.
- (2) Where a Housing loan Class 1 has been made to a person required by clause 3 to obtain a loan from an approved lender, a monthly instalment otherwise required by subclause (1) to be made by the person may, with the agreement of that person, be reduced by an amount equal to the monthly instalment that the person would have to pay on the minimum amount of loan required by that clause to be

obtained from such a lender as if, for that purpose:

- (a) that minimum loan were required to be repaid by monthly instalments over a period of 25 years at an interest rate from time to time determined by the Minister acting with, and in accordance with, the advice of the Treasurer; and
 - (b) interest so payable on that minimum loan were calculated at 3 monthly rests on the balance outstanding of that minimum loan.
- (3) A reduction, if any, under subclause (2) of a monthly instalment under subclause (1) on a Housing loan Class 1 shall apply to and in relation to the first such monthly instalment required by the agreement relating to the Housing loan Class 1 to be made and shall thereafter continue, subject to clause 7, to apply to and in relation to all such monthly instalments for not more than 25 years commencing on the date on which that agreement required the first such instalment to be made but shall not apply to or in relation to such an instalment made after the expiration of that period.

7. Review of instalments on Housing loan Class 1

- (1) The Chief Executive Officer (Housing), in respect of a Housing loan Class 1, may:

- (a) at the request of the person who obtained the loan; or
- (b) of its own volition,

review the monthly instalments required by clause 6(1)(a) to be made on the loan and, where the Chief Executive Officer (Housing) is satisfied that the review shows that the gross monthly 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 20% of that gross monthly income as so reviewed.

- (2) Where the Chief Executive Officer (Housing) varies under subclause (1) monthly instalments referred to in that subclause, the variation so made shall become due and payable on and from the monthly instalment, under the agreement relating to the Housing loan Class 1 to which that variation relates, next following:
- (a) where the variation is made as a consequence of a review conducted in pursuance of a request referred to in subclause (1)(a) – that variation; and

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- (b) in any other case – the next expiration of a period of 12 months after the date on which interest first became payable under that agreement.

7A Variation of instalments after December 1989

- (1) On and from 1 December 1989 the monthly instalments required by clause 6(1)(a) to be made on a loan shall be as determined from time to time by the Minister.
- (2) A determination under subclause (1) may specify that monthly instalments are varied by an amount specified in the determination.

8. Application for transfer of loan arrangements

- (1) Where a person has, by way of a Housing loan Class 1, purchased a house and:
 - (a) the mortgage executed in relation to the Housing loan Class 1 has not been discharged; and
 - (b) he has, unless otherwise approved, occupied the house for a period of not less than 3 years after the mortgage was so executed,he may make an application in the approved form to the Chief Executive Officer (Housing):
 - (c) to sell the house and discharge the mortgage referred to in paragraph (a); and
 - (d) for an advance from the Chief Executive Officer (Housing):
 - (i) of an amount, being an amount not more than the amount used to discharge the mortgage referred to in paragraph (a), specified in the application;
 - (ii) upon the same terms and conditions upon which the Housing loan Class 1 referred to in paragraph (a) was granted; and
 - (iii) for the purposes of the purchase of:
 - (A) a house; or
 - (B) a residential block,specified in the application.

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- (2) A person making an application under subclause (1) shall provide the Chief Executive Officer (Housing) with such information as it requires, including information in relation to his income.

9. Determination of application for transfer of loan arrangements

- (1) Where the Chief Executive Officer (Housing) receives an application under clause 8(1), it may:
- (a) subject to clause 10, where it is satisfied that the person making the application will, if the application is granted:
 - (i) purchase; and
 - (ii) apply, in accordance with guidelines, from time to time published by the Chief Executive Officer (Housing), all the proceeds received by him from the sale of the house referred to in clause 8(1) owned by him towards the purchase of,

the house or residential block specified in the application, grant the application; or
 - (b) reject the application.
- (2) Subject to this Scheme, where the Chief Executive Officer (Housing) grants under subclause (1)(a) an application under clause 8(1), 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 for the purchase of the house or residential block specified in the application; and
 - (b) the difference between:
 - (i) the amount required to purchase the house or residential block specified in the application; and
 - (ii) the amount of proceeds referred to in subclause (1)(a)(ii) received by him.
- (3) The grant under subclause (1)(a) of an application under clause 8(1) does not operate so as to require the Chief Executive Officer (Housing) to advance under subclause (2) the amount applied for in the application to the person to whom the grant relates, and the Chief Executive Officer (Housing) may advance such lesser amount as it determines in accordance with guidelines, from time to time published by the Commission, relating to the ability of a person to repay a Housing loan Class 2.

10. Restrictions on advance of Housing loan Class 2

A Housing loan Class 2 shall not be advanced:

- (a) to a person:
 - (i) to enable that person, unless otherwise approved, to refinance an existing loan; or
 - (ii) who, whose spouse or whose dependant, at the time of the person's application under clause 8(1) for the loan, owns a house in Australia but outside the Territory;
- (b) to a person:
 - (i) who;
 - (ii) whose spouse or de facto partner; or
 - (iii) whose dependant,
owns a house in the Territory other than a house:
 - (iv) the subject of the person's Housing loan Class 1; or
 - (v) specified in the person's application under clause 8(1) for the loan as the house he proposes to purchase with the loan;
- (c) unless otherwise approved, to a person who, whose spouse or whose dependant, has previously owned a house in the town in the Territory in which is situated the house specified in the person's application under clause 8(1) for the loan as the house he proposes to purchase with the loan; or
- (d) to a person who does not satisfy the Chief Executive Officer (Housing) that the house specified in the person's application under clause 8(1) for the loan as the house he proposes to purchase with the loan is the house in which he lives or intends to live.

11. Lapse of grant of transfer of loan arrangements

- (1) Subject to subclause (2), the grant under clause 9(1)(a) of an application under clause 8(1) lapses immediately upon the expiration of 3 months after the date of the grant unless:
 - (a) the person to whom that grant relates has:
 - (i) sold the house owned by him; and

- (ii) purchased the house or residential block specified in his application and, in the case of the purchase of a residential block, has built or, in the opinion of the Chief Executive Officer (Housing), has entered into a binding agreement to build, a house upon the block; or

(b) otherwise approved.

- (2) Nothing in subclause (1) prevents a person referred to in that subclause from making a further application under clause 8(1).

12. Agreement relating to Housing loan Class 2 deemed to contain certain provisions

There shall be deemed to be, in each agreement relating to a Housing loan Class 2, provisions that the person to whom it is made:

- (a) apply all the proceeds referred to in clause 9(1)(a)(ii) received by him to the purchase of the house or the residential block the subject of the agreement; and
- (b) where the purchase to which the agreement relates is of a residential block – complete, to the satisfaction of the Chief Executive Officer (Housing), the erection of a house upon the block not later than 12 months, or such longer approved period, after the date of execution of the agreement,

and, where those proceeds are not so applied, or the erection of a house is not so completed, the failure to so apply those proceeds or to complete the erection of a house, as the case may be, shall be deemed to be a breach of the agreement and subject to the provisions of the agreement relating to a breach of the agreement.

13. Rate of interest, &c.

- (1) The rate of interest applicable to a Housing loan Class 1 or 2 shall be the rate as determined from time to time by the Minister but, in any case, not more than 18%.
- (3) Where a repayment is made on a Housing loan Class 1 or 2 which is in addition to the repayments otherwise required by this Scheme to be made on the loan, that additional repayment shall be applied towards reducing the interest payable on the loan.

14. Building Act

A Housing loan Class 1 or 2 shall not be advanced to a person for the purposes of the erection, completion, repair or modification of a house in a manner which does not comply with the *Building Act*.

15. Security for advance

- (1) The Chief Executive Officer (Housing) shall not make a Housing loan Class 1 or 2 unless the person to whom it is proposed to be made provides to the Chief Executive Officer (Housing) such security, whether from himself or another person, as the Chief Executive Officer (Housing) requires.
- (2) A document relating to security referred to in subclause (1) shall be read subject to the provisions of this Scheme.

16. Insurance

There shall be deemed to be, in each agreement relating to a Housing loan Class 1 or 2, a provision that the person to whom it is made insures and keeps insured with an approved insurance company against loss or damage by fire, storm and tempest all buildings then or thereafter erected on the property offered as security for the loan.

17. False statement

A person who has knowingly supplied false information on an application for a Housing loan Class 1 or 2, whether in the application form, statement of income or in respect of any other information required to be supplied to the Commission, shall be taken to have breached the terms of his agreement with the Chief Executive Officer (Housing) and the Chief Executive Officer (Housing) may take action accordingly under the provisions of the agreement relating to the breach.

18. Guidelines

Subject to this Scheme, the Chief Executive Officer (Housing) may publish guidelines as, and in relation, to:

- (a) the amount of a Housing loan Class 1 or 2 that may be made to a person, having regard to the market value of the property, as determined by the Chief Executive Officer (Housing), and the income of the person;
- (b) the rate of interest applicable to a Housing loan Class 1 or 2; and
- (c) the extent to, and the manner in, which proceeds referred to in clause 9(1)(a)(ii) may be applied towards the completion of, repairs to or the modification of, the house referred to in that clause to which those proceeds relate,

and, in applying those guidelines, may attach conditions to a Housing loan Class 1 or 2.

Schedule

clause 3

Column 1			Column 2	Column 3
*Gross weekly income –			Maximum of Housing loan Class 1	Minimum loan from approved lender
Not less than \$		Not more than \$	\$	\$
0	–	250	50,000	–
251	–	300	40,000	10,000
301	–	350	30,000	20,000
351	–	400	25,000	25,000
401	–	450	20,000	30,000
451	–	500	16,000	34,000
501	–	the amount calculated under clause 4(f)	13,000	37,000

* Where a gross weekly income contains an amount which is not a whole dollar, the gross weekly income shall, for the purposes of this Schedule, be calculated exclusive of that amount.

ENDNOTES

1 KEY

Key to abbreviations

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

2 LIST OF LEGISLATION

Home Purchase Assistance Scheme Regulations (SL No. 54, 1984)

Notified	31 August 1984
Commenced	1 September 1984 (r 2)

Amendments of Home Purchase Assistance Scheme Regulations (SL No. 49, 1988)

Notified	1 December 1988
Commenced	1 December 1988

De Facto Relationships (Miscellaneous Amendments) Act 1991 (Act No. 82, 1991)

Assent date	24 December 1991
Commenced	1 January 1992 (s 2)

Amendment of Home Purchase Assistance Scheme Regulations (SL No. 59, 1996)

Notified	19 December 1996
Commenced	19 December 1996

Amendment of Home Purchase Assistance Scheme Regulations (SL No. 22, 1998)

Notified	1 July 1998
Commenced	1 July 1998 (r 1, s 2 <i>Housing Amendment Act 1998</i> (Act No. 44, 1998) and <i>Gaz S28</i> , 1 July 1998, p 1)

Statute Law Revision (Financial Provisions) Act 2002 (Act No. 38, 2002)

Assent date	13 September 2002
Commenced	30 October 2002 (<i>Gaz G43</i> , 30 October 2002, p 3)

Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 (Act No. 1, 2004)

Assent date	7 January 2004
Commenced	17 March 2004 (<i>Gaz G11</i> , 17 March 2004, p8)

3

SAVINGS AND TRANSITIONAL PROVISIONS

s 84 *Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003*
(Act No. 1, 2004)

4

LIST OF AMENDMENTS

sch amd No. 49, 1988; Act No. 82, 1991, s 12; No. 59, 1996; No. 22, 1998; Act
No. 38, 2002, s 7; Act No. 1, 2004, s 63