

NORTHERN TERRITORY OF AUSTRALIA

HOUSING ASSISTANCE SCHEMES REGULATIONS

As in force at 30 June 2004

Table of provisions

1	Citation	1
2	Interpretation	1
3	Schemes.....	3
3A	False statement	3
4	Transitional	3
5	Continuation of certain Schemes.....	4

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

Schedule 2 Homenorth Sales Scheme

Schedule 3 Homenorth Early Start Assistance Scheme

**Schedule 4 Homenorth Assist Interest Subsidy
Scheme**

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

Schedule 6 Homenorth Homestart Loan Scheme

**Schedule 7 Homenorth Homeshare Public Housing
Tenant Purchase Scheme**

**Schedule 8 Homenorth Early Start Deposit Assistance
Scheme**

**Schedule 9 Homenorth Assist Interest Subsidy
Scheme**

Schedule 10 Homenorth Loan Scheme

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 30 June 2004

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 Chief Executive Officer (Housing).

bank includes but is not limited to a body corporate that is an ADI.

first home owner's assistance means:

- (a) a first home owner grant under the *First Home Owner Grant Act*; and
- (c) any other amount provided by the Commonwealth or the Territory under a scheme for the payment of grants to first home owners.

gross weekly income, in respect of a person, means the gross weekly income of the person and any spouse or de facto partner of the person.

interest subsidy means the payment, under and in accordance with Schedule 4 or 9, by the Chief Executive (Housing) 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 an ADI, a finance company and an insurance company.

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

market value of premises, means the highest amount that, in the opinion of the Valuer-General, the premises could be sold for if offered for sale by private treaty.

premises includes land upon which a house is to be built.

purchase price, in relation to Schedules 2, 5 and 7, 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.

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 a spouse or de facto partner of a person is to a spouse or de facto partner with whom the person is living.
- (4) For the purposes of Schedules 4 and 9, 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, 4, 6, 8, 9 and 10 are prescribed housing assistance schemes for the purposes of section 24 of the Act.
- (2) The Schemes set out in Schedules 2 and 7 are prescribed housing schemes for the purposes of section 22 of the Act and prescribed housing assistance schemes 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.

3A False statement

Where a person, who has entered into an agreement with the Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing).

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.

5 Continuation of certain Schemes

- (1) The Homenorth Homestart Loan Scheme set out in Schedule 6 to these Regulations as in force immediately before 4 September 2000 continues to apply in relation to the following:
 - (a) housing loans advanced under that Scheme before that date;
 - (b) housing loans advanced on or after that date on applications approved in principle under that Scheme before that date.
- (2) The Homenorth Homeshare Tenant Equity Scheme set out in Schedule 7 to these Regulations as in force immediately before 4 September 2000 continues to apply in relation to the following:
 - (a) housing loans advanced under that Scheme before that date;
 - (b) housing loans advanced on or after that date on applications approved in principle under that Scheme before that date.
- (3) The Homenorth Early Start Deposit Assistance Scheme set out in Schedule 8 to these Regulations as in force immediately before 4 September 2000 continues to apply in relation to the following:
 - (a) amounts advanced to or paid on behalf of persons under that Scheme before that date;
 - (b) amounts advanced to or paid on behalf of persons on or after that date on applications approved under that Scheme before that date.
- (4) The Homenorth Assist Interest Subsidy Scheme set out in Schedule 9 to these Regulations as in force immediately before 4 September 2000 continues to apply in relation to the payment of interest subsidies to approved lenders in respect of loans advanced by those lenders to persons to whom certificates of eligibility were issued under that Scheme before that date.

Schedule 1 Homenorth Easy Start Home Purchase Assistance Scheme

regulation 3

1. Loan advances

Subject to this Scheme, the Chief Executive (Housing) 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 or a spouse, de facto partner or dependant of the person owns or has previously owned premises in the Territory;
- (b) unless the Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) for a housing loan under clause 4.

4. Determination of application

Where the Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) to advance to an applicant the maximum amount determined under that subclause and the Chief Executive (Housing) 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.

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 Chief Executive (Housing) to sell the premises and discharge the mortgage and, subject to this Scheme, for an advance from the Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing), 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 or a spouse, de facto partner or 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 or a spouse, de facto partner or 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 Chief Executive (Housing) 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, built or, in the opinion of the Chief Executive (Housing), 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.
- (3) 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 Chief Executive (Housing), 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 Chief Executive (Housing), 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 Chief Executive (Housing):
 - (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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 must not be greater than 1% more than the market rate.

15B. Fees and charges

- (1) The Chief Executive Officer (Housing) may levy fees and charges associated with administering a housing loan under this Scheme.
- (2) Fees and charges levied under subclause (1) may include, but are not limited to, third party dishonour fees (passed on by a financial institution), valuation fees and administration fees (including arrears management fees).
- (3) Fees and charges levied under subclause (1) are to be paid by the person who is advanced a housing loan under this Scheme.
- (4) Fees and charges levied under subclause (1) are to be approved by the Minister.

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.

18. Limitation of operation of Scheme

The Chief Executive (Housing) may not grant an application or advance a housing loan under clause 4 after 30 June 1997.

Schedule 2 Homenorth Sales Scheme

regulation 3

1. Sale of dwellings

Subject to this Scheme, the Chief Executive (Housing) 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 or a spouse, de facto partner or dependant of the person owns a dwelling in the Territory;
- (b) unless the Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) may advance as a housing loan under clause 4.
- (2) Subclause (1) does not operate so as to require the Chief Executive (Housing) to advance to an applicant the maximum amount determined under that subclause and the Chief Executive (Housing) 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	%
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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.

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 Chief Executive (Housing) to sell the dwelling and discharge the mortgage and, subject to this Scheme, for an advance from the Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing), 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 or a spouse, de facto partner or 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 or a spouse, de facto partner or 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 Chief Executive (Housing) 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 Chief Executive (Housing), 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.
- (3) 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 Chief Executive (Housing), 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 Chief Executive (Housing), 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 Chief Executive (Housing):

(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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 must not be greater than 1% more than the market rate.

16B. Fees and charges

- (1) The Chief Executive Officer (Housing) may levy fees and charges associated with administering a housing loan under this Scheme.
- (2) Fees and charges levied under subclause (1) may include, but are not limited to, third party dishonour fees (passed on by a financial institution), valuation fees and administration fees (including arrears management fees).
- (3) Fees and charges levied under subclause (1) are to be paid by the person who is advanced a housing loan under this Scheme.
- (4) Fees and charges levied under subclause (1) are to be approved by the Minister.

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*.

18. Limitation of operation of Scheme

The Chief Executive (Housing) may not grant an application or make an advance under clause 4 after 30 June 1997.

Schedule 3 Homenorth Early Start Assistance Scheme

regulation 3

1. Payment of deposit by Chief Executive (Housing)

Subject to this Scheme, the Chief Executive (Housing) 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 or a spouse, de facto partner 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing)

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 Chief Executive (Housing) thinks fit.

5. Limitation of operation of Scheme

The Chief Executive (Housing) may not advance or pay an amount under this Scheme after 30 June 1997.

Schedule 4 Homenorth Assist Interest Subsidy Scheme

regulation 3

1. Loan interest subsidy

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

2. Restrictions on Scheme

The Chief Executive (Housing) 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 Chief Executive (Housing) 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 a spouse, de facto partner or dependant of the person owns or has previously owned premises in the Territory;
- (e) where the person or a spouse, de facto partner or 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 a spouse, de facto partner or dependant of the person has previously received financial assistance;
- (g) if the Chief Executive (Housing) 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 Chief Executive (Housing) for a certificate of eligibility.
- (2) The Chief Executive (Housing), 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 Chief Executive (Housing) specifying the conditions on which the certificate of eligibility shall be issued and on which the interest subsidy shall be paid by the Chief Executive (Housing), 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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.

5. Limitation of operation of Scheme

The Chief Executive (Housing) may not issue a certificate of eligibility under this Scheme after 30 June 1997.

Schedule 5 Homenorth Shared Equity Home Ownership Scheme

regulation 3

1. Sale of dwellings

Subject to this Scheme, the Chief Executive (Housing) 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 Chief Executive (Housing) 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 or a spouse, de facto partner or dependent of the person owns or has previously owned premises in the Territory;
- (b) unless the Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) to purchase the dwelling and for the advance of a loan for that purpose.

4. Determination of application

Where the Chief Executive (Housing) 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 Chief Executive (Housing) which shall be the person's:
- (a) repayment of the loan;
 - (b) payment of his or her rental in respect of the interest of the Chief Executive (Housing)'s 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 Chief Executive (Housing)) 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 Chief Executive (Housing):
 - (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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 must not be greater than 1% more than the market rate.

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 Chief Executive (Housing) (in respect of the interest of the Chief Executive (Housing)'s 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 Chief Executive (Housing) 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 Chief Executive (Housing) 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 Chief Executive (Housing) to determine the contract of sale and as soon as practicable after receiving the request the Chief Executive (Housing) shall determine the contract of sale;
- (f) that where the contract of sale is to be determined the Chief Executive (Housing) 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.

9A. Fees and charges

- (1) The Chief Executive Officer (Housing) may levy fees and charges associated with administering a loan under this Scheme.
- (2) Fees and charges levied under subclause (1) may include, but are not limited to, third party dishonour fees (passed on by a financial institution), valuation fees and administration fees (including arrears management fees).
- (3) Fees and charges levied under subclause (1) are to be paid by the person who is advanced a loan under this Scheme.
- (4) Fees and charges levied under subclause (1) are to be approved by the Minister.

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.

11. Limitation of operation of Scheme

The Chief Executive (Housing) may not grant an application, enter into a contract or advance a loan for the purchase of a person's first share in a dwelling under this Scheme after 30 June 1997.

Schedule 6 Homenorth Homestart Loan Scheme

regulation 3

1. Interpretation

- (1) In this Scheme, a reference to a share in a house is a reference to a share in a house that:
 - (a) is to be held under a tenancy in common together with the Chief Executive (Housing); and
 - (b) represents an interest in the house that is not less than so much of the market value of the house as is determined in accordance with clause 8(2)(a)(i).
- (2) In this Scheme, a reference to the purchase of a house is to be read as including a reference to the erection of a house.
- (3) In this Scheme:

approved person, in relation to a person making an application for a housing loan under this Scheme, means:

- (a) a parent of the person making the application;
- (b) a child of the person making the application;
- (c) a sibling of the person making the application; or
- (d) a person approved by the Chief Executive Officer (Housing) for the purpose of determining in accordance with clause 6 the amount of the advance under clause 5.

residential block means land on which a person is entitled under the law in force in the Territory to erect a house.

2. Loan advances

Subject to this Scheme, the Chief Executive (Housing) may advance a housing loan under clause 5 to a person for the purchase of a house or a share in a house.

3. Restrictions on advances under clause 5

A person is not eligible for a housing loan under clause 5:

- (a) unless otherwise approved by the Minister, if the person or a spouse, de facto partner or dependant of the person owns, or has previously owned, (including as joint owner) a house in the Territory or a State or another Territory of the Commonwealth;
- (b) unless the Chief Executive (Housing) is satisfied that the person lives or will live in the house to which the person's application for a housing loan relates;
- (c) if the market value of the house to which the application relates is more than \$180,000 or, where another amount is agreed on between the Minister and the Treasurer, more than that other amount;
- (d) unless the person is purchasing a house or not less than so much of the market value of a house as is determined in accordance with clause 8(2)(a)(i);
- (e) unless the person has an amount of not less than 5% of the market value of the house or share in the house to which the application relates that will be, or form part of, the deposit for the purchase of the house, which amount is to include:
 - (i) not less than \$2,000 that is not obtained by way of a loan or is in any other way encumbered or committed; and
 - (ii) any amount paid or payable to, on behalf of, or at the direction of, the person as first home owner's assistance; or
- (f) unless the Chief Executive (Housing) is satisfied that the person has the financial ability to repay the housing loan.

4. Who may apply?

A person whose gross weekly income is not more than \$800 may apply to the Chief Executive Officer (Housing) for the advance of a housing loan under clause 5.

5. Determination of application

Where the Chief Executive (Housing) receives an application under clause 4, it may:

- (a) grant the application and advance a housing loan to:
 - (i) the person making the application; or
 - (ii) where clause 6(3) applies – the person making the application and an approved person jointly; or
- (b) reject the application.

6. Maximum amount of assistance

- (1) The amount that the Chief Executive Officer (Housing) may advance as a housing loan under clause 5 is not to be more than the amount specified in Column 2 of the Table to this clause opposite the range of gross weekly income specified in Column 1 into which:
 - (a) the gross weekly income of the person making the application for the loan; or
 - (b) if subclause (3) applies – the combined gross weekly income of the person making the application and an approved person, falls at the time the application for the loan is made.
- (2) Subclause (1) does not operate so as to require the Chief Executive Officer (Housing) to advance to an applicant the maximum amount determined under that subclause and the Chief Executive Officer (Housing) may advance such lesser amount to a person making an application or to a person making an application and an approved person as it determines to be appropriate, but that amount is not to exceed the purchase price of the house plus any costs of and incidental to the purchase of the house less the amount referred to in clause 3(e).
- (3) In determining the amount of an advance under clause 5, if requested by a person making an application to do so, the Chief Executive Officer (Housing) must take into account the combined gross weekly income of the person and an approved person.
- (4) If subclause (3) applies, the gross weekly income of the approved person is taken into account only in determining the amount of the advance under clause 5 and is not taken into account in determining the eligibility of the person making an application under clause 4.

(5) For the purposes of this clause:

- (a) if the gross weekly income of a person making an application includes an amount that is not a whole dollar – that gross weekly income is calculated exclusive of that amount; or
- (b) if subclause (3) applies and the combined gross weekly income of a person making the application and an approved person includes an amount that is not a whole dollar – that combined gross weekly income is calculated exclusive of that amount.

TABLE

Column 1	Column 2
Gross weekly income (\$per week)	Maximum amount of loan
Less than \$500	\$100,000
\$550 – 599	\$110,000
\$600 – 800	\$115,000

7. Rate of interest

(1) Subject to this Scheme, the rate of interest per annum payable by a person on a housing loan advanced under clause 5 is, in any year of the loan:

(a) if the person's gross weekly income at the time of the application for the loan is less than \$500:

(i) the rate per annum specified in Table 1 to this clause opposite the range of years specified in that Table within which the year of the loan falls; or

(ii) 5% per annum,

whichever is the greater;

(b) if the person's gross weekly income at the time of the application for the loan is not less than \$500 and not more than \$599:

(i) the rate per annum specified in Table 2 to this clause opposite the range of years specified in that Table within which the year of the loan falls; or

(ii) 5% per annum,

whichever is the greater; or

-
- (c) if the person's gross weekly income at the time of the application for the loan is not less than \$600 and not more than \$800:
- (i) the rate per annum specified in Table 3 to this clause opposite the range of years specified in that Table within which the year of the loan falls; or
 - (ii) 5% per annum,
- whichever is the greater.
- (2) Where but for this subclause the rate of interest per annum payable by a person on a housing loan advanced under clause 5 is to increase from the market rate per annum to the market rate per annum plus 1% per annum, the Chief Executive Officer (Housing) may approve the rate of interest per annum payable by the person on that loan remaining at the market rate per annum for not more than 3 years if satisfied that:
- (a) the person would suffer financial hardship if approval were not given; and
 - (b) the person is unable to refinance the loan, including the amount required to purchase the whole of the interest of the Chief Executive Officer (Housing) in the house.
- (3) For the purposes of this clause, if the gross weekly income of a person includes an amount that is not a whole dollar, the gross weekly income of the person is to be calculated exclusive of that amount.

TABLE 1	
Gross weekly income less than \$500	
Year of loan	Rate of interest (% per annum)
1st to 5th	Market rate p.a. less 2% p.a.
6th to 8th	Market rate p.a. less 1% p.a.
9th to 11th	Market rate p.a.
12th and following	Market rate p.a. plus 1% p.a.

TABLE 2	
Gross weekly income not less than \$500 and not more than \$599	
Year of loan	Rate of interest (% per annum)
1st to 5th	Market rate p.a. less 1% p.a.
6th to 8th	Market rate p.a.
9th and following	

TABLE 3	
Gross weekly income not less than \$600 and not more than \$800	
Year of loan	Rate of interest (% per annum)
1st to 8th	Market rate p.a.
9th and following	Market rate p.a. plus 1%

8. Terms and conditions

- (1) Where the Chief Executive (Housing) grants an application to advance a housing loan under clause 5 for the purchase of a share in a house, the Chief Executive (Housing) and the person to whom the application is granted (***the applicant***) are to enter into an agreement relating to the ownership of the house.
- (2) An agreement referred to in subclause (1) is to make provision for the following terms and conditions:
 - (a) that the applicant is to purchase the house by purchasing:
 - (i) a first share in the house, being:
 - (A) not less than 70% of the market value of the house;
or
 - (B) the market value of the house less \$45,000,
whichever is the greater; and
 - (ii) on repayment of the loan advanced in respect of that first share, a second and final share being the whole of the interest of the Chief Executive Officer (Housing) in the house;

- (b) that the applicant has the right to possess the premises and that the applicant, in consideration thereof, is to make payments in respect of rates, taxes, charges and other outgoings in respect of the premises;
- (c) that if the applicant, without fault, at any time during the term of the agreement, wishes to sell the house, the Chief Executive (Housing) is not, unless there are reasonable grounds for doing so, to withhold its consent to the sale of the house.

9. Loan to be secured by mortgage

A housing loan advanced under clause 5 is to be secured by a mortgage over the house in respect of which the loan is made and, unless otherwise approved, is to be secured by a first mortgage.

10. Application for transfer of loan arrangements

- (1) Where a person has, by way of a housing loan under clause 5, purchased a house or a share in a house 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 executed,

the person may apply to the Chief Executive Officer (Housing) for consent to the sale of the house, discharge the mortgage and, subject to this Scheme, advance the amount specified in the application, being an amount not more than the amount used to discharge the mortgage, for the purposes of purchasing another house or premises, or purchasing a residential block and erecting a house on the block, as specified in the application.

(1A) A person may not make an application under subclause (1) unless:

- (a) the person's gross weekly income is not more than \$800;
- (b) the person does not own a house or premises or a share in a house or premises (other than the house or the share in the house the subject of the housing loan granted under clause 5) in the Territory or in a State or another Territory of the Commonwealth; and
- (c) except if otherwise approved by the Chief Executive Officer (Housing) – the market value of the house or premises that the person wants to purchase, or the market value of the

residential block the person wants to purchase and the house the person wants to erect on the block, does not exceed \$180 000.

- (1B) If a person making an application under subclause (1) wants the house, premises or residential block and house to be erected on the block to be held under a tenancy in common together with the Chief Executive Officer (Housing), the person must specify that fact in the application.
- (2) A person making an application under subclause (1) is to provide the Chief Executive (Housing) with such information as the Chief Executive (Housing) requires, including information in relation to the person's gross weekly income.

11. Determination of application for transfer of loan arrangements

- (1) Where the Chief Executive (Housing) receives an application under clause 10(1), it may:
 - (a) subject to subclauses (1A) and (2) and clause 12, grant the application; or
 - (b) reject the application.
- (1A) The Chief Executive Officer (Housing) must not grant an application referred to in clause 10(1B) unless satisfied that, unless the application is granted, the person making the application is not likely to be able to acquire premises to live in that are of an appropriate standard having regard to his or her circumstances.
- (1B) If the Chief Executive Officer (Housing) grants the application for the purchase of a house or premises, or for the purchase of a residential block and erection of a house on the block, by the person making the application and the Chief Executive Officer (Housing), the Chief Executive Officer (Housing) and the person making the application must enter into an agreement relating to the ownership of the house, premises or block and house.
- (1C) An agreement under subclause (1B) is to make provision for the following terms and conditions:
 - (a) that the value of the interest of the Chief Executive (Housing) in the house, premises or block and house is to be the least of the following:
 - (i) 30% of the market value of the house, premises or block and house;

- (ii) the proportion of the purchase price of the house, premises or block and house that represents the difference between that purchase price and the proceeds of the sale of the share of the person making the application in the house purchased by way of the housing loan granted under clause 5;
 - (iii) the value, as at the date of the purchase of the house purchased by way of the housing loan granted under clause 5, of the interest of the Chief Executive Officer (Housing) in that house;
 - (b) that the person making the application is to purchase a first share in the house, premises or block and house that is equal to the purchase price of the house or premises, or the price to purchase the block and erect the house on the block, less the value of the interest of the Chief Executive Officer (Housing) in that house, premises or block and house;
 - (c) that on repayment of the loan advanced in respect of that first share, the person making the application is to purchase a second and final share being the whole of the interest of the Chief Executive Officer (Housing) in the house, premises or block and house;
 - (d) that the person making the application has the right to possess the house, premises or block and house and that the person, in consideration thereof, is to make payments in respect of the rates, taxes, charges and other outgoings in respect of the house, premises or block and house;
 - (e) that, if the person making the application, without fault, at any time during the term of the agreement, wishes to sell the house, premises or block and house, the Chief Executive Officer (Housing) is not to withhold its consent to the sale unless there are reasonable grounds for doing so.
- (2) The Chief Executive Officer (Housing) is not to 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 guidelines from time to time published by the Chief Executive Officer (Housing), all the proceeds received by the person from the sale of the house referred to in clause 10(1) towards the purchase of the house or premises, or the purchase of the residential block and erection of the house on the block, as specified in the application

(3) Subject to this Scheme, where the Chief Executive (Housing) grants an application under subclause (1)(a), it is to 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 share in the house, premises or block and house to be erected on the 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 Chief Executive (Housing) may advance to an applicant under that subclause such lesser amount as it determines.

12. Restrictions on advances under clause 11

A housing loan is not to be advanced to a person under clause 11:

- (a) unless otherwise approved, to enable the person to refinance an existing loan;
- (b) if the loan is for the purchase of a house or premises – unless the Chief Executive Officer (Housing) is satisfied that the person intends to live in the house or premises specified in the application for the loan; or
- (c) if the loan is for the purchase of a residential block – unless the Chief Executive Officer (Housing) is satisfied that the person intends to erect a house on the block specified in the application for the loan and live in the house

13. Lapse of grant of transfer of loan arrangements

(1) Unless otherwise approved, the grant of an application under clause 11(1)(a) lapses immediately on the expiration of 3 months after the date of the grant unless the person to whom the grant relates:

- (a) has sold the house the subject of the person's housing loan advanced under clause 5;

- (b) has purchased the house, premises or residential block specified in the person's application; or
 - (c) if the loan is for the purchase of a residential block and erection of a house on the block – having purchased the residential block, has erected, or in the opinion of the Chief Executive Officer (Housing) has entered into a binding agreement to erect, 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 10(1).

14. Transferred loan to be secured by mortgage

A housing loan advanced under clause 11 is to be secured by a mortgage over the house, premises or residential block and house in respect of which the loan is made and, unless otherwise approved, is to be secured by a first mortgage.

15. Rate of interest on transferred loan

Subject to this Scheme, the rate of interest per annum payable by a person on a housing loan advanced under clause 11 (***the transferred loan***) is the same as the rate of interest per annum that would have been payable by the person on the housing loan advanced under clause 5 to which the transferred loan relates (***the original loan***) had the mortgage securing the original loan not been discharged.

16. Repayment of loan

- (1) A person to whom a housing loan under this Scheme is advanced is to repay the loan to the Chief Executive (Housing), together with such other amounts as fall due for repayment under this Scheme:
 - (a) subject to clause 17, unless otherwise approved, by monthly instalments of not less than 25% of the monthly equivalent of the person's gross weekly income; and
 - (b) subject to subclause (3), not later than 30 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 17(1)(b), the date on which the principal is first payable under a housing loan advanced under clause 11 is the date on which the principal was first payable under the housing loan advanced under clause 5 to the person had the mortgage securing the housing loan not been discharged.

- (3) The Chief Executive Officer (Housing) may extend the term of a housing loan under this Scheme to not more than 45 years if satisfied that the person to whom the loan is advanced would suffer financial hardship if the term were not extended

17. Review of repayment of loan

- (1) The Chief Executive (Housing):
- (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) notwithstanding paragraph (a), is, at the expiration of each period of 3 years after the date on which the principal is first payable under the housing loan, to,

review the monthly instalments required by clause 16(1) to be made on the loan and, where the Chief Executive (Housing) 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 Chief Executive (Housing) under subclause (1) varies the monthly instalments payable by a person under this Scheme, the variation so made becomes due and payable on and from the date of the monthly instalment next payable under the housing loan after the variation is made.

18. 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 Chief Executive Officer (Housing) may increase the rate of interest per annum payable on the housing loan, with effect for that period only, to a rate per annum it considers suitable, being a rate

per annum not greater than 1% per annum more than the market rate per annum.

18A. Fees and charges

- (1) The Chief Executive Officer (Housing) may levy fees and charges associated with:
 - (a) establishing a housing loan under this Scheme; and
 - (b) administering a housing loan under this Scheme.
- (2) Fees and charges levied:
 - (a) under subclause (1)(a) may include, but are not limited to, administration fees, application fees and valuation fees; and
 - (b) under subclause (1)(b) may include, but are not limited to, third party dishonour fees (passed on by a financial institution), valuation fees and administration fees (including arrears management fees).
- (3) Fees and charges levied:
 - (a) under subclause (1)(a) – are to be paid by the person applying for a housing loan under this Scheme; and
 - (b) under subclause (1)(b) – are to be paid by the person who is advanced a housing loan under this Scheme.
- (4) Fees and charges levied under subclause (1) are to be approved by the Minister.

19. Building Act

A housing loan under this Scheme is not to be advanced to a person for the purpose of the erection of premises in a manner which does not comply with the *Building Act*.

20. Limitation of operation of Scheme

The Chief Executive Officer (Housing) must not grant an application or make an advance under clause 5 in respect of an application made after 30 June 2004.

Schedule 7 Homenorth Homeshare Public Housing Tenant Purchase Scheme

regulation 3

1. Interpretation

(1) In this Scheme, a reference to a share in a dwelling is a reference to a share in a dwelling that:

- (a) is to be held under a tenancy in common together with the Chief Executive (Housing); and
- (b) represents an interest in the dwelling that is not less than so much of the market value of the dwelling as is determined in accordance with clause 4(1)(a)(ii).

(2) In this Scheme:

approved person, in relation to the tenant of a dwelling, means:

- (a) a parent of the tenant;
- (b) a child of the tenant;
- (c) a sibling of the tenant; or
- (d) a person approved by the Chief Executive Officer (Housing) for the purpose of determining in accordance with clause 6(3) the amount of the advance under clause 5.

residential block means land on which a person is entitled under the law in force in the Territory to erect a house.

(3) In this Scheme, a reference to the purchase of a house is read as including a reference to the erection of a house.

2. Sale of dwellings

Subject to this Scheme, the Chief Executive (Housing) may sell to a person a dwelling or a share in a dwelling and, for that purpose, may advance a housing loan under this Scheme to the person.

3. Restriction on Scheme

- (1) A person is not eligible to purchase a dwelling or a share in a dwelling and to an advance of a housing loan for that purpose under clause 5:
 - (a) unless otherwise approved, if the person or a spouse, de facto partner or dependant of the person owns (including jointly owns) a house in the Territory;
 - (b) unless the Chief Executive (Housing) is satisfied that the person lives or will live in the dwelling in respect of which the person's application for a housing loan relates;
 - (c) unless the person is purchasing a dwelling or not less than so much of the market value of a dwelling as is determined in accordance with clause 4(1)(a)(ii); or
 - (d) if the person does not comply with the requirements of subclause (2).
- (2) For the purposes of subclause (1)(d), the requirements are:
 - (a) the person has an amount of not less than 5% of the purchase price of the dwelling, or the share of the dwelling, to which the application relates that will be, or form part of, the deposit for the purchase of the dwelling or the share of the dwelling, which amount is to include any amount paid or payable to, on behalf of, or at the direction of, the person as first home owner's assistance;
 - (b) the Chief Executive Officer (Housing) is satisfied that the applicant has made improvements to the dwelling to which the application relates the value of which amounts to not less than 5% of the purchase price of the dwelling or the share of the dwelling; or
 - (c) the Chief Executive Officer (Housing) is satisfied that:
 - (i) the applicant has made improvements to the dwelling to which the application relates;
 - (ii) the applicant has an amount that will form part of the deposit for the purchase of the dwelling or the share of the dwelling, which amount is to include any amount paid or payable to, on behalf of, or at the direction of, the person as first home owner's assistance; and

- (iii) the total of the value of the improvements and the amount that will form part of the deposit is not less than 5% of the purchase price of the dwelling or the share of the dwelling.

4. Who may apply

- (1) Subject to this Scheme, a person who is a tenant of a dwelling and whose:
 - (a) gross weekly income is not more than \$1,000 may apply to the Chief Executive Officer (Housing) to purchase:
 - (i) that dwelling; or
 - (ii) a share in that dwelling that is not less than:
 - (A) if the tenant's gross weekly income at the time of application is not more than \$899 – 70%; or
 - (B) if the tenant's gross weekly income at the time of application is not less than \$900 and not more than \$1,000 – 80%; or
 - (b) gross weekly income is not less than \$1,001 and not more than \$1,100 may apply to the Chief Executive Officer (Housing) to purchase that dwelling (but not a share in that dwelling),

and for the advance under clause 5 of a housing loan to purchase that dwelling or share.

- (2) For the purposes of this clause, if the gross weekly income of an applicant includes an amount that is not a whole dollar, the gross weekly income of the applicant is to be calculated exclusive of that amount.

5. Determination of application

Where the Chief Executive (Housing) receives an application under clause 4(1), it may:

- (a) grant the application by selling the dwelling or the share in the dwelling and making an advance to purchase the dwelling or share to:
 - (i) the applicant; or
 - (ii) where clause 6(3) applies – the applicant and an approved person jointly; or

- (b) reject the application.

6. Maximum amount of advance

- (1) The amount that the Chief Executive Officer (Housing) may advance as a housing loan under clause 5 is not to be more than the amount specified in Column 2 of the Table to this clause opposite the range of gross weekly income specified in Column 1 into which:

- (a) the applicant's gross weekly income; or
- (b) where clause 6(3) applies – the combined gross weekly income of the applicant and an approved person,

falls at the time of the application.

- (2) Subclause (1) does not operate so as to require the Chief Executive Officer (Housing) to advance to an applicant or to an applicant and an approved person the maximum amount determined under that subclause and the Chief Executive Officer (Housing) may advance such lesser amount to an applicant or to an applicant and an approved person as it determines to be appropriate, but that amount is not to exceed the purchase price of the dwelling plus any costs of and incidental to the sale of the dwelling less the amount referred to in clause 3(2).
- (3) In determining the amount of an advance under clause 5, if requested by an applicant to do so, the Chief Executive Officer (Housing) must take into account the combined gross weekly income of the applicant and an approved person.
- (4) Where subclause (3) applies, the gross weekly income of the approved person is to be taken into account only in determining the amount of the advance under clause 5 and is not to be taken into account in determining the applicant's eligibility to apply under clause 4.
- (5) For the purposes of this clause:
 - (a) if the gross weekly income of an applicant includes an amount that is not a whole dollar, that gross weekly income is to be calculated exclusive of that amount; or
 - (b) where subclause (3) applies – if the combined gross weekly income of the applicant and an approved person includes an amount that is not a whole dollar, that combined gross weekly income is to be calculated exclusive of that amount.

TABLE

Column 1			Column 2
Gross weekly income			Loan amount
Not less than		Not more than	
\$300	–	\$349	\$80,000
\$350	–	\$399	\$90,000
\$400	–	\$449	\$95,000
\$450	–	\$499	\$100,000
\$500	–	\$549	\$105,000
\$550	–	\$599	\$110,000
\$600	–	\$649	\$115,000
\$650	–	\$699	\$120,000
\$700	–	\$749	\$125,000
\$750	–	\$799	\$125,000
\$800	–	\$849	\$130,000
\$850	–	\$899	\$130,000
\$900	–	\$949	\$140,000
\$950	–	\$1,000	\$145,000
more than \$1,000			\$150,000 or more

7. Rate of interest

- (1) Subject to this Scheme, the rate of interest payable by a person on a housing loan advanced under clause 5 is, at the date that interest first becomes payable on the housing loan and for the first 12 months commencing on that date:
- (a) in the case of a person referred to in clause 4(1)(a) or 4(2):
- (i) the rate specified in Column 2 of the Table to this clause opposite the range of gross weekly income specified in Column 1 into which the person's gross weekly income, as at the time the application for the loan is made, falls; or
 - (ii) 92.5% of the market rate;
- (b) in the case of a person referred to in clause 4(1)(b) or 4(3), the market rate; or

- (c) the rate from time to time determined by the Minister by instrument in writing,

whichever from time to time is the lesser.

- (2) On the expiration of the period referred to in clause (1), the rate of interest is that from time to time applying by operation of subclause (3), (4) or (5).
- (3) Subject to subclauses (4) and (5), where, on any anniversary of the date that interest first becomes payable by a person on a housing loan advanced under this Scheme, the interest rate being paid by the person is less than the maximum rate of interest payable under subclause (8), the person is, for the 12 months commencing from that date, to pay the rate of interest that equals the first-mentioned rate of interest as increased by the rate of increase determined by the Minister under subclause (6)(b) in respect of the housing loan.
- (4) At the end of each 5-year period of a housing loan advanced to a person under clause 5, the Chief Executive Officer (Housing) must set the interest rate level for the next 5-year period of the loan at the next level.
- (5) A person is not to pay a rate of interest that is more than the maximum rate of interest payable under subclause (8) and, if it occurs that the rate of interest payable by a person under subclause (3) or (4) becomes more than that maximum rate of interest, the rate of interest payable by the person immediately reduces to be the rate of interest equal to that maximum rate of interest (but which may be varied by the operation of subclause (3) or this subclause).
- (6) Subject to subclause (7), the Minister is from time to time to determine:
 - (a) a rate of interest to be the maximum rate of interest for the purposes of subclause (8)(a); and
 - (b) the rates by which rates of interest paid on housing loans advanced under this Scheme are, from each anniversary of the date that interest first becomes payable on each of the housing loans, to increase (unless a rate of interest payable on a housing loan equals or is more than the maximum rate of interest payable under subclause (8)).

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- (7) Where the Minister makes a determination under subclause (6), the Minister:
- (a) is to have given regard to prevailing economic conditions (in particular current bank interest rates and the consumer price index); and
 - (b) in the case of a determination of the rates by which interest rates are to increase (***rates of increase***) under subclause (6)(b):
 - (i) is to determine the rates of increase in relation to the gross weekly income of persons to whom housing loans are advanced under this Scheme; and
 - (ii) may not determine a rate of increase that is more than 0.5% per annum.
- (8) The maximum rate of interest payable on housing loans advanced under this Scheme is:
- (a) the rate of interest the Minister from time to time determines under subclause (6)(a) to be the maximum rate; or
 - (b) the rate of interest that is equal to 1% more than the market rate,
- whichever from time to time is the lesser.
- (9) Where the operation of subclause (3) or (5) varies the rate of interest payable by a person under this Scheme, the variation so made becomes due and payable on and from the monthly instalment next payable on the housing loan after that variation.
- (10) Where the gross weekly income of a person contains an amount that is not a whole dollar, the gross weekly income of the person is, for the purposes of the Table to this clause, to be calculated exclusive of that amount.

TABLE

Column 1			Column 2
Gross weekly income			Rate of Interest
Not less than		Not more than	
\$300	–	\$349	5%
\$350	–	\$399	5%
\$400	–	\$449	6%

Column 1			Column 2
Gross weekly income			Rate of Interest
Not less than		Not more than	
\$450	–	\$499	6%
\$500	–	\$549	6.5%
\$550	–	\$599	6.5%
\$600	–	\$649	7%
\$650	–	\$699	7%
\$700	–	\$749	7%
\$750	–	\$799	7%
\$800	–	\$849	8%
\$850	–	\$899	8%
\$900	–	\$949	9%
\$950	–	\$1,000	9%

8. Terms and conditions

- (1) Where the Chief Executive (Housing) grants an application to advance a housing loan under clause 5 for the purchase of a share in a dwelling, the Chief Executive (Housing) and the person to whom the application is granted (***the applicant***) are to enter into an agreement relating to the ownership of the dwelling.
- (2) An agreement referred to in subclause (1) is to make provision for the following terms and conditions:
 - (a) that the applicant is to purchase the dwelling by purchasing a first share in the dwelling of not less than 70% of the market value of the house and, on repayment of the loan advanced in respect of that share, a second and final share being the whole of the interest of the Chief Executive (Housing)'s in the dwelling;
 - (b) that the applicant has the right to possess the dwelling and that the applicant, in consideration thereof, is to make payments in respect of rates, taxes, charges and other outgoings in respect of the dwelling;
 - (c) that if the applicant, without fault, at any time during the term of the agreement, wishes to sell the dwelling, the Chief Executive (Housing) is not, unless there are reasonable grounds for doing so, to withhold its consent to the sale of the house.

9. Loan to be secured by mortgage

A housing loan advanced under clause 5 is to be secured by a mortgage over the dwelling in respect of which the loan is made and, unless otherwise approved, is to be secured by a first mortgage.

10. Application for transfer of loan arrangements

(1) Where a person has, by way of a housing loan under clause 5, purchased a dwelling or a share in 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 executed,

the person may apply to the Chief Executive Officer (Housing) for consent to the sale of the dwelling, discharge the mortgage and, subject to this Scheme, advance the amount specified in the application, being an amount not more than the amount used to discharge the mortgage, for the purposes of purchasing a house or premises, or purchasing a residential block and erecting a house on the block, as specified in the application.

(1A) A person may not make an application under subclause (1) unless:

- (a) the person's gross weekly income is not more than \$1 100; and
- (b) the person does not own a house or premises or a share in a house or premises (other than the dwelling or share in the dwelling the subject of the housing loan granted under clause 5) in the Territory or in a State or another Territory of the Commonwealth.

(1B) If a person making an application under subclause (1) wants the house, premises or residential block and house to be erected on the block to be held under a tenancy in common together with the Chief Executive Officer (Housing), the person must specify that fact in the application.

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

11. Determination of application for transfer of loan arrangements

- (1) Where the Chief Executive (Housing) receives an application under clause 10(1), it may:
 - (a) subject to subclauses (1A) and (2) and clause 12, grant the application; or
 - (b) reject the application.
- (1A) The Chief Executive Officer (Housing) must not grant an application referred to in clause 10(1B) unless satisfied that, unless the application is granted, the person making the application is not likely to be able to acquire premises to live in that are of an appropriate standard having regard to his or her circumstances.
- (1B) If the Chief Executive Officer (Housing) grants the application for the purchase of a house or premises, or the purchase of a residential block and erection of a house on the block, by the person making the application and the Chief Executive Officer (Housing) as tenants in common, the Chief Executive Officer (Housing) and the person making the application must enter into an agreement relating to the ownership of the house, premises or block and house.
- (1C) An agreement under subclause (1A) is to make provision for the following terms and conditions:
 - (a) that the value of the interest of the Chief Executive Officer (Housing) in the house, premises or block and house is to be the least of the following:
 - (i) 30% of the market value of the house, premises or block and house;
 - (ii) the proportion of the purchase price of the house, premises or block and house that represents the difference between that purchase price and the proceeds of the sale of the share of the person making the application in the dwelling purchased by way of the housing loan granted under clause 5;
 - (iii) the value, as at the date of the purchase of the dwelling purchased by way of the housing loan granted under clause 5, of the interest of the Chief Executive Officer (Housing) in that dwelling;
 - (b) that the person making the application is to purchase a first share in the house, premises or block and house that is equal to the purchase price of the house or premises, or the price to

purchase the block and erect the house on the block, less the value of the interest of the Chief Executive Officer (Housing) in that house, premises or block and house;

- (c) that on repayment of the loan advanced in respect of that first share, the person making the application is to purchase a second and final share being the whole of the interest of the Chief Executive Officer (Housing) in the house, premises or block and house;
 - (d) that the person making the application has the right to possess the house, premises or block and house and that the person, in consideration thereof, is to make payments in respect of the rates, taxes, charges and other outgoings in respect of the house, premises or block and house;
 - (e) that, if the person making the application, without fault, at any time during the term of the agreement, wishes to sell the house, premises or block and house, the Chief Executive Officer (Housing) is not to withhold its consent to the sale unless there are reasonable grounds for doing so.
- (1D) The Chief Executive Officer (Housing) must 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 guidelines from time to time published by the Chief Executive Officer (Housing), all the proceeds received by the person from the sale of the dwelling referred to in clause 10(1) towards the purchase of the house or premises, or the purchase of the residential block and erection of the house on the block, as specified in the application.
- (2) Subject to this Scheme, where the Chief Executive (Housing) grants an application under subclause (1)(a), it is to 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 house or premises, or purchase the residential block and erect the house on the block, specified in the application; and
 - (ii) the amount of the proceeds referred to in subclause (1D) received by the person
- whichever is the lesser.

- (3) Notwithstanding subclause (2), the Chief Executive (Housing) may advance to an applicant under that subclause such lesser amount as it determines.

12. Restrictions on advances under clause 11

- (1) A housing loan is not to be advanced to a person under clause 11:
 - (a) unless otherwise approved, to enable the person to refinance an existing loan;
 - (b) if the loan is for the purchase of a house or premises – unless the Chief Executive Officer (Housing) is satisfied that the person intends to live in the house or premises specified in the application for the loan; and
 - (c) if the loan is for the purchase of a residential block – unless the Chief Executive Officer (Housing) is satisfied that the person intends to erect a house on the block specified in the application for the loan and live in the house.
- (2) Subclause (1)(d) does not apply to a person in relation to an application under clause 10(1) by the person for consent to the sale of a house purchased by him or her with a loan for which application was made under clause 4(2) or (3).

12A. Lapse of grant of transfer of loan arrangements

- (1) Unless otherwise approved, the grant of an application under clause 11(1)(a) lapses immediately on the expiry of 3 months after the date of the grant unless the person to whom that grant relates:
 - (a) has sold the dwelling the subject of the person's housing loan advanced under clause 5;
 - (b) has purchased the house or premises specified in the person's application; or
 - (c) if the loan is for the purchase of a residential block and erection of a house on the block – having purchased the residential block, has erected or, in the opinion of the Chief Executive Officer (Housing), has entered into a binding agreement to erect, 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 10(1).

13. Transferred loan to be secured by mortgage

A housing loan advanced under clause 11 is to be secured by a mortgage over the house, premises or residential block and house in respect of which the loan is made and, unless otherwise approved, is to be secured by a first 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 11 is:
 - (a) on the date that interest first becomes payable on the housing loan, the rate that was payable by the person on the housing loan advanced to the person under clause 5 at the date of the discharge of the mortgage securing that housing loan; or
 - (b) subject to paragraph (a), the rate of interest that from time to time applies in respect of the housing loan by operation of clause 7(3), (4) or (5).
- (2) Where the operation of clause 7(3) or (5) varies the rate of interest payable by a person on a housing loan advanced under clause 11, the variation so made becomes due and payable on and from the monthly instalment next payable on the housing loan after that variation.
- (3) For the purposes of the application of clause 7 in respect of a housing loan advanced under clause 11, a reference in that clause to the date that interest first becomes payable on a housing loan is a reference to that date in respect of the housing loan advanced under clause 5 to which the housing loan under clause 11 relates.

15. Repayment of loan

- (1) A person to whom a housing loan under this Scheme is advanced is to repay the loan to the Chief Executive (Housing), 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), the date on which the principal is first payable under a housing loan advanced under clause 11 is the date on which the principal was first payable under the housing loan advanced under clause 5 to the person had the

mortgage securing that housing loan not been discharged.

16. Review of repayment of loan

- (1) The Chief Executive Officer (Housing) may review the interest rate level set under clause 7(4) for a housing loan advanced under this Scheme and may reduce the interest rate level to the previous level set for the loan under that clause:
 - (a) if the review was requested by the person to whom the loan is advanced and the person can demonstrate financial hardship because of the interest rate level set under that clause; or
 - (b) if the review was on its own initiative, for any other reason
- (2) Where, because of a reduction in the interest rate level for a housing loan under subclause (1), the Chief Executive Officer (Housing) varies the monthly instalments payable by a person under this Scheme, the variation so made becomes due and payable on and from the date of the monthly instalment next payable under the housing loan after the variation is made.

17. Rate of interest where not residing in dwelling

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 to which the housing loan relates for a period of time,

the Chief Executive (Housing) 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 must not be greater than 1% more than the market rate.

18. Fees and charges

- (1) The Chief Executive Officer (Housing) may levy fees and charges associated with:
 - (a) establishing a housing loan under this Scheme; and
 - (b) administering a housing loan under this Scheme.

(2) Fees and charges levied:

- (a) under subclause (1)(a) may include, but are not limited to, administration fees, application fees and valuation fees; and
- (b) under subclause (1)(b) may include, but are not limited to, third party dishonour fees (passed on by a financial institution), valuation fees and administration fees (including arrears management fees).

(3) Fees and charges levied:

- (a) under subclause (1)(a) – are to be paid by the person applying for a housing loan under this Scheme; and
- (b) under subclause (1)(b) – are to be paid by the person who is advanced a housing loan under this Scheme.

(4) Fees and charges levied under subclause (1) are to be approved by the Minister.

19. Limitation of operation of Scheme

The Chief Executive Officer (Housing) must not grant an application or make an advance under clause 5 in respect of an application made after 30 June 2004.

Schedule 8 Homenorth Early Start Deposit Assistance Scheme

regulation 3

1. Payment of deposit by Chief Executive (Housing)

Subject to this Scheme, the Chief Executive (Housing) may, on the application of a person, advance to or pay on behalf of the person a sum of money to be used as, or form part of, a deposit for the purchase or erection of premises.

2. Restrictions on Scheme

- (1) A person is not eligible to participate in this Scheme:
 - (a) unless otherwise approved, if the person or a spouse, de facto partner or dependant of the person owns, or has previously owned, (including as a joint owner) premises in the Territory;
 - (b) unless the Chief Executive (Housing) is satisfied that the person intends to live in the premises to which the person's application for the advance or payment relates;
 - (c) if the market value of the premises to which the application relates is more than \$140,000 or, if the premises are to be constructed, if the market value of the land and the construction costs of the premises is more than \$140,000; or
 - (d) if the person's gross weekly income is less than \$300 or more than \$1,000.
- (2) Subclause (1)(b) does not apply in relation to an application under subclause (1) by an eligible Yulara resident made before 6 months after the date specified in a notice under regulation 5(2).

3. Amount of assistance

- (1) The amount that the Chief Executive (Housing) may advance to or pay on behalf of a person under this Scheme is, subject to subclause (2), the amount specified in Column 2 of the Table to this clause opposite the range of gross weekly income specified in Column 1 within which the person's gross weekly income, as at the time the application for the advance or payment is made, falls.
- (2) Where one person alone is purchasing or constructing premises, the amount that the Chief Executive (Housing) may under this Scheme advance to or pay on behalf of that person may not exceed \$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
Range of gross weekly income			Amount of assistance
\$300	–	\$699	\$3,000
\$700	–	\$849	\$2,000
\$850	–	\$1,000	\$1,000

4. Time of payment

An amount to be advanced to or paid on behalf of a person under this Scheme is not to be advanced or paid before:

- (a) in the case of the purchase of premises where the person borrows money to purchase the premises, the execution of the mortgage or mortgages securing the loan or loans advanced to the person in relation to the purchase;
- (b) in the case of the purchase of premises where the person does not borrow money to purchase the premises, settlement of the purchase; or
- (c) in the case of the erection of premises, the grant of a building permit within the meaning of the *Building Act* in respect of the erection.

5. Fees and charges

- (1) The Chief Executive Officer (Housing) may levy fees and charges in respect of an application by a person wanting to participate in this Scheme.
- (2) Fees and charges levied under subclause (1) may include, but are not limited to, an application fee.
- (3) Fees and charges levied under subclause (1) are to be paid by the person applying to participate in this Scheme.
- (4) Fees and charges levied under subclause (1) are to be approved by the Minister.

6. Limitation of operation of Scheme

The Chief Executive Officer (Housing) must not make an advance or pay a sum of money under this Scheme in respect of an application made after 30 June 2004.

Schedule 9 Homenorth Assist Interest Subsidy Scheme

regulation 3

1. Loan interest subsidy

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

2. Restrictions on Scheme

- (1) The Chief Executive (Housing) is not to 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 Chief Executive (Housing) has not approved;
 - (b) unless the loan is advanced to the person for the purchase or erection of a house by the person;
 - (c) unless otherwise approved, if the loan is for the purpose of refinancing an existing loan;
 - (d) if, at the time of the person's application under clause 3, the person or a spouse, de facto partner or dependant of the person owns, or has previously owned, (including as a joint owner) premises in the Territory;
 - (e) unless otherwise approved, if the person or a spouse, de facto partner or dependant of the person has previously received financial assistance;
 - (f) if the Chief Executive (Housing) is not satisfied that the person, on obtaining the loan, intends to live in the house to which the loan relates; or
 - (g) if the market value of the house to which the loan relates is more than \$140,000.
- (2) Subclause (1)(f) does not apply in relation to an application made under this Scheme by an eligible Yulara resident before 6 months after the date specified in a notice under regulation 5(2).

3. Certificate of eligibility

- (1) A person whose gross weekly income is not less than \$700 or more than \$1,000 may apply to the Chief Executive (Housing) for a certificate of eligibility.
- (2) The Chief Executive (Housing), on receipt of an application under subclause (1), is, subject to clause 2, to determine whether the person is eligible for an interest subsidy and, if so, may, on the person entering into an agreement with the Chief Executive (Housing) specifying the conditions on which the certificate of eligibility is issued and on which the interest subsidy is to be paid by the Chief Executive (Housing), issue to the person a certificate of eligibility.
- (3) A certificate of eligibility issued under this clause is to specify the maximum interest subsidy payable to an approved lender should the person to whom it relates be advanced a loan by the lender.
- (4) Subject to subclauses (5) and (6), a certificate of eligibility issued under this clause is to 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 the time that the information contained in the certificate remains unchanged.
- (6) The Chief Executive (Housing) may, at any time before a certificate of eligibility issued under this clause expires, renew the certificate for the period, not exceeding 3 months, as is specified in the certificate.

4. Level and payment of interest subsidy

- (1) The Chief Executive (Housing) is to pay an interest subsidy on behalf of a person under this Scheme on the day that interest first becomes payable on the loan advanced to the person, and thereafter on that date in each month until the expiration of the whole of the period that the person is entitled to have the interest subsidy paid on his or her behalf in accordance with this clause.
- (2) Where a person whose gross weekly income, as at the time the person makes an application for an eligibility certificate, falls within the range of income of not less than \$700 and not more than \$749 specified in Column 1 of the Table to this clause borrows an amount not less than the amount specified opposite in Column 2, the interest subsidy that the Chief Executive (Housing) may pay

each month on behalf of the person under this Scheme is:

- (a) for 2 years on and from the date that interest first becomes payable on the loan, the amount specified opposite in Column 3;
 - (b) for one year next following the period referred to in paragraph (a), \$105;
 - (c) for one year next following the period referred to in paragraph (b), \$75;
 - (d) for one year next following the period referred to in paragraph (c), \$40;
 - (e) for one year next following the period referred to in paragraph (d), \$20; and
 - (f) for one year next following the period referred to in paragraph (e), \$20.
- (3) Where a person whose gross weekly income, as at the time the person makes an application for an eligibility certificate, falls within the range of income of not less than \$750 and not more than \$799 specified in Column 1 of the Table to this clause borrows an amount not less than the amount specified opposite in Column 2, the interest subsidy that the Chief Executive (Housing) may pay each month on behalf of the person under this Scheme is:
- (a) for 2 years on and from the date that interest first becomes payable on the loan, the amount specified opposite in Column 3;
 - (b) for one year next following the period referred to in paragraph (a), \$75;
 - (c) for one year next following the period referred to in paragraph (b), \$40;
 - (d) for one year next following the period referred to in paragraph (c), \$20; and
 - (e) for one year next following the period referred to in paragraph (d), \$20.
- (4) Where a person whose gross weekly income, as at the time the person makes an application for an eligibility certificate, falls within the range of income of not less than \$800 and not more than \$849 specified in Column 1 of the Table to this clause borrows an amount not less than the amount specified opposite in Column 2,

the interest subsidy that the Chief Executive (Housing) may pay each month on behalf of the person under this Scheme is:

- (a) for 2 years on and from the date that interest first becomes payable on the loan, the amount specified opposite in Column 3;
 - (b) for one year next following the period referred to in paragraph (a), \$40;
 - (c) for one year next following the period referred to in paragraph (b), \$20; and
 - (d) for one year next following the period referred to in paragraph (c), \$20.
- (5) Where a person whose gross weekly income, as at the time the person makes an application for an eligibility certificate, falls within the range of income of not less than \$850 and not more than \$899 specified in Column 1 of the Table to this clause borrows an amount not less than the amount specified opposite in Column 2, the interest subsidy that the Chief Executive (Housing) may pay each month on behalf of the person under this Scheme is:
- (a) for 2 years on and from the date that interest first becomes payable on the loan, the amount specified opposite in Column 3;
 - (b) for one year next following the period referred to in paragraph (a), \$20; and
 - (c) for one year next following the period referred to in paragraph (b), \$20.
- (6) Where a person whose gross weekly income, as at the time the person makes an application for an eligibility certificate, falls within the range of income of not less than \$900 and not more than \$949 specified in Column 1 of the Table to this clause borrows an amount not less than the amount specified opposite in Column 2, the interest subsidy that the Chief Executive (Housing) may pay each month on behalf of the person under this Scheme is:
- (a) for 2 years on and from the date that interest first becomes payable on the loan, the amount specified opposite in Column 3; and
 - (b) for one year next following the period referred to in paragraph (a), \$20.

- (7) Where a person whose gross weekly income, as at the time the person makes an application for an eligibility certificate, falls within the range of income of not less than \$949 and not more than \$1,000 specified in Column 1 of the Table to this clause borrows an amount not less than the amount specified opposite in Column 2, the interest subsidy that the Chief Executive (Housing) may pay each month on behalf of the person under this Scheme, for 2 years on and from the date that interest first becomes payable on the loan, is the amount specified opposite in Column 3.
- (8) Where a person whose gross weekly income, as at the time the person makes an application for an eligibility certificate, falls within the range of income specified in Column 1 of the Table to this clause borrows an amount that is less than the amount specified opposite in Column 2 of the Table, the Chief Executive (Housing) is to pay an interest subsidy each month on behalf of the person, for the whole of the period specified respectively in subclause (2), (3), (4), (5), (6) or (7), but the amount of the interest subsidy that the Chief Executive (Housing) may pay on behalf of the person is the amount that represents the same proportion in relation to the interest subsidy specified opposite in Column 3 as the amount the person borrows is in relation to the amount specified in Column 2.

Column 1			Column 2	Column 3
Range of gross weekly income			Minimum loan	Interest subsidy
\$700	–	\$749	\$100,000	\$132
\$750	–	\$799	\$105,000	\$105
\$800	–	\$850	\$110,000	\$75
\$850	–	\$899	\$115,000	\$40
\$900	–	\$949	\$120,000	\$20
\$950	–	\$1,000	\$120,000	\$20

5. Fees and charges

- (1) The Chief Executive Officer (Housing) may levy fees and charges in respect of an application by a person wanting to participate in this Scheme.
- (2) Fees and charges levied under subclause (1) may include, but are not limited to, an application fee.

- (3) Fees and charges levied under subclause (1) are to be paid by the person applying to participate in this Scheme.
- (4) Fees and charges levied under subclause (1) are to be approved by the Minister.

6. Limitation of operation of Scheme

The Chief Executive Officer (Housing) must not pay an interest subsidy under this Scheme in respect of an application made after 30 June 2004.

Schedule 10 Homenorth Loan Scheme

regulation 3

Part 1 Preliminary

1. Interpretation

(1) In this Scheme:

approved person, in relation to a person applying for a housing loan, means:

- (a) a parent of the person;
- (b) a child of the person;
- (c) a sibling of the person; or
- (d) a person approved under subclause (4).

housing loan means a loan advanced under Part 2.

reference rate means the cash rate determined from time to time by the Reserve Bank of Australia.

(2) In this Scheme, a reference to a share in premises is a reference to a share that:

- (a) is to be held under a tenancy in common together with the Chief Executive Officer (Housing); and
- (b) represents an interest in the premises that is not less than the first share in the premises as determined in accordance with clause 6(2)(a)(i).

(3) In this Scheme, a reference to purchasing premises includes a reference to purchasing land for the purpose of building a house on the land.

(4) The Chief Executive Officer (Housing) may approve a person for the definition of **approved person**.

Part 2 Housing loans

Division 1 Eligibility for housing loan

2. Restrictions on advances

- (1) A person must not be granted a housing loan:
- (a) unless approved under subclause (2) – if the person or a spouse, de facto partner or dependant of the person owns (including as joint owner) premises in the Territory or a State or another Territory of the Commonwealth;
 - (b) unless the Chief Executive Officer (Housing) is satisfied that the person lives or will live in the premises to which application relates;
 - (c) if the market value of the premises to which the application relates is more than:
 - (i) \$240 000; or
 - (ii) if another amount is prescribed under subclause (2) – that other amount;
 - (d) unless the person is purchasing the premises or a share in the premises to which the application relates;
 - (e) unless the Chief Executive Officer (Housing) is satisfied that:
 - (i) the person has an amount of not less than 2% of the market value of the premises or the share in the premises to which the application relates; and
 - (ii) the amount will be used, or form part of an amount to be used, as the deposit for the purchase of the premises;
 - (f) unless the person's gross weekly income is more than:
 - (i) \$1 100; or
 - (ii) if another amount is prescribed under subclause (2) – that other amount; or
 - (g) unless the Chief Executive Officer (Housing) is satisfied that the person has the financial ability to repay the housing loan.
- (2) The Minister may:
- (a) approve a person for subclause (1)(a); and

- (b) prescribe an amount for subclause (1)(c)(ii) or (f)(ii).

Division 2 Granting of housing loan

3. Determination of application

- (1) A person may apply to the Chief Executive Officer (Housing) for a housing loan.
- (2) The Chief Executive Officer (Housing) on receiving an application for a housing loan may –
 - (a) subject to clause 2 – grant the application and advance the housing loan; or
 - (b) reject the application.
- (3) A housing loan may be advanced:
 - (a) to the person making the application; or
 - (b) if clause 4(4) applies – to the person making the application and an approved person jointly.

4. Maximum amount of housing loan

- (1) The maximum amount that may be advanced as a housing loan is:
 - (a) \$240 000; or
 - (b) if another amount is prescribed under subclause (7) – that other amount.
- (2) Subject to this clause, the Chief Executive Officer (Housing) may advance as a housing loan an amount less than the maximum amount as it determines to be appropriate.
- (3) The amount advanced as a housing loan must not exceed the purchase price of the premises plus any costs of and incidental to the purchase of the premises less the amount referred to in clause 2(1)(e).
- (4) If requested by the person making an application, the Chief Executive Officer (Housing) must take into account the combined gross weekly income of the person and an approved person in determining the amount to be advanced as a housing loan.

- (5) If subclause (4) applies, the gross weekly income of the approved person:
 - (a) must be taken into account in determining the amount to be advanced as the housing loan; and
 - (b) must not be not taken into account in determining the eligibility of the person making the application.
- (6) For this clause:
 - (a) if the gross weekly income of a person making an application includes an amount that is not a whole dollar – the gross weekly income must be calculated exclusive of the amount; or
 - (b) if subclause (4) applies and the combined gross weekly income includes an amount that is not a whole dollar – the combined gross weekly income must be calculated exclusive of the amount.
- (7) The Minister may prescribe an amount for subclause (1)(b).

5. Rate of interest on housing loan

- (1) The rate of interest payable on a housing loan is:
 - (a) the reference rate plus 1.74%; or
 - (b) the rate determined under subclause (2).
- (2) If there is a change in the reference rate, the Minister may determine that the rate applying to a housing loan before the date of the change is the rate payable on the housing loan.

6. Terms and conditions

- (1) If the Chief Executive Officer (Housing) grants an application to advance a housing loan to purchase a share in the premises to which the application relates, the Chief Executive Officer (Housing) and the person to whom the loan is advanced must enter into an agreement relating to the ownership of the premises.
- (2) An agreement under subclause (1) must provide for the following:
 - (a) that the person must purchase the premises by purchasing:
 - (i) a first share in the premises, being:
 - (A) not less than 70% of the market value of the premises; or

- (B) the market value of the premises less \$60 000,
whichever is the greater; and
- (ii) on repaying the loan advanced in respect of the first share – a final share, being the whole of the interest of the Chief Executive Officer (Housing) in the premises;
- (b) that the person has the right to possess the premises and, in consideration of that right, must pay the rates, taxes, charges and other outgoings in respect of the premises;
- (c) that if the person, without fault, at any time during the term of the agreement, wishes to sell the premises, the Chief Executive Officer (Housing) must not withhold its consent to the sale unless there are reasonable grounds for doing so;
- (d) that the Chief Executive Officer (Housing) may purchase a share in the premises of up to 40% of its market value if satisfied that the person is suffering financial hardship;
- (e) that the person may redraw monies paid over and above the minimum repayments for a purpose approved by the Minister.

7. Loan to be secured by mortgage

A housing loan:

- (a) must be secured by a mortgage over the premises in respect of which the loan is made; and
- (b) unless approved – must be secured by a first mortgage.

Division 3 Transfer of housing loan

8. Application to transfer housing loan

- (1) A person who has been advanced a housing loan may apply to the Chief Executive Officer (Housing):
 - (a) for consent to sell the premises in respect of which the loan was advanced; and
 - (b) for an advance of the amount specified in the application to purchase the premises specified in the application.
- (2) The amount specified in the application must not be more than the amount required to discharge the mortgage secured over the premises referred to in subclause (1)(a).

- (3) A person may not apply under subclause (1):
 - (a) unless the person has occupied the premises in respect of which the housing loan was advanced for more than:
 - (i) 3 years from the date the loan was advanced; or
 - (ii) if another period is approved – that other period;
 - (b) unless the person's gross weekly income is more than the amount prescribed under subclause (6);
 - (c) if the person owns premises or a share in premises in the Territory or in a State or another Territory of the Commonwealth (other than the premises or the share in the premises the subject of the housing loan); or
 - (d) unless approved – if the market value of the premises to be purchased is more than the amount prescribed under subclause (6).
- (4) A person applying under subclause (1) must specify in the application if he or she wants the premises that are to be purchased to be held under a tenancy in common together with the Chief Executive Officer (Housing).
- (5) A person applying under subclause (1) must provide the Chief Executive Officer (Housing) with any information that the Chief Executive Officer (Housing) requires including information relating to the person's gross weekly income.
- (6) The Minister may prescribe an amount for subclause (3)(b) or (d).

9. Determination of application for transfer of loan arrangements

The Chief Executive Officer (Housing) on receiving an application under clause 8(1) may:

- (a) subject to clause 10 – grant the application and advance a housing loan; or
- (b) reject the application.

10. Restrictions on advances under clause 9

- (1) Unless approved, a housing loan must not be advanced to a person under clause 9 to enable the person to refinance an existing loan.

- (2) A housing loan must not be advanced to a person under clause 9 unless the Chief Executive (Housing) is satisfied:
 - (a) that the person intends to live in the premises that are to be purchased; or
 - (b) if the application relates to the purchase of land – that the person intends to build a house on the land and to live in the house when built.
- (3) A housing loan must not be advanced to a person under clause 9 unless the Chief Executive Officer (Housing) is satisfied:
 - (a) that the person will in accordance with guidelines published under subclause (4) apply the proceeds received by him or her from the sale of the premises towards the purchase of the premises specified in the application; and
 - (b) if clause 8(4) applies – that the person is unlikely to be able to acquire premises to live in that are of an appropriate standard having regard to his or her circumstances.
- (4) The Chief Executive Officer (Housing) may publish guidelines for subclause (3).

11. Terms and conditions

- (1) If the Chief Executive Officer (Housing) grants an application under clause 9 to purchase a share in the premises specified in the application, the Chief Executive Officer (Housing) and the person granted the application must enter into an agreement relating to the ownership of the premises.
- (2) An agreement under subclause (1) must provide for the following:
 - (a) that the value of the interest of the Chief Executive Officer (Housing) in the premises must be the least of the following:
 - (i) 30% of the market value of the premises;
 - (ii) the proportion of the purchase price of the premises that represents the difference between the purchase price and the proceeds of the sale of the share of the person making the application in the premises purchased by way of the housing loan granted under clause 3;
 - (iii) the value, as at the date of the purchase of the premises purchased by way of the housing loan granted under clause 3, of the interest of the Chief Executive Officer (Housing) in the premises;

- (b) that the person must purchase a first share in the premises that is equal to the purchase price of the premises less the value of the interest of the Chief Executive Officer (Housing) in the premises;
- (c) that on repaying the loan advanced in respect of the first share, the person must purchase a final share in the premises;
- (d) that the person has the right to possess the premises and the person, in consideration of that right, must pay the rates, taxes, charges and other outgoings in respect of the premises;
- (e) that if the person, without fault, at any time during the term of the agreement, wishes to sell the premises, the Chief Executive Officer (Housing) must not withhold its consent to the sale unless there are reasonable grounds for doing so.

12. Maximum amount of loan

- (1) Subject to this Scheme, where the Chief Executive Officer (Housing) grants an application under clause 9(a), it must not make an advance to the person to whom the grant relates of an amount more than the lesser of:
 - (a) the amount applied for in the application; or
 - (b) the difference between:
 - (i) the amount required to purchase the share in the premises specified in the application; and
 - (ii) the amount of proceeds referred to in clause 10(3)(a) received by the person.
- (2) The Chief Executive Officer (Housing) may advance to a person a lesser amount under subclause (1) as it determines.

13. Lapse of grant of transfer of loan arrangement

- (1) Unless approved, an application granted under clause 9(a) lapses 3 months after the date it is granted unless the following has occurred:
 - (a) the premises referred to in clause 8(1)(a) have been sold;
 - (b) the person to whom the application relates:
 - (i) has purchased the premises referred to in clause 8(1)(b); or

- (ii) if the application relates to the purchase of land – has purchased the land and has built, commenced to build or has entered into a binding agreement to build a house on the land.
- (2) Subclause (1) does not prevent a person referred to in the subclause from making a further application under clause 8(1).

14. Transferred loan to be secured by mortgage

A housing loan advanced under clause 9:

- (a) must be secured by a mortgage over the premises in respect of which the loan is made; and
- (b) unless approved – must be secured by a first mortgage.

15. Rate of interest on transferred loan

- (1) The rate of interest payable on a housing loan advanced under clause 9 is:
 - (a) the reference rate plus 1.74%; or
 - (b) the rate determined under subclause (2).
- (2) If there is a change in the reference rate, the Minister may determine that the rate applying to a housing loan before the date of the change is the rate payable on the housing loan.

Division 4 Repayment of housing loan

16. Repayment of loan

- (1) A person to whom a housing loan is advanced must repay the loan to the Chief Executive Officer (Housing) together with any other amount that is to be repaid under this Scheme:
 - (a) subject to clause 17 – unless approved, by monthly instalments of not less than 20% and not more than 30% of the monthly equivalent of the person's gross weekly income; and
 - (b) subject to subclause (3) – not later than 35 years after the date on which the principal is first payable under the housing loan.

- (2) For a housing loan advanced under clause 9, the date on which the principal is first payable is the date on which the principal was first payable under the housing loan advanced to the person under clause 3.
- (3) The Chief Executive Officer (Housing) may extend the term of a housing loan to not more than 45 years if satisfied that the person to whom the loan is advanced would suffer financial hardship if the term is not extended.

17. Review of repayment of loan

- (1) The Chief Executive Officer (Housing) may:
 - (a) at the request of the person to whom a housing loan is advanced; or
 - (b) of its own volition,review the monthly instalments required by clause 16(1) to be made on the loan.
- (2) If the Chief Executive Officer (Housing) is satisfied that the review shows that the gross weekly income of the person has varied, it may vary the monthly instalments, either by increasing or decreasing them, so that the monthly instalments are not less than 20% or more than 30% of the monthly equivalent of the person's gross weekly income.
- (3) If the Chief Executive Officer (Housing) varies the monthly instalments payable by a person, the variation becomes due and payable from the date of the monthly instalment next payable under the housing loan after the variation is made.

18. Rate of interest if not residing in premises

- (1) The Chief Executive Officer (Housing) may increase the rate of interest per annum payable on a housing loan if the person to whom the loan is advanced does not reside in the premises to which the loan relates.
- (2) The rate of interest:
 - (a) is payable only in respect of the period of time the person does not reside in the premises; and
 - (b) is a rate per annum, not greater than 1% per annum more than the rate applying under this Scheme, that the Chief Executive Officer (Housing) determines.

Part 3 Fee assistance loans

19. Fee assistance loan

- (1) A person who has applied for a housing loan may apply to the Chief Executive Officer (Housing) for a fee assistance loan under this clause.
- (2) The Chief Executive Officer (Housing) on receiving the application may:
 - (a) grant the application and advance the loan; or
 - (b) reject the application.
- (3) A fee assistance loan may be advanced:
 - (a) to the person making the application; or
 - (b) if clause 4(4) applies – to the person making the application and an approved person jointly.
- (4) The Chief Executive Officer (Housing) must not grant an application for a fee assistance loan if the person making the application is not granted a housing loan.

20. Maximum amount of fee assistance loan

- (1) The maximum amount that may be advanced as a fee assistance loan is:
 - (a) \$10 000; or
 - (b) if another amount is prescribed under subclause (2) – that other amount.
- (2) The Minister may prescribe an amount for subclause (1).

21. Fee assistance loan to be secured by mortgage

A fee assistance loan

- (a) must be secured by a mortgage over the premises in respect of which the person is granted a housing loan; and
- (b) unless approved – must be secured by a first mortgage.

22. Repayment of fee assistance loan

A person to whom a fee assistance loan is advanced must repay the loan to the Chief Executive Officer (Housing) together with any other amounts that fall due for repayment under this Scheme in respect of the loan:

- (a) subject to clause 23 – unless approved, by monthly instalments of not more than 40% of the monthly equivalent of the person's gross weekly income; and
- (b) not later than 15 years after the date on which the principal is first payable under the loan.

23. Review of repayment of loan

- (1) The Chief Executive Officer (Housing) may:
 - (a) at the request of the person to whom a fee assistance loan is advanced; or
 - (b) of its own volition,review the monthly instalments required by clause 22 to be made on the loan.
- (2) If the Chief Executive Officer (Housing) is satisfied that the review shows that the gross weekly income of the person has varied, it may vary the monthly instalments, either by increasing or decreasing them, so that the monthly instalments are not more than 40% of the monthly equivalent of the person's gross weekly income.
- (3) If the Chief Executive Officer (Housing) varies the monthly instalments payable by a person, the variation becomes due and payable from the date of the monthly instalment next payable under the fee assistance loan after the variation is made.

Part 4 Miscellaneous

24. Fees and charges

- (1) The Chief Executive Officer (Housing) may levy fees and charges associated with:
 - (a) establishing a loan under this Scheme; and
 - (b) administering a loan under this Scheme.

(2) Fees and charges levied:

- (a) under subclause (1)(a) may include, but are not limited to, administration fees, application fees and valuation fees; and
- (b) under subclause (1)(b) may include, but are not limited to, third party dishonour fees (passed on by a financial institution), valuation fees and administration fees (including arrears management fees).

(3) Fees and charges levied:

- (a) under subclause (1)(a) – must be paid by the person applying for the loan; and
- (b) under subclause (1)(b) – must be paid by the person who is advanced the loan.

(4) Fees and charges levied under subclause (1) must be approved by the Minister.

25. Compliance with *Building Act*

A housing loan must not be advanced to a person to build a house in a manner that does not comply with the *Building Act*.

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

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

Amendment of Housing Assistance Schemes Regulations (SL No. 58, 1996)

Notified	19 December 1996
Commenced	19 December 1996

Amendments of Housing Assistance Schemes Regulations (SL No. 19, 1997)

Notified	11 June 1997
Commenced	11 June 1997

Amendments of Housing Assistance Schemes Regulations (SL No. 21, 1997)

Notified	1 July 1997
Commenced	1 July 1997 (r 2)

Amendments of Housing Assistance Schemes Regulations (SL No. 32, 1997)

Notified	10 December 1997
Commenced	10 December 1997

Amendment of Housing Assistance Schemes Regulations (SL No. 23, 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)

Amendments of Housing Assistance Schemes Regulations (SL No. 46, 2000)

Notified	30 August 2000
Commenced	4 September 2000 (r 1)

Amendments of Housing Assistance Schemes Regulations (SL No. 3, 2001)

Notified	14 March 2001
Commenced	14 March 2001

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)

Amendments of Housing Assistance Schemes Regulations (SL No. 3, 2003)

Notified	12 February 2003
Commenced	12 February 2003

Amendments of Housing Assistance Schemes Regulations (SL No. 4, 2003)

Notified	12 February 2003
Commenced	12 February 2003

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 04, p 8)

Amendments of Housing Assistance Schemes Regulations (SL No. 22, 2004)

Notified	30 June 2004
Commenced	30 June 2004

3 LIST OF AMENDMENTS

r 2	amd No. 2, 1994, r 2; No. 21, 1997, r 3; No. 23, 1998, r 2; No. 46, 2000, r 3; Act No. 38, 2002, s 7; Act No. 1, 2004, s 63; No. 22, 2004, r 2
r 3	sub No. 2, 1994, r 3 amd No. 21, 1997, r 4; No. 22, 2004, r 3
r 3A	ins No. 2, 1994, r 3 amd No. 23, 1998, r 2
r 4	amd No. 2, 1994, r 4
r 5	ins No. 32, 1997, r 2 sub No. 46, 2000, r 4
sch 1	amd No. 2, 1994, 5; No. 33, 1995, r 2; No. 58, 1996, r 1; No. 19, 1997, r 1; No. 21, 1997, r 5; No. 23, 1998, r 2; No. 3, 2001, r 2; Act No. 1, 2004, s 63
sch 2	amd No. 2, 1994, 6; No. 33, 1995, r 3; No. 58, 1996, r 2; No. 19, 1997, r 2; No. 21, 1997, r 6; No. 23, 1998, r 2; No. 3, 2001, r 3; Act No. 1, 2004, s 63
sch 3	amd No. 2, 1994, r 7; No. 12, 1995; No. 21, 1997, r 7; No. 23, 1998, r 2; Act No. 1, 2004, s 63
sch 4	ins No. 2, 1994, r 8 amd No. 21, 1997, r 8; No. 23, 1998, r 2; Act No. 1, 2004, s 63
sch 5	ins No. 2, 1994, r 8 amd No. 33, 1995, r 4; No. 19, 1997, r 3; No. 21, 1997, r 9; No. 23, 1998, r 2; No. 3, 2001, r 4; Act No. 1, 2004, s 63

sch 6	ins No. 21, 1997, r 10 amd No. 32, 1997, r 3; No. 23, 1998, r 2; No. 46, 2000, r 5; No. 3, 2001, r 5; No. 3, 2003, r 1; Act No. 1, 2004, s 63; No. 22, 2004, r 4
sch 7	ins No. 21, 1997, r 10 amd No. 32, 1997, r 4; No. 23, 1998, r 2; No. 46, 2000, r 6; No. 3, 2001, r 6; No. 3, 2003, r 2; No. 4, 2003; Act No. 1, 2004, s 63; No. 22, 2004, r 5
sch 8	ins No. 21, 1997, r 10 amd No. 32, 1997, r 5; No. 23, 1998, r 2; No. 46, 2000, r 7; No. 3, 2001, r 7; Act No. 1, 2004, s 63; No. 22, 2004, r 6
sch 9	ins No. 21, 1997, r 10 amd No. 32, 1997, r 6; No. 23, 1998, r 2; No. 46, 2000, r 8; No. 3, 2001, r 8; Act No. 1, 2004, s 63; No. 22, 2004, r 7
sch 10	ins No. 22, 2004, r 8