

# NORTHERN TERRITORY OF AUSTRALIA

## HOUSING REGULATIONS

As in force at 1 May 2016

### Table of provisions

#### **Part 1 Preliminary matters**

1	Citation .....	1
2	Commencement .....	1
3	Definitions.....	1
3A	Disqualifying offence .....	1

#### **Part 2 Letting of dwellings**

4	Powers of Chief Executive Officer (Housing) to let dwellings .....	2
5	Rebates of rent .....	3

#### **Part 3 Provision of housing for approved persons and their employees**

6	Definition.....	3
7	Acquisition, sale and letting of dwellings .....	4
8	Rent of dwellings let to Commonwealth, public authorities or their employees .....	4
9	Sale price.....	4
10	Chief Executive Officer (Housing) as agent for approved person .....	4
11	Assistance to charitable bodies .....	5

#### **Part 4 Miscellaneous matters**

12	Building for private person .....	5
13	Contents of seizure receipt.....	5

#### **Part 5 Infringement notice offences**

14	Infringement notice offence and prescribed amount payable .....	6
15	When infringement notice may be given.....	6
16	Contents of infringement notice .....	6
17	Payment by cheque.....	7
18	Withdrawal of infringement notice.....	7
19	Application of Part .....	7

#### **Schedule 1 Disqualifying offence**

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**Schedule 2      Infringement notice offences and  
prescribed amounts**

**ENDNOTES**

# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 May 2016

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## HOUSING REGULATIONS

### Regulations under the *Housing Act*

#### Part 1 Preliminary matters

##### 1 Citation

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

##### 2 Commencement

These Regulations shall come into operation on the commencement of the *Housing Act 1982*.

##### 3 Definitions

In these Regulations:

***eligible person*** means a person who is, in the opinion of the Chief Executive Officer (Housing):

- (a) of limited means; and
- (b) not adequately housed.

***infringement notice***, see regulation 15.

***infringement notice offence***, see regulation 14(1).

***prescribed amount***, see regulation 14(2).

##### 3A Disqualifying offence

- (1) For the definition ***disqualifying offence*** in section 5 of the Act, each of the following is a disqualifying offence:
  - (a) an offence specified in Schedule 1;
  - (b) an offence under a law of a foreign jurisdiction that, if it had been committed in the Territory, would have constituted an offence of a kind mentioned in paragraph (a);

- (c) any other offence, whether committed in the Territory or a foreign jurisdiction, for which the offender was sentenced to a term of imprisonment, whether or not the imprisonment was suspended in whole or in part.

- (2) In this regulation:

***foreign jurisdiction*** means a jurisdiction other than the Territory, including a jurisdiction outside Australia.

## **Part 2                      Letting of dwellings**

### **4                      Powers of Chief Executive Officer (Housing) to let dwellings**

- (1) Subject to this regulation, the Chief Executive Officer (Housing) may let a dwelling to an eligible person.
- (2) A letting under subregulation (1) must be:
  - (a) subject to regulation 5, at the rent of the dwelling determined under section 23 of the Act for that dwelling; and
  - (b) in accordance with these Regulations and any conditions which the Chief Executive Officer (Housing) thinks fit.
- (3) The Chief Executive Officer (Housing) may, in letting a dwelling under subregulation (1), give preference to an eligible person who, in its opinion:
  - (a) is occupying an insanitary or overcrowded dwelling-place; or
  - (b) is living under unsatisfactory housing conditions; or
  - (c) is homeless.
- (4) The Chief Executive Officer (Housing) must not let a dwelling under this regulation to a person unless the Chief Executive Officer (Housing) is satisfied that the person intends to use the dwelling as a home for the person or the person's dependants and for no other purpose.
- (5) Subject to subregulation (4), with the written consent of the Minister, the Chief Executive Officer (Housing) may, for a period not exceeding 6 months, let a dwelling to a person who is not an eligible person but who has been displaced from a dwelling-place by process of law and who, in its opinion:
  - (a) is occupying an insanitary or overcrowded dwelling-place; or

- (b) is living under unsatisfactory housing conditions; or
- (c) is homeless.

## **5 Rebates of rent**

The Chief Executive Officer (Housing) may, in its discretion, grant a rebate of the whole of the rent payable in respect of a dwelling by an eligible person, or of such portion of that rent as it thinks fit, and for such period as it thinks fit.

# **Part 3                      Provision of housing for approved persons and their employees**

## **6 Definition**

In this Part:

***approved person*** means:

- (a) the Territory or the Commonwealth; or
- (b) an authority or body constituted by or under a law of the Territory or the Commonwealth; or
- (c) an individual, partnership, company, co-operative trading society or association engaged in:
  - (i) commercial or industrial business activities; or
  - (ii) activities of defence significance;

in the Territory and approved by the Minister for this Part after considering the recommendation of the Chief Executive Officer (Housing); or

- (d) a body (other than a body mentioned in paragraph (e)) approved by the Minister and taken to be registered in the Territory under section 119A of the Corporations Act 2001; or
- (e) a body approved by the Minister that, in the opinion of the Minister, carries out or promotes in the Territory services and programmes for the benefit of the community.

**7 Acquisition, sale and letting of dwellings**

- (1) Subject to this Part, the Chief Executive Officer (Housing) may acquire a dwelling and let or sell it to an approved person or to an employee of an approved person upon such terms and conditions as are:
- (a) agreed upon between the Chief Executive Officer (Housing) and the approved person or the employee, as the case may be; and
  - (b) if the dwelling is to be let or sold to a person mentioned in regulation 6(c) or to the employee of such a person - approved by the Minister.
- (2) Where the Chief Executive Officer (Housing) lets or sells under subregulation (1) a dwelling, the terms and conditions mentioned in that subregulation apply to and in relation to the letting or selling whether or not the person to whom the dwelling is let or sold is an approved person.

**8 Rent of dwellings let to Commonwealth, public authorities or their employees**

The rent for a dwelling let under regulation 7 to a person mentioned in regulation 6(a) or (b), or to the employee of such a person, must be at the rent determined under section 23 of the Act for that dwelling.

**9 Sale price**

Subject to section 35 of the Act, the price at which a dwelling must be sold under regulation 7 is the market value of the dwelling.

**10 Chief Executive Officer (Housing) as agent for approved person**

For the purposes of assisting an approved person to obtain, at the person's own expense, housing for the person's employees, the Chief Executive Officer (Housing) may, with the approval of the Minister and with the consent and at the expense of the person, act as the agent of the person in arranging for the construction or purchase of the housing and, without limiting the generality of the foregoing, may:

- (a) conduct negotiations; and
- (b) enter into contracts;

on behalf of the person.

**11 Assistance to charitable bodies**

In addition to the assistance otherwise available under these Regulations to a body mentioned in regulation 6(e), the Chief Executive Officer (Housing) may, with the approval of the Minister and on such terms and conditions as the Minister, after consultation with the Chief Executive Officer (Housing), approves:

- (a) acquire a building and let or sell it to that body; or
- (b) assist or act as agent in the manner described in regulation 10 in connection with the obtaining of a building;

for use by that body, otherwise than as a residence, for or in connection with its day-to-day activities.

**Part 4 Miscellaneous matters****12 Building for private person**

The Chief Executive Officer (Housing) may enter into a contract with a private person who is the holder of land, whether freehold or leasehold, for the building of a dwelling on that land, on such terms as shall be agreed upon between the Chief Executive Officer (Housing) and the private person.

**13 Contents of seizure receipt**

A receipt about the seizure of a seized item required to be issued under section 28G(5) of the Act must contain the following information:

- (a) a description of the seized item;
- (b) the date and time of the seizure;
- (c) a statement to the effect that if the seized item is not retained as evidence, it can be collected by its owner within 3 months of the date of seizure;
- (d) the name and address of the place from which the seized item can be collected;
- (e) the name and signature of the public housing safety officer issuing the receipt.

## **Part 5                      Infringement notice offences**

### **14                      Infringement notice offence and prescribed amount payable**

- (1) An ***infringement notice offence*** is an offence against a provision specified in Schedule 2.
- (2) The ***prescribed amount*** for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in Schedule 2.

### **15                      When infringement notice may be given**

If a public housing safety officer reasonably believes a person has committed an infringement notice offence, the officer may give a notice (an ***infringement notice***) to the person.

### **16                      Contents of infringement notice**

- (1) The infringement notice must specify the following:
  - (a) the name and address of the person, if known;
  - (b) the date the infringement notice is given to the person;
  - (c) the date, time and place of the infringement notice offence;
  - (d) a description of the offence;
  - (e) the prescribed amount payable for the offence;
  - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act*, to whom the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
  - (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
  - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;



- (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act*, including (but not limited to) action for the following:
  - (i) suspending the person's licence to drive;
  - (ii) seizing personal property of the person;
  - (iii) deducting an amount from the person's wages or salary;
  - (iv) registering a statutory charge on land owned by the person;
  - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

#### **17 Payment by cheque**

If the person tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

#### **18 Withdrawal of infringement notice**

- (1) The CEO may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
  - (a) within 28 days after the infringement notice is given to the person; and
  - (b) before payment of the prescribed amount.

#### **19 Application of Part**

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, this Part does not:
  - (a) require an infringement notice to be given; or

- (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
  - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

## Schedule 1 Disqualifying offence

regulation 3A

### Part A – Criminal Code and *Misuse of Drugs Act*

- 1 An indictable offence under the Criminal Code or *Misuse of Drugs Act* (whether the charge of the offence is dealt with summarily or on indictment).
- 2 An offence against section 71, 121, 125C, 188(1) or 213(1) of the Criminal Code.
- 3 An offence against any of the following sections of the *Misuse of Drugs Act*:
  - (a) section 7 – if the offence is committed in circumstances mentioned in section 7(2)(c);
  - (b) section 9 – if the offence is committed in circumstances mentioned in section 9(2)(c)(ii) or (f);
  - (c) section 15, 16 or 17.
- 4 An offence committed before the commencement of the *Criminal Code* that would, if committed after that commencement, have constituted an indictable offence under the Criminal Code or an offence mentioned in item 2.
- 5 An offence committed before the commencement of the *Misuse of Drugs Act* that would, if committed after that commencement, have constituted an indictable offence under the *Misuse of Drugs Act* or an offence mentioned in item 3.

### Part B – *Firearms Act*

An offence against section 34(5), 39(2), 40(6), 42(2), 43(2), 58, 59, 62, 63, 67(1), 71, 77, 78, 82(1), 83, 84(1), 85, 86 or 89 of the *Firearms Act*.

### Part C – *Weapons Control Act*

An offence against section 6, 7 or 8 of the *Weapons Control Act*.

### Part D – *Summary Offences Act*

An offence against section 46A, 47, 47AA(1), 47AB, 47A, 47B(4), 49A(1), 50, 53, 55(1), 56, 60, 60A, 61(2), 68A(1), 69A or 69B of the *Summary Offences Act*.

**Part E – *Domestic and Family Violence Act***

An offence against section 120(1) of the *Domestic and Family Violence Act*.

**Part F – Commonwealth Law**

An offence against a law of the Commonwealth the penalty for which is imprisonment for 2 years or more.

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**Schedule 2      Infringement notice offences and prescribed amounts**

regulation 14

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<b>Provision</b>	<b>Prescribed amount in penalty units</b>
section 28D(5) of Act	0.5
section 28E(4) of Act	0.5

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## ENDNOTES

### 1 KEY

Key to abbreviations

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

### 2 LIST OF LEGISLATION

#### ***Housing Regulations (SL No. 10, 1983)***

Notified	25 March 1983
Commenced	15 April 1983 (r 2, s 2 <i>Housing Act 1982</i> (Act No. 76, 1982) and Gaz G5, 4 February 1983, p 3)

#### ***Amendment of the Housing Regulations (SL No. 36, 1985)***

Notified	11 December 1985
Commenced	15 January 1986 (r 2, s 2 <i>Housing Amendment Act 1984</i> (No. 48, 1984) and Gaz G2, 15 January 1986, p 8)

#### ***Amendment of Housing Regulations (SL No. 21, 1998)***

Notified	1 July 1998
Commenced	1 July 1998

#### ***Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)***

Assent date	29 June 2001
Commenced	15 July 2001 (s 2, s 2 <i>Corporations Act 2001</i> (Cth Act No. 50, 2001) and Cth Gaz S285, 13 July 2001)

#### ***Statute Law Revision Act 2005 (Act No. 44, 2005)***

Assent date	14 December 2005
Commenced	14 December 2005

#### ***Housing Amendment Regulations (SL No. 11, 2012)***

Notified	28 March 2012
Commenced	28 March 2012

#### ***Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)***

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 <i>Local Court (Repeals and Related Amendments) Act 2016</i> (Act No. 9, 2016) and Gaz S, 29 April 2016)

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***Local Court (Repeals and Related Amendments) Act 2016 (Act No. 9, 2016)***

Assent date	6 April 2016
Commenced	1 May 2016 ( <i>Gaz</i> S34, 29 April 2016)

**3 LIST OF AMENDMENTS**

pt I hdg	amd No. 11, 2012, r 6
r 3	amd No. 21, 1998, r 2
	sub No. 11, 2012, r 3
r 3A	ins No. 11, 2012, r 3
pt II hdg	amd No. 11, 2012, r 6
r 4	amd No. 21, 1998, r 2; No. 11, 2012, r 6
r 5	amd No. 21, 1998, r 2
pt III hdg	amd No. 11, 2012, r 6
r 6	amd No. 21, 1998, r 2; Act No. 17, 2001, s 22; No. 11, 2012, r 6
r 7	amd No. 21, 1998, r 2; No. 11, 2012, r 6
rr 8 – 9	amd No. 11, 2012, r 6
r 10	amd No. 21, 1998, r 2; No. 11, 2012, r 6
r 11	amd No. 21, 1998, r 2; Act No. 44, 2005, s 35; No. 11, 2012, r 6
pt IV hdg	amd No. 11, 2012, r 6
r 12	amd No. 21, 1998, r 2
r 13	ins No. 36, 1985, r 3
	sub No. 11, 2012, r 4
pt 5 hdg	ins No. 11, 2012, r 4
rr 14 – 19	ins No. 11, 2012, r 4
sch 1	ins No. 11, 2012, r 5
	amd Act No. 9, 2016, s 160; Act No. 8, 2016, s 42
sch 2	ins No. 11, 2012, r 5