

NORTHERN TERRITORY OF AUSTRALIA

**HOUSING (GOVERNMENT EMPLOYEES) SALES SCHEME
REGULATIONS**

As in force at 1 July 1998

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NORTHERN TERRITORY OF AUSTRALIA

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HOUSING (GOVERNMENT EMPLOYEES) SALES SCHEME REGULATIONS

Regulations *Housing Act*

1 Citation

These Regulations may be cited as the *Housing (Government Employees) Sales Scheme Regulations*.

2 Repeal

The *Housing (Government Employees) Sales Scheme Regulations* (No. 11 of 1983) are repealed.

3 Scheme

The Scheme set out in the Schedule is:

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

of the Act.

4 Application of sections 29 and 37(3) of the Act

- (1) Section 29 of the Act shall apply to and in relation to the Scheme set out in the Schedule.
- (2) For the purposes of section 37(3) of the Act, clauses 11, 12 and 19 of the Scheme set out in the Schedule shall apply, in accordance with those clauses, to a housing scheme administered, in pursuance of section 33F(2) of the former Act, by the former Commission as agent for the Territory.

5 Transitional

Where, immediately before the commencement of these Regulations, there was in existence a Commission loan within the

meaning of the Scheme set out in the Schedule to the Regulations referred to in regulation 2, the Commission loan shall, on and from that commencement, for the purposes of the Scheme set out in the Schedule to these Regulations, be deemed to be a Commission loan Class 1 within the meaning of that second-mentioned Scheme.

Schedule Scheme

regulations 3 and 4

sections 22, 24, 29 and 37(3)

1. Interpretation

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

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

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

Category 1 purchaser means an eligible person who has, whether jointly with an approved person or not, by way of a Commission loan Class 1, purchased under this Scheme a dwelling and who has thereafter ceased to be an eligible person, but does not include such a person who has ceased to be an eligible person because of death or, in the opinion of the Chief Executive Officer (Housing), redundancy or retirement.

Category 2 purchaser means an eligible person, including a Category 1 purchaser:

- (a) who has, whether jointly with an approved person or not, by way of a Commission loan Class 1, purchased under this Scheme a dwelling; and
- (b) who, in the opinion of the Chief Executive Officer (Housing):
 - (i) lets for profit the dwelling referred to in paragraph (a), irrespective of whether the Chief Executive Officer (Housing) has consented to that letting; or
 - (ii) ceases to occupy the dwelling referred to in paragraph (a),

for so long as he so lets or ceases to occupy, as the case may be, that dwelling.

Class 1 purchaser means an eligible person whose weekly income is not more than 125% of the average weekly earnings per employed male unit in the Territory as shown from time to time in Catalogue No. 6302.0 issued by the Australian Bureau of Statistics established under the *Australian Bureau of Statistics Act 1975* of

the Commonwealth.

Class 2 purchaser means an eligible person whose weekly income is in excess of 125% of the average weekly earnings per employed male unit in the Territory as shown from time to time in Catalogue No. 6302.0 issued by the Australian Bureau of Statistics established under the *Australian Bureau of Statistics Act 1975* of the Commonwealth.

Commission loan Class 1 means an advance made under clause 8(1).

Commission loan Class 2 means an advance made under clause 13(2).

eligible person means a person who is:

- (a) an employee as defined in the *Public Sector Employment and Management Act*;
- (b) unless otherwise determined by the Minister, an employee of a statutory corporation;
- (c) an officer or employee within the meaning of the *Teaching Service Act*;
- (d) a member within the meaning of the *Police Administration Act*;
or
- (e) a person belonging to a class of persons declared under clause 2 by the Minister to be eligible persons for the purposes of this Scheme,

but does not, unless otherwise determined by the Chief Executive Officer (Housing), include such a person who occupies such an office, or belongs to such a class of persons, temporarily or on a limited tenure basis, or who:

- (f) owns, or whose dependants own, a habitable house or residential lease; or
- (g) has owned, or whose dependants have owned, a habitable house,

situated in the Territory.

(2) For the purposes of:

- (a) an application under clause 12(1);

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- (b) the determination under clause 13 of the application; and
 - (c) clauses 14(1) and 15,

purchase:

- (d) in relation to a house – includes the completion of, repairs to and modification of the house; and
- (e) in relation to a residential block – shall always include the erection, in accordance with clauses 14(1)(a)(ii) and 15(b), of a house upon the block,

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

2. Minister may declare class of persons to be eligible persons

The Minister may, by notice in the *Gazette*, declare persons belonging to a class of persons specified in the notice to be eligible persons for the purposes of this Scheme.

3. Sale of dwellings to eligible persons

The Chief Executive Officer (Housing) shall not sell under this Scheme a dwelling to a person who is not, on the date of final settlement of the sale, an eligible person or an eligible person and an approved person jointly.

4. Saleable dwellings

A dwelling shall not be sold under this Scheme other than at the discretion of the Chief Executive Officer (Housing).

5. Application by eligible person

- (1) An eligible person may, where he:

- (a) was such a person immediately before 1 September 1984; or
- (b) in the opinion of the Chief Executive Officer (Housing), became such a person after 1 September 1984 as a consequence of a process of recruitment which was occurring in relation to him before that date,

may, in his own name, or jointly with an approved person, make, subject to subclause (2), on or before 31 December 1986, an application in the approved form to the Commission to purchase a dwelling.

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- (2) An application referred to in subclause (1) may be made on or after 1 January 1987 by an eligible person referred to in that subclause where the Chief Executive Officer (Housing) referred to in that subclause, is satisfied that the reason that the person did not make such an application before 1 January 1987 is that the duties attaching to the employment, or office which he holds, by virtue of which he is such an eligible person, were performed in such a remote locality or localities in the Territory that:

- (a) he was unable; or
- (b) it would not have been feasible for him,

to make such an application before 1 January 1987.

6. Determination of application

Where the Chief Executive Officer (Housing) receives an application under clause 5(1), it may:

- (a) grant the application by selling to the eligible person making the application, or jointly to that eligible person and an approved person where that application is made in their joint names, a dwelling available for sale under this Scheme; or
- (b) reject the application.

7. Dwellings to be sold at market value unless otherwise determined by Minister

Unless otherwise determined under section 35 of the Act by the Minister, a dwelling shall not be sold under this Scheme other than at its market value.

8. Commission loan for purchase of dwelling

- (1) Subject to this Scheme, the Chief Executive Officer (Housing) may make an advance to an eligible person, or an eligible person and an approved person jointly, for the purchase under this Scheme of a dwelling.
- (2) An eligible person may, in his own name or jointly with an approved person, make an application in the approved form to the Chief Executive Officer (Housing) for a Commission loan Class 1 and, for such purpose, shall provide the Chief Executive Officer (Housing) with such information as it requires, including information in relation to his or their income.

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- (3) Where the Chief Executive Officer (Housing) receives an application under subclause (2), it may:
- (a) subject to this Scheme, grant the application by making a Commission loan Class 1 to the eligible person making the application, or jointly to that eligible person and an approved person where that application is made in their joint names; or
 - (b) reject the application.
- (4) Notwithstanding any other provision of this Scheme, a Commission loan Class 1 shall not be made to an eligible person (whether jointly with an approved person or not) other than an eligible person referred to in clause 5(1).

9. Maximum amount of assistance

- (1) The amount of a Commission loan Class 1 shall not exceed 95% of:
- (a) the market value of the dwelling to which the Commission loan Class 1 relates; or
 - (b) where the Minister has determined under section 35 of the Act the amount at which the dwelling to which the Commission loan Class 1 relates shall be sold – that amount so determined,

whichever is the lesser.

- (2) Subclause (1) does not operate so as to require the Chief Executive Officer (Housing) to advance the maximum amount stated therein to an eligible person, or jointly to an eligible person and an approved person, and the Chief Executive Officer (Housing) may advance such lesser amount as it determines in accordance with guidelines, from time to time published by the Chief Executive Officer (Housing), relating to the ability of an eligible person to repay a Commission loan Class 1.

10. Repayment period for Commission loan class 1

An eligible person, or an eligible person and an approved person jointly, purchasing under this Scheme a dwelling shall repay a Commission loan Class 1 made to him or them not later than 45 years after the date on which principal is first payable under the agreement relating to the Commission loan Class 1.

11. Rates of interest

- (1) Subject to this clause and clauses 11A and 19, the rates of interest payable on a Commission loan Class 1 shall be:
 - (a) in the case of a Commission loan Class 1 made to a Class 1 purchaser – 6.75% per annum; and
 - (b) in the case of a Commission loan Class 1 made to a Class 2 purchaser – 9.75% per annum.
- (3) For the purposes of determining whether a purchaser is a Class 1 or 2 purchaser, the Chief Executive Officer (Housing) may require the purchaser, within the period specified in the requirement, to provide it with all information relating to all the income earned by that purchaser.
- (4) A Class 1 or 2 purchaser the subject of a requirement under subclause (3) shall not fail to comply with that requirement within the period specified in that requirement.
- (5) Where the classification of a purchaser varies, the rate of interest payable in respect of the agreement relating to the Commission loan Class 1 to which that variation relates shall become due and payable on and from the monthly instalment next following that variation.
- (6) Subject to subclause (7), subclauses (1) to (5) inclusive shall apply to and in relation to a person who has purchased, under a housing scheme administered, in pursuance of section 33F(2) of the former Act, by the former Commission as agent for the Territory, a dwelling, and which dwelling was so purchased, whether in whole or in part, by way of a loan, under the housing scheme so specified, to the person and in respect of which loan there is a balance outstanding.
- (7) For the purposes of this clause:
 - (a) a loan referred to in subclause (6) shall be deemed to be a Commission loan Class 1;
 - (b) a person referred to in subclause (6) who is paying, in respect of a loan referred to in that subclause, a rate of interest of not more than 6.75% per annum shall, notwithstanding the rate of interest specified in subclause (1)(a) in respect of a Class 1 purchaser, but subject to subclauses (2) to (5) inclusive, be deemed to be a Class 1 purchaser; and
 - (c) a person referred to in subclause (6) who is paying, in respect of a loan referred to in that subclause, a rate of interest of

more than 6.75% per annum shall, notwithstanding the rate of interest specified in subclause (1)(b) in respect of a Class 2 purchaser, but subject to subclauses (2) to (5) inclusive, be deemed to be a Class 2 purchaser.

11A. Variation of rates of interest

- (1) With effect on and from 1 September 1984, the rates of interest specified in clause 11(1) shall each be increased by 0.25%.
- (2) Notwithstanding any other provision of this Scheme, the rate of interest payable on a Commission loan Class 1 in existence immediately before 1 September 1984, irrespective of whether it has been made to a Class 1 or 2 purchaser, shall, with effect on and from 1 September of each year after 1984, be increased by 0.5% until a ceiling equivalent to the maximum rate of interest from time to time payable on a first mortgage under the housing assistance scheme set out in the Schedule to the Home Purchase Assistance Scheme Regulations is reached.
- (3) Subclauses (1) and (2) shall apply to and in relation to a rate of interest payable on a loan referred to in clause 11(6) deemed by virtue of clause 11(7)(a) to be a Commission loan Class 1, irrespective of whether the person to whom that loan was made is deemed by virtue of clause 11(7) to be a Class 1 or 2 purchaser.
- (4) Notwithstanding any other provision of this Scheme, the rate of interest payable on a Commission loan Class 1 which comes into existence on or after 1 September 1984, irrespective of whether it is made to a Class 1 or 2 purchaser, shall, with effect on and from the expiration of each 12 months after interest first becomes payable under the agreement relating to the Commission loan Class 1, be increased by 0.5% until a ceiling equivalent to the maximum rate of interest from time to time payable on a first mortgage under the housing assistance scheme set out in the Schedule to the Home Purchase Assistance Scheme Regulations is reached.
- (5) Where the operation of this clause varies a rate of interest payable on a Commission loan Class 1, the variation so made of the rate of interest shall become due and payable on and from the monthly instalment, under the agreement relating to the Commission loan Class 1, next following that variation.

12. Application for transfer of loan arrangements

- (1) Where a person has, whether jointly with an approved person or not, by way of a Commission loan Class 1 purchased a dwelling and:

- (a) the mortgage executed in relation to the Commission loan Class 1 has not been discharged; and
- (b) he 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, in his own name or jointly with an approved person, make an application in the approved form to the Chief Executive Officer (Housing):

- (c) to sell the dwelling and discharge the mortgage referred to in paragraph (a); and
- (d) for an advance from the Chief Executive Officer (Housing):
 - (i) of an amount, being an amount not more than the amount used to discharge the mortgage referred to in paragraph (a), specified in the application;
 - (ii) subject to clauses 20 and 21, upon the same terms and conditions upon which the Commission loan Class 1 referred to in paragraph (a) was granted; and
 - (iii) for the purposes of the purchase of:
 - (A) a house; or
 - (B) a residential block,specified in the application.

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

- (3) Subject to subclause (4), for the purposes of this Scheme, this clause shall apply to and in relation to a person who has, whether jointly with an approved person or not, purchased, under a housing scheme administered, in pursuance of section 33F(2) of the former Act, by the former Commission as agent for the Territory, a dwelling, and which dwelling was so purchased, whether in whole or in part, by way of a loan, under the housing scheme so specified,

to the person, or the person and the approved person jointly, and in respect of which loan there is a balance outstanding.

(4) For the purposes of subclause (3):

- (a) a loan referred to in that subclause shall be deemed to be a Commission loan Class 1; and
- (b) a mortgage executed under the scheme referred to in that subclause relating to a loan referred to in that subclause shall be deemed to be a mortgage referred to in subclause (1)(a).

13. Determination of application for transfer of loan arrangements

(1) Where the Chief Executive Officer (Housing) receives an application under clause 12(1), it may:

(a) where it is satisfied that the person, or the person and the approved person jointly, making the application will, if the application is granted:

- (i) purchase; and
- (ii) apply, in accordance with guidelines from time to time published by the Chief Executive Officer (Housing), all the proceeds received by him or them from the sale of the dwelling referred to in clause 12(1) owned by him or them towards the purchase of,

the house or residential block specified in the application, grant the application; or

(b) reject the application.

(2) Subject to this Scheme, where the Chief Executive Officer (Housing) grants under subclause (1)(a) an application under clause 12(1), it shall make an advance to the person, or the person and the approved person jointly, to whom the grant relates of an amount not more than:

(a) the amount applied for in the application for the purchase of the house or residential block specified in the application; and

(b) the difference between:

- (i) the amount required to purchase the house or residential block specified in the application; and
- (ii) the amount of proceeds referred to in subclause (1)(a)(ii) received by him or them, as the case may be.

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- (3) The grant under subclause (1)(a) of an application under clause 12(1) does not operate so as to require the Commission to advance under subclause (2) the amount applied for in the application to the person, or the person and the approved person jointly, to whom the grant relates, and the Chief Executive Officer (Housing) may advance such lesser amount as it determines in accordance with guidelines, from time to time published by the Chief Executive Officer (Housing), relating to the ability of a person, or a person and an approved person jointly, to repay a Commission loan Class 2.

14. Lapse of grant of transfer of loan arrangements

- (1) Subject to subclause (2), the grant under clause 13(1)(a) of an application under clause 12(1) lapses immediately after the expiration of 3 months from the date of the grant unless:
- (a) the person, or the person and the approved person jointly, to whom that grant relates has or have:
 - (i) sold the dwelling owned by him or them; and
 - (ii) purchased the house or residential block specified in his or their application and, in the case of the purchase of a residential block, has or have erected or, in the opinion of the Chief Executive Officer (Housing), has or have entered into a binding agreement to erect, a house upon the block; or
 - (b) otherwise approved.
- (2) Nothing in subclause (1) prevents a person, or a person and an approved person, referred to in that subclause from making a further application under clause 12(1).

15. Agreement relating to commission loan class 2 deemed to contain certain provisions

There shall be deemed to be, in each agreement relating to a Commission loan Class 2, provisions that the person, or the person and the approved person jointly, to whom it is made:

- (a) apply all the proceeds referred to in clause 13(1)(a)(ii) received by him or them to the purchase of the house or the residential block the subject of the agreement; and
- (b) where the purchase to which the agreement relates is of a residential block – complete, to the satisfaction of the Chief Executive Officer (Housing), the erection of a house upon the block not later than 12 months, or such longer approved

period, after the date of execution of the agreement,

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

16. Security for advance

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

17. Insurance

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

18. False statement

A person who has knowingly supplied false information:

- (a) on an application under clause 8(2) or 12(1), whether in the application form or in respect of any other information required to be supplied to the Commission; or
- (b) in complying with a requirement under clause 11(3) applicable to him,

shall be taken to have breached the terms of his agreement with the Chief Executive Officer (Housing) and the Chief Executive Officer (Housing) may accordingly take action under the provisions of the agreement relating to the breach.

19. Category 1 and 2 purchasers

- (1) Where an eligible person who has, whether jointly with an approved person or not, by way of a Commission loan Class 1, purchased a dwelling, becomes:

- (a) a Category 1 purchaser; or
- (b) a Category 2 purchaser,

on and from the date of the eligible person so becoming a Category 1 or 2 purchaser, and notwithstanding the rate of interest otherwise payable under the agreement relating to the Commission loan Class 1 or any other action that may be taken under the Act or that agreement in respect of a Category 1 or 2 purchaser, the rate of interest payable under that agreement by the eligible person, or jointly by the eligible person and the approved person, as the case may be, on the balance of the purchase price for the time being unpaid under that agreement shall be:

- (c) in the case of an eligible person who becomes a Category 1 purchaser – increased by 0.5% per annum until a ceiling equivalent to the maximum rate of interest from time to time payable on a first mortgage under the housing assistance scheme set out in the Schedule to the Home Purchase Assistance Scheme Regulations is reached; and
 - (d) in the case of an eligible person who becomes a Category 2 purchaser – increased to the rate of interest from time to time determined by the Minister but, in any case, not more than 18%.
- (2) Subclause (1) shall apply to and in relation to a person referred to in clause 11(6) who became such a person on or after 1 January 1981.
- (3) For the purposes of subclause (2):
- (a) a loan referred to in clause 11(6) shall be deemed to be a Commission loan Class 1;
 - (b) subject to paragraph (c), a person referred to in clause 11(6) shall be deemed to be an eligible person; and
 - (c) a person referred to in clause 11(6) shall not be deemed to be an eligible person who has become a Category 1 purchaser other than where he has, in the opinion of the Chief Executive Officer (Housing), ceased, other than because of death or, in the opinion of the Chief Executive Officer (Housing), redundancy or retirement, to be:

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- (i) a person referred to in paragraphs (a), (b), (c) or (d) of the definition of **eligible person**; or
 - (ii) in the case of a person who, immediately before 1 July 1978, was an Officer of the Australian Public Service and who, on that date, was compulsorily transferred under the *Public Service Act* to the Public Service within the meaning of that Act and who, after that date, transfers back to the Australian Public Service – an Officer of the Australian Public Service (other than where, upon that cessation, he immediately becomes an eligible person).

20. Interest payable on commission loan class 2

Where a person, other than a Category 1 purchaser, has, whether jointly with an approved person or not, by way of a Commission loan Class 2, purchased a house or residential block, on and from the date of execution of the agreement relating to the Commission loan Class 2, and notwithstanding the rate of interest otherwise payable under the agreement, the rate of interest payable under that agreement by the person, or jointly by the person and the approved person, as the case may be, on the balance of the amount of that Commission loan Class 2 for the time being unpaid under that agreement shall be increased by 0.5% per annum until a ceiling equivalent to the maximum rate of interest from time to time payable on a first mortgage under the scheme referred to in clause 19(1)(c) is reached.

21. Interest payable on commission loan class 2 where house let for profit, &c.

Where a person has, whether jointly with an approved person or not, by way of a Commission loan Class 2, purchased a house or residential block upon which a house has been erected:

- (a) lets for profit the house, irrespective of whether the Chief Executive Officer (Housing) has consented to that letting; or
- (b) ceases to occupy the house,

on and from the date he so lets or ceases to occupy, as the case may be, that house and for so long as he so lets or ceases to occupy that house, and notwithstanding the rate of interest otherwise payable under the agreement relating to the Commission loan Class 2 or any other action that may be taken under the Act or that agreement in respect of such a person, the rate of interest payable under that agreement by the person, or jointly by the person and the approved person, as the case may be, on the

balance of the amount of that Commission loan Class 2 for the time being unpaid under that agreement shall be increased to the rate of interest from time to time determined for the purposes of clause 19(1)(d) by the Minister.

22. Guidelines

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

- (a) the amount of a Commission loan Class 1 or 2 that may be made to a person, or a person and an approved person jointly, having regard to:
 - (i) in the case of a Commission loan Class 1 – the market value of the dwelling to which the Commission loan Class 1 relates and the income of the person; and
 - (ii) in the case of a Commission loan Class 2 – the market value of the dwelling, or the market value, in the opinion of the Chief Executive Officer (Housing), of the house or residential block, to which the Commission loan Class 2 relates and the income of the person;
- (b) the rate of interest applicable to a Commission loan Class 1 or 2; and
- (c) the extent to, and the manner in, which proceeds referred to in clause 13(1)(a)(ii) may be applied towards the completion of, repairs to, or modification of the house referred to in that clause to which those proceeds relate,

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

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 (Government Employees) Sales Scheme Regulations (SL No. 51, 1983)

Notified	22 December 1993
Commenced	22 December 1993

Amendments of the Housing (Government Employees) Sales Scheme Regulations (SL No. 53, 1984)

Notified	31 August 1983
Commenced	1 September 1984 (r 1)

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date	19 April 1993
Commenced	1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993</i> (Act No. 11, 1993) and Gaz S53, 29 June 1993)

Amendments of Housing (Government Employees) Sales Scheme Regulations (SL No. 24, 1998)

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

3 LIST OF AMENDMENTS

sch	amd No. 53, 1984; Act No. 28, 1993, s 3; No. 24, 1998
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