

NORTHERN TERRITORY OF AUSTRALIA
AMENDMENTS OF HOUSING ASSISTANCE SCHEMES REGULATIONS

Regulations 2004, No. 22

TABLE OF PROVISIONS

Regulation

1. Principal Regulations
2. Interpretation
3. Schemes
4. Schedule 6
5. Schedule 7
6. Schedule 8
7. Schedule 9
8. New Schedule 10



NORTHERN TERRITORY OF AUSTRALIA

Regulations 2004, No. 22*

Regulations under the *Housing Act*

I, EDWARD JOSEPH EGAN, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Housing Act*.

Dated 28 June 2004.

E. J. EGAN
Administrator

By His Honour's Command

C. B. BURNS
Minister for Transport and Infrastructure
acting for and on behalf of the
Minister for Housing

* Notified in the *Northern Territory Government Gazette* on 30 June 2004.

**AMENDMENTS OF HOUSING ASSISTANCE SCHEMES
REGULATIONS**

1. Principal Regulations

The Housing Assistance Schemes Regulations are in these Regulations referred to as the Principal Regulations.

2. Interpretation

Regulation 2 of the Principal Regulations is amended –

- (a) by omitting from paragraph (a) of the definition of "first home owner's assistance" in subregulation (1) "Act;" and substituting "Act; and";
- (b) by omitting paragraph (b) of the definition of "first home owner's assistance" in subregulation (1); and
- (c) by omitting the definition of "market value" in subregulation (1) and substituting the following:

" '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;"

3. Schemes

Regulation 3 of the Principal Regulations is amended by omitting from subregulation (1) "and 9" and substituting ", 9 and 10".

4. Schedule 6

Schedule 6 to the Principal Regulations is amended by inserting after clause 19 the following:

"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.".

5. Schedule 7

Schedule 7 to the Principal Regulations is amended by inserting after clause 18 the following:

"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."

6. Schedule 8

Schedule 8 to the Principal Regulations is amended by inserting after clause 5 the following:

"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."

7. Schedule 9

Schedule 9 to the Principal Regulations is amended by inserting after clause 5 the following:

"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."

8. New Schedule 10

The Principal Regulations are amended by inserting after Schedule 9 the following:

"SCHEDULE 10

Regulation 3

HOMENORTH LOAN SCHEME

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;

Housing Assistance Schemes Regulations

- (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

Housing Assistance Schemes Regulations

- (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

Housing Assistance Schemes Regulations

- (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;

Housing Assistance Schemes Regulations

- (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

Housing Assistance Schemes Regulations

- (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

Housing Assistance Schemes Regulations

- (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

Housing Assistance Schemes Regulations

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*."
