

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1994, No. 2*

Regulations under the *Housing Act*

I, KEITH JOHN AUSTIN ASCHE, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the *Housing Act*.

Dated 28 February 1994.

K.J.A. ASCHE
Administrator

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 inserting in subregulation (1), after the definition of "gross weekly income", the following:

"'interest subsidy' means the payment, under and in accordance with Schedule 4, by the Commission 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;

* Notified in the *Northern Territory Government Gazette* on 1 March 1994.

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'lender' includes a bank, building society, credit union, finance company and insurance company;

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

'purchase price', in relation to Schedules 2 and 5, 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;"

(b) by adding, at the end of subregulation (1), the following:

"'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*."; and

(c) by adding, at the end, the following:

"(4) For the purposes of Schedule 4, 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."

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3. REPEAL AND SUBSTITUTION

Regulation 3 of the Principal Regulations is repealed and the following substituted:

"3. SCHEMES

"(1) The Schemes set out in Schedules 1,3 and 4 are prescribed housing assistance schemes for the purposes of section 24 of the Act.

"(2) The Scheme set out in Schedule 2 is a prescribed housing scheme for the purposes of section 22 of the Act and a prescribed housing assistance scheme 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 Commission 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 Commission 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 Commission 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 Commission."

4. TRANSITIONAL

Regulation 4 of the Principal Regulations is amended by omitting "scheme" wherever occurring and substituting "Scheme".

5. SCHEDULE 1

Schedule 1 to the Principal Regulations is amended -

- (a) by omitting, from clause 2(c), "\$100,000" and substituting "\$120,000";
- (b) by omitting, from clause 5(1)(a), "\$70,000" and substituting "\$90,000";

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- (c) by omitting clause 6(1) and substituting the following:

"(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 market rate,

whichever is the lesser.";

- (d) by omitting, from clause 6(2), "be increased by 0.5% until a ceiling rate equivalent to 1% more than the Commonwealth Savings Bank variable home loan interest rate, as applying from time to time, is reached.", and substituting the following:

"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.";
- (e) by omitting from clause 13(1) "Subject to this clause" and substituting "Subject to this Scheme";
- (f) by omitting, from clause 13(2), "be increased by 0.5% until a ceiling rate equivalent to 1% more than the Commonwealth Savings Bank variable home loan interest rate, as applying from time to time, is reached." and substituting the following:

"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

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(b) shall not be increased if the interest rate payable is equal to or greater than 1% more than the market rate.";

(g) by inserting, after clause 15, the following:

"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 Commission 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 shall not be more than the Commonwealth Bank of Australia residential property investment loan reference rate as applicable from time to time."; and

(h) by omitting from clause 17 "Commonwealth Savings Bank" and substituting "Commonwealth Bank of Australia".

6. SCHEDULE 2

Schedule 2 to the Principal Regulations is amended -

- (a) by omitting, from clause 2(a), "or has previously owned";
- (b) by omitting clause 5;
- (c) by omitting clause 6(1) and substituting the following:

"(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 Commission may advance as a housing loan under clause 4.";

(d) by omitting, from clause 6(2), "determines" and substituting the following:

"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

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- (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)";
- (e) by omitting from clause 7(1) "Subject to this clause" and substituting "Subject to this Scheme";
- (f) by omitting, from clause 7(2), "be increased by 0.5% until a ceiling rate equivalent to 1% more than the Commonwealth Savings Bank home loan interest rate, as applying from time to time, is reached." and substituting the following:

"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.";
- (g) by omitting the Table to clause 7 and substituting the following:

"TABLE

Column 1		Column 2
Not less than	Not more than	Rate of Interest
\$	\$	\$
300	- 350	5
351	- 400	5
401	- 450	6
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

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- (h) by omitting from clause 14(1) "Subject to this clause" and substituting "Subject to this Scheme";
- (j) by omitting, from clause 14(2), "be increased by 0.5% until a ceiling rate equivalent to 1% more than the Commonwealth Savings Bank variable home loan interest rate, as applying from time to time, is reached." and substituting the following:

"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."; and
- (k) by inserting, after clause 16, the following:

"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 Commission 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 shall not be more than the Commonwealth Bank of Australia residential property investment loan reference rate as applicable from time to time."

7. SCHEDULE 3

Schedule 3 to the Principal Regulations is amended by omitting, from clause 2(1)(d), "\$100,000" and substituting "\$120,000".

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8. NEW SCHEDULES

The Principal Regulations are amended by adding at the end the following:

"SCHEDULE 4

Regulation 3

HOMENORTH ASSIST INTEREST SUBSIDY SCHEME

1. LOAN INTEREST SUBSIDY

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

2. RESTRICTIONS ON SCHEME

The Commission 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 Commission 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 the spouse or dependant of the person owns or has previously owned premises in the Territory;
- (e) where the person or the spouse or a 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 the spouse or a dependant of the person has previously received financial assistance;
- (g) if the Commission is not satisfied that the person, on obtaining the loan, intends to live in the house to which the loan relates; or

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- (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 Commission for a certificate of eligibility.

(2) The Commission, 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 Commission specifying the conditions on which the certificate of eligibility shall be issued and on which the interest subsidy shall be paid by the Commission, 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 Commission 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 Commission shall pay under this Scheme and the period that a person participating in this Scheme is entitled to an interest subsidy.

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(2) A determination of the Minister pursuant to subclause (1) has the effect of varying an interest subsidy the Commission 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 Commission 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.

"SCHEDULE 5

Regulation 3

HOMENORTH SHARED EQUITY HOME
OWNERSHIP SCHEME

1. SALE OF DWELLINGS

Subject to this Scheme, the Commission 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 Commission 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, the spouse or a dependent of the person owns or has previously owned premises in the Territory;
- (b) unless the Commission 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

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- (d) unless the Commission 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 Commission to purchase the dwelling and for the advance of a loan for that purpose.

4. DETERMINATION OF APPLICATION

Where the Commission 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; or
- (b) the market rate,

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 -

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- (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 Not less than \$	Not more than \$	Rate of Interest \$ %
300	-	350
351	-	400
401	-	450
451	-	500
501	-	550
551	-	600
601	-	650
651	-	700
701	-	750
751	-	800
		5
		6
		7
		8
		9
		10
		11
		12
		13
		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 Commission which shall be the person's -

- (a) repayment of the loan;
- (b) payment of his or her rental in respect of the Commission's interest in the dwelling; and

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- (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 Commission) 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 Commission -

- (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 Commission 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 Commission 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,

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the Commission 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 shall not be more than the Commonwealth Bank of Australia residential property investment loan reference rate as applicable from time to time.

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 Commission (in respect of the Commission's interest 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 Commission 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 Commission 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 Commission to determine the contract of sale and as soon as practicable after receiving the request the Commission shall determine the contract of sale;
- (f) that where the contract of sale is to be determined the Commission shall -
 - (i) purchase the person's interest in the dwelling for the current market value or sell the dwelling; and

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(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.

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."
