

NORTHERN TERRITORY OF AUSTRALIA  
HOUSING (GOVERNMENT EMPLOYEES) SALES SCHEME REGULATIONS

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 1983, No. 51 \*

Regulations under the *Housing Act*

I, ERIC EUGENE JOHNSTON, 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 this 21<sup>st</sup> day of December, 1983.

E. E. JOHNSTON  
Administrator

By His Honour's Command

C. N. PADGHAM-PURICH

Minister for Housing and Conservation

HOUSING (GOVERNMENT EMPLOYEES) SALES SCHEME REGULATIONS

1. CITATION

These Regulations may be cited as the Housing (Government Employees) Sales Scheme Regulations 1983.

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The Housing (Government Employees) Sales Scheme Regulations (No. 11 of 1983) are repealed.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

\* Notified in the *Northern Territory Government Gazette* on 22 DEC, 1983.

G. L. DUFFIELD, Government Printer of the Northern Territory

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- (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.

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SCHEDULE

Regulations 3 and 4

Sections 22, 24, 29 and 37(3)

SCHEME

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 Commission;

"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

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or, in the opinion of the Commission, 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 Commission -

(i) lets for profit the dwelling referred to in paragraph (a), irrespective of whether the Commission 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 within the meaning of the *Public Service 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*;

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- (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 Commission acting with, and in accordance with, the advice of the Commissioner within the meaning of the *Public Service Act*, 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);
- (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.

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3. SALE OF DWELLINGS TO ELIGIBLE PERSONS

The Commission 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 Commission's discretion.

5. APPLICATION BY ELIGIBLE PERSON

An eligible person may, in his own name or jointly with an approved person, make an application in the approved form to the Commission to purchase a dwelling.

6. DETERMINATION OF APPLICATION

Where the Commission receives an application under clause 5, 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 Commission 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 Commission for a Commission loan Class 1 and, for such purpose, shall provide the Commission with such information as it requires, including information in relation to his or their income.

(3) Where the Commission receives an application under sub-clause (2), it may -

- (a) subject to this Scheme, grant the application by making a Commission loan Class 1 to the eligible

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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.

### 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) Sub-clause (1) does not operate so as to require the Commission to advance the maximum amount stated therein to an eligible person, or jointly to an eligible person and an approved person, and the Commission may advance such lesser amount as it determines in accordance with guidelines, from time to time published by the Commission, 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 clause 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.

(2) The Minister may, by notice in the *Gazette*, vary the rates of interest specified in sub-clause (1) in relation to Class 1 or 2 purchasers or a category of Class 1 or 2 purchasers.

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(3) For the purposes of determining whether a purchaser is a Class 1 or 2 purchaser, the Commission 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 sub-clause (3) shall not fail to comply with that requirement within the period specified in that requirement.

(5) Where -

(a) the Minister varies under sub-clause (2) the rates of interest specified in sub-clause (1); or

(b) the classification of a purchaser varies,

the variation so made of the rates of interest, or the rate of interest payable in respect of the variation of the classification of a purchaser, shall become due and payable on and from the monthly instalment, in respect of the agreement relating to the Commission loan Class 1 to which that variation relates, next following that variation.

(6) Subject to sub-clause (7), sub-clauses (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 sub-clause (6) shall be deemed to be a Commission loan Class 1;

(b) a person referred to in sub-clause (6) who is paying, in respect of a loan referred to in that sub-clause, a rate of interest of not more than 6.75% per annum shall, notwithstanding the rate of interest specified in sub-clause (1)(a) in respect of a Class 1 purchaser, but subject to sub-clauses (2) to (5) inclusive, be deemed to be a Class 1 purchaser; and

(c) a person referred to in sub-clause (6) who is paying, in respect of a loan referred to in that sub-clause, a rate of interest of more than 6.75% per annum shall, notwithstanding the rate of interest specified in sub-clause (1)(b) in respect of a Class 2 purchaser, but subject to sub-clauses (2) to (5) inclusive, be deemed to be a Class 2 purchaser.



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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 Commission -

- (c) to sell the dwelling and discharge the mortgage referred to in paragraph (a); and
- (d) for an advance from the Commission -
  - (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 sub-clause (1) shall provide the Commission with such information as it requires, including information in relation to his or their income.

(3) Subject to sub-clause (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.

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- (4) For the purposes of sub-clause (3) -
  - (a) a loan referred to in that sub-clause shall be deemed to be a Commission loan Class 1; and
  - (b) a mortgage executed under the scheme referred to in that sub-clause relating to a loan referred to in that sub-clause shall be deemed to be a mortgage referred to in sub-clause (1)(a).

13. DETERMINATION OF APPLICATION FOR TRANSFER OF LOAN ARRANGEMENTS

(1) Where the Commission 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 Commission, 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 Commission grants under sub-clause (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 sub-clause (1)(a)(ii) received by him or them, as the case may be.

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(3) The grant under sub-clause (1)(a) of an application under clause 12(1) does not operate so as to require the Commission to advance under sub-clause (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 Commission may advance such lesser amount as it determines in accordance with guidelines, from time to time published by the Commission, 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 sub-clause (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 Commission, has or have entered into a binding agreement to erect, a house upon the block; or

(b) otherwise approved.

(2) Nothing in sub-clause (1) prevents a person, or a person and an approved person, referred to in that sub-clause 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

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- (b) where the purchase to which the agreement relates is of a residential block - complete, to the satisfaction of the Commission, 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 Commission 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 Commission such security, whether from himself or themselves or another person, as the Commission requires.

(2) A document relating to security referred to in sub-clause (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 Commission and the Commission may accordingly take action under the provisions of the agreement relating to the breach.

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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 Home Loans Scheme Regulations is reached; and

(d) in the case of an eligible person who becomes a Category 2 purchaser - increased to the maximum rate of interest from time to time payable on a first mortgage under the scheme referred to in paragraph (c).

(2) Sub-clause (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 sub-clause (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 Commission, ceased, other than because of death or, in the opinion of the Commission, redundancy or retirement, to be -

(i) a person referred to in paragraphs (a), (b), (c) or (d) of the definition of "eligible person"; or

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- (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 Commission 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 maximum rate of interest from time to time payable on a first mortgage under the scheme referred to in clause 19(1)(c).

22. GUIDELINES

Subject to this Scheme, the Commission 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 Commission, 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.

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