

NORTHERN TERRITORY OF AUSTRALIA

HOME LOANS SCHEME REGULATIONS

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 1983, No. 52*

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 21st day of December, 1983.

E. E. JOHNSTON

Administrator

By His Honour's Command

C. N. PADGHAM-PURICH

Minister for Housing and Conservation

HOME LOANS SCHEME REGULATIONS

1. CITATION

These Regulations may be cited as the Home Loans Scheme Regulations 1983.

2. REPEAL

The Home Loans Scheme Regulations, comprising No. 26 of 1979, No. 35 of 1980 and No. 63 of 1982, are repealed.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

PRICE: \$ 1 00

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

of the Act.

4. APPLICATION OF SECTION 29 OF THE ACT

Section 29 of the Act shall apply to and in relation to the Scheme set out in the Schedule.

5. TRANSITIONAL

Where, immediately before the commencement of these Regulations, there was in existence a loan advance under the Scheme set out in the Schedule to the Regulations referred to in regulation 2, the loan advance 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 Housing loan Class 1 within the meaning of that second-mentioned Scheme.

SCHEDULE

Regulations 3 and 4

Sections 22, 24 and 29

HOME LOANS SCHEME

1. INTERPRETATION

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

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

"approved" means approved by the Commission;

"Housing loan Class 1" means -

- (a) an advance made under clause 2; or
- (b) an advance made under a scheme referred to in the *Housing Act* as in force at any time before the commencement of the *Housing Act 1982*, other than such an advance which, by virtue of regulation 4(2) of the *Housing (Government Employees) Sales Scheme Regulations* and clause 12 of the Scheme set out in those Regulations, entitles the person to whom the advance was made to

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make an application under those Regulations for a Commission loan Class 2 within the meaning of those Regulations;

"Housing loan Class 2" means an advance made under clause 7(2);

"spouse" includes *de facto* spouse.

(2) For the purposes of clause 3(c), a person has previously received financial assistance if he 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*.

(3) For the purposes of -

(a) an application under clause 6(1);

(b) the determination under clause 7 of the application; and

(c) clauses 9(1) and 10,

"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 9(1)(a)(ii) and 10(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 making the application referred to in paragraph (a).

2. LOAN ADVANCES

Subject to this Scheme, the Commission may advance a loan to a person for the erection, purchase, completion, repair or modification of a house.

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3. RESTRICTIONS ON ADVANCE OF HOUSING LOAN CLASS 1

A Housing loan Class 1 shall not be made -

- (a) to a person -
 - (i) to enable that person, unless otherwise approved, to refinance an existing loan; or
 - (ii) who, at the time of his application for the loan, owns a house in Australia but outside the Territory;
- (b) to a person -
 - (i) who;
 - (ii) whose spouse; or
 - (iii) a dependant of whom,
 - owns a house in the Territory except for the purpose of -
 - (iv) completing a partly erected house; or
 - (v) at the discretion of the Commission, modifying in an approved manner a house, owned by the person and situated in the Territory;
- (c) unless otherwise approved, to a person -
 - (i) who;
 - (ii) whose spouse; or
 - (iii) a dependant of whom,
 - has previously received financial assistance;
- (d) unless otherwise approved, to a person who, or whose spouse or a dependant of whom, has previously owned a house in the town in the Territory in which is situated the house for which the loan is applied for;
- (e) to a person who does not satisfy the Commission that the house in respect of which the loan is applied for is the house in which he lives or intends upon its completion to live; or
- (f) unless otherwise directed by the Minister, to a person who has not been resident in the Territory for a period of not less than 12 months immediately prior to the date of application for the loan.

Home Loans Scheme Regulations

4. MAXIMUM AMOUNT OF ASSISTANCE

(1) The amount of a Housing loan Class 1 shall not exceed \$50,000 or an amount greater than 95% of the Valuer-General's valuation of the property at the date of application, 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 applicant, and the Commission may advance such lesser amount to an applicant as it determines in accordance with guidelines, from time to time published by the Commission, relating to the ability of a person to repay a Housing loan Class 1.

5. REPAYMENT PERIOD FOR HOUSING LOAN CLASS 1

A person purchasing under this Scheme a house shall repay a Housing loan Class 1 made to him, together with such other amounts as fall due for repayment under this Scheme, not later than 45 years after the date on which principal is first payable under the agreement relating to the Housing loan Class 1.

6. APPLICATION FOR TRANSFER OF LOAN ARRANGEMENTS

(1) Where a person has, by way of a Housing loan Class 1 purchased a house and -

- (a) the mortgage executed in relation to the Housing loan Class 1 has not been discharged; and
- (b) he has, unless otherwise approved, occupied the house for a period of not less than 3 years after the mortgage was so executed,

he may make an application in the approved form to the Commission -

- (c) to sell the house 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) upon the same terms and conditions upon which the Housing 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,

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specified in the application.

(2) A person making an application under sub-clause (1) shall provide the Commission with such information as it requires, including information in relation to his income.

7. DETERMINATION OF APPLICATION FOR TRANSFER OF LOAN ARRANGEMENTS

(1) Where the Commission receives an application under clause 6(1), it may -

(a) subject to clause 8, where it is satisfied that the person 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 from the sale of the house referred to in clause 6(1) owned by him 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 6(1), it shall make an advance to the person 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.

(3) The grant under sub-clause (1)(a) of an application under clause 6(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 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 to repay a Housing loan Class 2.

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8. RESTRICTIONS ON ADVANCE OF HOUSING LOAN CLASS 2

A Housing loan Class 2 shall not be advanced -

- (a) to a person -
 - (i) to enable that person, unless otherwise approved, to refinance an existing loan; or
 - (ii) who, at the time of his application under clause 6(1) for the loan, owns a house in Australia but outside the Territory;
- (b) to a person -
 - (i) who;
 - (ii) whose spouse; or
 - (iii) a dependant of whom,
 - owns a house in the Territory other than a house -
 - (iv) the subject of the person's Housing loan Class 1; or
 - (v) specified in the person's application under clause 6(1) for the loan as the house he proposes to purchase with the loan;
- (c) unless otherwise approved, to a person who, or whose spouse or a dependant of whom, has previously owned a house in the town in the Territory in which is situated the house specified in the person's application under clause 6(1) for the loan as the house he proposes to purchase with the loan; or
- (d) to a person who does not satisfy the Commission that the house specified in the person's application under clause 6(1) for the loan as the house he proposes to purchase with the loan is the house in which he lives or intends upon its completion to live.

9. LAPSE OF GRANT OF TRANSFER OF LOAN ARRANGEMENTS

(1) Subject to sub-clause (2), the grant under clause 7(1)(a) of an application under clause 6(1) lapses immediately after the expiration of 3 months from the date of the grant unless -

- (a) the person to whom that grant relates has -
 - (i) sold the house owned by him; and

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(ii) purchased the house or residential block specified in his application and, in the case of the purchase of a residential block, has built or, in the opinion of the Commission, has entered into a binding agreement to build, a house upon the block;
or

(b) otherwise approved.

(2) Nothing in sub-clause (1) prevents a person referred to in that sub-clause from making a further application under clause 6(1).

10. AGREEMENT RELATING TO HOUSING LOAN CLASS 2 DEEMED TO CONTAIN CERTAIN PROVISIONS

There shall be deemed to be, in each agreement relating to a Housing loan Class 2, provisions that the person to whom it is made -

(a) apply all the proceeds referred to in clause 7(1)(a)(ii) received by him 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 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.

11. RATE OF INTEREST

(1) The rate of interest applicable to a Housing loan Class 1 or 2 shall not exceed 18% and may be a lesser rate as determined from time to time by the Commission.

(2) Interest payable shall be calculated at monthly rests on the balance outstanding of the Housing loan Class 1 or 2, and amounts of arrears, if any, shall be deemed to be principal.

12. BUILDING ACT

A Housing loan Class 1 or 2 shall not be advanced to a person for the purposes of the erection, completion, repair or modification of a house in a manner which does not comply with the *Building Act*.

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13. SECURITY FOR ADVANCE

(1) The Commission shall not make a Housing loan Class 1 or 2 unless the person to whom it is proposed to be made provides to the Commission such security, whether from himself 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.

14. INSURANCE

There shall be deemed to be, in each agreement relating to a Housing loan Class 1 or 2, a provision that the person to whom it is made insures and keeps 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.

15. FALSE STATEMENT

A person who has knowingly supplied false information on an application for a Housing loan Class 1 or 2, whether in the application form, statement of income or in respect of any other information required to be supplied to the Commission, shall be taken to have breached the terms of his agreement with the Commission and the Commission may take action accordingly under the provisions of the agreement relating to the breach.

16. GUIDELINES

Subject to this Scheme, the Commission may publish guidelines as, and in relation, to -

- (a) the amount of a Housing loan Class 1 or 2 that may be made to a person, having regard to the market value of the property, as determined by the Commission, and the income of the person;
- (b) the rate of interest applicable to a Housing loan Class 1 or 2; and
- (c) the extent to, and the manner in, which proceeds referred to in clause 7(1)(a)(ii) may be applied towards the completion of, repairs to or the modification of, the house referred to in that clause to which those proceeds relate,

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