

HOUSING ORDINANCE 1977

1089

No. 9 of 1977

An Ordinance to amend the *Housing Ordinance*

[Assented to 5 April 1977]

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

- 1 This Ordinance may be cited as the *Housing Ordinance* 1977. Short title
2. The *Housing Ordinance* is in this Ordinance referred to as the Principal Ordinance. Principal Ordinance
- 3 This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.* Commencement
4. Section 4(1) of the Principal Ordinance is amended— Interpretation
 - (a) by omitting the definition of “market value” and substituting the following definition:

“‘market value’ in relation to a dwelling means the amount that, in the opinion of the Valuer-General, the dwelling, including the right to the lease of the land on which the dwelling is situated, could be sold for if offered for sale by private treaty;” and
 - (b) by adding at the end the following definition:

“‘Valuer-General’ means the Valuer-General for the Territory appointed under the *Valuation of Land Ordinance* and includes a delegate of the Valuer-General.”
5. Section 12(2) of the Principal Ordinance is amended by omitting paragraph (ea) and substituting the following paragraph: Function of Commission

“(ea) selling dwellings that are detached single residential units; and”.
6. Section 13A of the Principal Ordinance is repealed and the following sections substituted:
 - “13A.(1) The Administrator in Council may by notice published in the *Gazette*— Sale of dwelling to tenant
 - (a) set out details of a scheme, not inconsistent with this Ordinance, to apply to the sale of dwellings by the Commission in pursuance of this section; and

* The date fixed was 1 July 1977 (see *Northern Territory Government Gazette* No. 26 of 1 July 1977, page 1045).

(b) specify a class or classes of tenants to be approved tenants for the purposes of this section, and in this section 'approved tenant' means a member of a class so specified.

"(2) An approved tenant may make application in writing in his own name, or jointly with his spouse (including a *bona fide de facto* spouse), to purchase a dwelling that is a detached single residential unit.

"(3) The Commission may, in its discretion, sell to a person making application under sub-section (2), or jointly to that person and his spouse where the application is made in their joint names, a dwelling of which he is the tenant, or a dwelling chosen by him from alternative dwellings offered for sale to him by the Commission.

"(4) Subject to sub-section (5), the price at which a dwelling may be sold under sub-section (3) is not less than one half of the sum of—

- (a) the capital cost of the dwelling; and
- (b) the market value of the dwelling, not including improvements made by the approved tenant with the approval of the Commission.

"(5) The price at which a dwelling may be sold shall be reduced by an amount determined by the Commission being an amount not less than that part of the annual amortization allowance referred to in section 31(1) that represents the repayment of the capital cost, paid by the approved tenant to the Commission in rent, in respect of that or any other dwelling, over a period of 5 years immediately before the date of the sale.

"(6) A contract for the sale of a dwelling under sub-section (3) shall contain terms and conditions providing for—

- (a) payment of the price—
 - (i) as to an amount of 500 dollars or as to such larger amount as the purchaser may require—by way of deposit upon entering into the contract; and
 - (ii) as to the balance of the price—upon completion of the sale or by such instalments and over such period, not exceeding 45 years, as agreed upon between the parties;
- (b) the insuring of the dwelling by the purchaser, in the name of himself and the Commission, against damage or destruction by fire, storm or tempest, while any of the price is unpaid;
- (c) the maintenance, by the purchaser, of the dwelling in good repair while any of the price is unpaid; and

- (d) the payment by the purchaser, while any of the price is unpaid, of such land rent, rates and other charges as are imposed on or in relation to the dwelling, or the land on which the dwelling is erected, by or under any law in force in the Territory, in respect of any period after the date on which the purchaser becomes entitled to possession pursuant to the contract.

“(7) Where a contract for the sale of a dwelling under sub-section (3) provides for the payment of the balance of the price by instalments over a period specified in the contract, the contract shall provide that the rate of interest payable on the balance of the purchase price for the time being unpaid shall be the rate declared from time to time by the Administrator in Council to be the rate applicable to the class of purchaser to which the purchaser belongs.

“13AAA(1) The Administrator in Council shall, by notice in the *Gazette*—

Administrator
in Council to
declare rates
in respect of
classes of
purchasers

- (a) specify classes of purchasers of dwellings; and
- (b) declare the rates of interest payable by the members of the various classes of purchasers on the balance of the purchase price for the time being unpaid under a contract of sale of a dwelling.

“(2) The Commission shall, at least once in every calendar year, review the rates of interest payable by each class of purchaser and recommend to the Administrator in Council any variation of those rates it considers necessary.”.

7. Section 13B of the Principal Ordinance is repealed and the following section substituted:

“13B.(1) A dwelling that has been sold under section 13A is not, during the period of 5 years immediately after the date of the agreement of sale, capable of being leased, sub-leased, transferred or assigned either at law or in equity.

Restriction on
transfer of
dwelling

“(2) Sub-section (1) does not apply—

- (a) where the owner has at any time made an offer in writing to the Commission to resell the dwelling to the Commission and the offer has not been accepted within 6 weeks immediately after the date on which it was made;
- (b) so as to prevent a transfer or assignment of a dwelling or an interest therein—
 - (i) by operation of law;
 - (ii) by will;
 - (iii) by way of mortgage entered into with the consent of the Commission;

- (iv) by a mortgage in pursuance of a power of sale as mortgagee;
 - (v) between spouses (including *bona fide de facto* spouses); or
 - (vi) between the parties to a dissolved marriage; or
- (c) in the case of a sub-lease, where the consent of the Commission to the sub-lease was first obtained.

“(3) Where the owner of a dwelling wishes to sell, transfer or assign the dwelling and the dwelling is the subject of a restriction by virtue of sub-section (1), he may request the Commission in writing to make known to him in writing the amount of purchase money the Commission will pay for the dwelling if the dwelling is offered to the Commission and the offer is accepted by it.

“(4) If an owner is dissatisfied with the amount of purchase money that the Commission has made known to him in answer to a request made under sub-section (3), he may request the Commission to seek the opinion of the Valuer-General as to the market value of the dwelling, and the Commission shall forthwith seek that opinion and advise the owner the amount when that opinion has been given.

“(5) Where the opinion of the Valuer-General given in pursuance of sub-section (4) differs from the amount made known by the Commission in pursuance of sub-section (3), the purchaser may, at his election, offer the dwelling to the Commission at the amount made known by the Commission or at the amount of the Valuer-General's opinion.

“(6) A certificate issued by the Commission and certifying that the owner specified in the certificate has duly made an offer in accordance with sub-section (2)(a) but that the offer has not been accepted within 6 weeks after the date on which it was made, is conclusive evidence that the sale, transfer or assignment of the dwelling is no longer prevented or restricted by this section.

“(7) An agreement entered into during the 5 years period referred to in sub-section (1) in respect of a dwelling, purporting to give a person the option of purchasing the dwelling from the owner at or after the completion of that period, is void, and no money paid under or in consideration of such an agreement is recoverable.

“(8) Where the owner of a dwelling has made a request to the Commission in accordance with sub-section (3), and the Commission has not, within 6 weeks after receiving that request, made known to the owner the amount of the purchase money it will pay, the dwelling is deemed to have been offered for resale to the Commission in accordance with sub-section (2) and not accepted by the Commission within the 6 weeks specified in that sub-section.”

8. Section 33A of the Principal Ordinance is amended---

- (a) by omitting from paragraph (b) "or" last occurring; and
 - (b) by inserting after paragraph (c) the following word and paragraph:
 - "; or
 - (d) a body approved by the Executive Member and incorporated in accordance with a law of the Territory."
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