

EXPLANATORY STATEMENT

Statutory Rules 1982 No.205

Subject: Home Deposit Assistance Act 1982
Home Deposit Assistance Regulations

(Issued by Authority of the Minister for Social Security, Senator the Hon F M Chaney.)

The Regulations prescribe matters relating to the income test for a home deposit assistance grant to take account of movements in average earnings.

Regulation 1 - Citation

This Regulation provides for the citation of the Regulations.

Regulation 2 - Interpretation

This Regulation is an interpretation provision.

Regulation 3 - Prescribed Earnings

The income test for a grant compares applicants' "prescribed earnings" (taxable incomes) with certain prescribed limits representing approximately 135% and 155% of Average Weekly Earnings. The general rule is that the relevant year of income is the previous year of income. However, in the case of applicants whose taxable income or estimated taxable income has fallen, section 37 of the Act provides for the relevant year of income to be the current year of income. Where the relevant year of income is not the same year for both or all joint applicants, sub-section 33(2) provides that their prescribed earnings is a certain sum (ascertained in accordance with paragraph 33(1)(b)) adjusted in accordance with the Regulations.

Regulation 3, as applied by sub-regulation 5(1), provides a formula for adjusting the sum referred to in paragraph 33(1)(b) in respect of applicants to whom sub-section 33(2) applies and who entered into a contract for the purchase or construction of a dwelling, or who commenced to construct a dwelling, on or after 18 March 1982 and not later than 30 June 1982.

The adjusting formula is, in fact, related to movements in Average Weekly Earnings. It is proposed that a further regulation be made towards the end of 1982/83 prescribing a formula for adjusting the sum referred to in paragraph 33(1)(b) in respect of applicants to whom sub-section 33(2) applies and who entered into a contract for the purchase or construction of a dwelling, or who commenced to construct a dwelling, after 30 June 1982. In the meantime, regulation 3 will facilitate the making of advances in accordance with section 56 to these applicants.

Regulation 4 - Relevant Amounts for the purposes of sub-section 39(4) of the Act

Sub-section 39(4) of the Act provides a formula for calculating the amount of the grant in the case of applicants whose prescribed earnings fall between "the upper relevant amount" and "the lower relevant amount" set by sub-section 39(5). The latter sub-section prescribes particular amounts (\$18,900 and \$21,700, respectively representing approximately 135% and 155% of Average Weekly Earnings in 1980/81), or such amounts as are ascertained in accordance with the regulations.

Regulation 4, as applied by sub-regulation 5(2), prescribes new upper and lower relevant amounts (\$21,700 and \$24,900, respectively representing approximately 135% and 155% of Average Weekly Earnings in 1981/82) in respect of -

- . all sole applicants whose relevant year of income is the current year of income;
- . joint applicants, where the relevant year of income of each of them is the current year of income;
- . all sole applicants who entered into a contract for the purchase or construction of a dwelling or who commenced to construct a dwelling on a date later than 30 June 1982 and whose relevant year of income is the previous year of income; and
- . joint applicants who commenced to construct a dwelling on a date later than 30 June 1982, where the relevant year of income of each of them is the previous year of income.

In relation to applicants whose relevant year of income is the current year of income, the amounts prescribed by Regulation 4 are accurate only in respect of applicants who entered into a contract for the purchase or construction of a dwelling, or who commenced to construct a dwelling, not later than 30 June 1982. It is proposed that a further regulation be made towards the end of 1982/83 prescribing new upper and lower relevant amounts applying to -

- . applicants who entered into a contract for the purchase or construction of a dwelling, or who commenced to construct a dwelling, after 30 June 1982 and whose relevant year of income is the current year of income (in the meantime, Regulation 4 facilitates the making of advances in accordance with section 56 of the Act to these applicants); and
- . applicants who enter into a contract for the purchase or construction of a dwelling, or who commence to construct a dwelling, after 30 June 1983 and whose relevant year of income is the previous year of income.

Regulation 5 - Application

This Regulation is the application provision.

Retrospectivity

The Regulations are expressed to take effect from a date before the date of notification. Sub-section 49(2) of the Acts Interpretation Act 1901 provides that regulations shall not be expressed to take effect from a date before the date of notification in any case where, if the regulations so took effect, they would affect the rights of any person in a prejudicial manner or impose liabilities on any person. The Regulations are beneficial in that they ease the income test.

S.R. No. 162/82