

## AUSTRALIAN CAPITAL TERRITORY

### *Housing Assistance Act 1987*

#### APPROVAL

Under section 12 (2) of the *Housing Assistance Act 1987* I approve the Rent Relief Program made by the Commissioner for Housing by instrument dated 20 September 1989.

Dated this 20th day of September 1989.

ELLNOR JUDITH GRASSBY

Minister for Housing  
and Urban Services

'Applicant' means a person who has made an application for assistance under this program and unless the contrary intention appears, includes joint applicants.

'Application' means

- (a) an application for assistance under this program,
- (b) an application under subclause 15 (2) for additional time to provide information;
- (c) an objection by a person who is dissatisfied with a decision on application by the Commissioner.

'Commissioner' means the Commissioner for Housing appointed under the *Housing Assistance Act 1987*.

'government rental accommodation' means residential rental accommodation provided by the Australian Capital Territory Government or by the Commonwealth Government in the Australian Capital Territory.

'Gross income' means an amount of income prior to deduction of tax or tax instalments.

'income' means all income except:

- (a) a payment under Part X of the *Commonwealth Social Security Act 1947*;
- (b) a payment by way of emergency relief or similar assistance made by the Commonwealth or a State or Territory;
- (c) a payment by way of assistance made by an organisation which is an eligible organisation under the *Commonwealth Homeless Persons Assistance Act 1974*;
- (d) a payment made under an insurance or compensation agreement by reason of loss or damage to property;
- (e) a payment made under a law of the Commonwealth or the Australian Capital Territory for pharmaceutical, medical, dental or hospital benefits;
- (f) a payment for expenses of hospital, medical or dental treatment made by an organisation registered

under a law of the Commonwealth or the Australian Capital Territory regarding the provision of pharmaceutical, medical, dental or hospital benefits;

(g) a payment made under Part V or Part VI of the *Commonwealth Veterans' Entitlements Act 1986* other than payments made under section 108 or section 109 of that Act.

(h) any expense incurred in earning that income which would be accepted by the Australian Taxation Office as a legitimate deduction for the purposes of the *Income Tax Assessment Act 1930*.

'independent person' means a person who has a weekly income greater than or equal to the amount payable to an unmarried adult person by way of unemployment benefit under the *Commonwealth Social Security Act 1947*.

'officer' means an officer or person performing duties or exercising powers or functions, under or in relation to this program.

'prescribed authority' means the Commonwealth Department of State responsible for the administration of the *Income Tax Assessment Act 1936*, the *Social Security Act 1947*, the *Migration Act 1958*, or the Australian Federal Police, the Director of Public Prosecutions, the National Crime Authority or a Court of Law.

'rent' means a sum payable periodically whether designated as rent or otherwise, as consideration for the right to occupy premises, whether with or without other rights in relation to the occupation of the premises, but does not include any amount for goods or services provided in conjunction with accommodation.

'the Fund' means the Australian Capital Territory Housing Assistance Fund established by the Commonwealth Minister for State for Finance as a Trust Account under section 62A of the *Audit Act 1901*.

(2) For the purpose of this program the value of a person's assets is the value of all assets owned by the person including those in which the person has a contingent or beneficial interest but does not include the value of

- (a) clothing;
- (b) ordinary personal effects;
- (c) ordinary household equipment;
- (d) tools of trade;
- (e) plant and equipment necessary for earning income;
- (f) professional instruments and reference books, and
- (g) one motor vehicle.

(3) For the purposes of this program unless the contrary intention appears, the weekly income of a person is the greater of:

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## AUSTRALIAN CAPITAL TERRITORY

### *Housing Assistance Act 1987*

#### RENT RELIEF PROGRAM

Under subsection 12 (1) of the *Housing Assistance Act 1987*, I make a Housing Assistance Program as follows:

##### Title

This program may be cited as the Rent Relief Program.

##### Principles

1. The principles for the operation of a Housing Assistance Program set out in Schedule 1 to the *Housing Assistance Act 1987* apply in relation to this program.

##### Object

2. The object of this program is to provide short term financial assistance for the provision of housing to persons experiencing temporary difficulties in meeting rent commitments other than in respect of accommodation

provided by the Commissioner for Housing under the Public Rental Housing Assistance Program.

#### Interpretation

3. (1) 'ACT Average Weekly Earnings' means the amount specified as the most recent estimate of average weekly earnings for the Australian Capital Territory under the heading 'All Employees' in the most recent quarterly publication of the Australian Bureau of Statistics which specifies average weekly earnings in the States and Territories of Australia.
- (a) the person's gross income per week at the date of making an application; and
- (b) the average gross income per week of the person in the 26-week period immediately prior to the date of making an application.
- (4) A reference in this program to the spouse of a person must, where the person is living with another person of the opposite sex as the spouse of that person on a bona fide domestic basis although not married to that person be read as including a reference to that other person to the exclusion of the spouse (if any) of the first mentioned person.
- (5) In this program a reference to 'household' in relation to an application for assistance under subclause 7 (1) is a reference to the persons whom the applicant intends will reside in a dwelling provided to the applicant as assistance under the Public Rental Housing Assistance Program.

#### Applications

4. (1) A person may apply to the Commissioner for assistance under this program.
- (2) An application must:
- (a) be in writing, signed by the applicant; and
- (b) state:
- (i) whether the applicant has previously been offered government rental accommodation; and
- (ii) whether the applicant has previously vacated government rental accommodation; and
- (c) specify:
- (i) the name, address and age of the applicant;
- (ii) the applicant's reasons for requiring assistance;
- (iii) the value of all assets owned by the applicant;
- (iv) the weekly income of the applicant and members of the applicant's household;
- (v) the length of time the applicant has been living or working in the Australian Capital Territory; and
- (vi) the number of independent persons in the applicants household and the relationship of each such person to the applicant;
- (vii) the applicant's Australian residency status; and
- (viii) whether the applicant was a sponsored migrant to Australia.

#### Eligibility

5. (1) Subject to this program an applicant is eligible for rent relief if:
- (a) the applicant is unable to pay rent as required under his or her tenancy agreement or is unable to pay arrears of rent owing or both;
- (b) the applicant is lawfully present in Australia

and his or her presence is not subject to any time limit imposed by law;

- (c) the applicant is 16 years of age or older;
- (d) the applicant, where the household consists of one person only, has assets of a value not exceeding \$4000;
- (e) the applicant, where the household consists of two or more people, or where the applicant is married or a joint applicant with another person, the applicant or the applicant and his or her spouse or joint applicant have together assets of a value not exceeding \$5000;
- (f) where the household consists of one person only that person's gross weekly income does not exceed 60 per cent of the ACT average weekly earnings;
- (g) where the household consists of two persons the gross weekly income of the applicant or the combined gross weekly incomes of the joint applicants is not greater than 100 per cent of ACT average weekly earnings;
- (h) where the household consists of more than two persons, the gross weekly income of the applicant or the combined weekly income of the joint applicants plus 10 per cent of the combined weekly income of all other independent persons in the household is not greater than 100 per cent of ACT Average Weekly Earnings plus 10 per cent of ACT Average Weekly Earnings for each person in the household in excess of two persons;
- (i) the applicant has agreed to pay by way of rent or rent and arrears of rent combined an amount in excess of 25 per cent of his or her weekly income;
- (j) the applicant's name is on the Register kept by the Commissioner under the Public Rental Housing Assistance Program;
- (k) the application is in respect of a property in the Australian Capital Territory; and
- (l) the property in respect of which assistance is sought is not significantly in excess of reasonable family needs as assessed by the Commissioner in accordance with the criteria adopted for determination of accommodation needs under clause 9 of the Public Rental Housing Assistance Program;
- (m) the applicant has been resident or employed in the Australian Capital Territory for the six month period immediately prior to the date of the application, unless in the Commissioner's opinion the applicant's circumstances are such that this requirement should not apply;
- (n) the applicant is not a tenant of government rental accommodation; and
- (o) the applicant does not have an interest in any real property except where the applicant is, or will shortly become, a party to action under the *Family Law Act 1975* and the real property in which the applicant has an interest may be the subject of an order under that Act, or where the applicant owns property and undertakes to dispose of it.
- (2) If the applicant has, within a period of two years prior to the date of the application, declined an offer of government rental accommodation or vacated government rental accommodation the Commissioner has a discretion to refuse the application.

#### Forms of assistance

6. (1) On an application for rental relief the Commissioner may provide any one or more of the following forms of assistance:
- (a) a grant by way of periodic payments to subsidise rent payments;
  - (b) an interest free loan for payment of rental bond;
  - (c) a lump sum interest free loan for payment of rent where the applicant is obliged to pay rent on two properties in order to both meet obligations under a pre-existing tenancy agreement and a tenancy agreement entered under Clause 15 of the Public Rental Housing Assistance Program;
  - (d) a grant by way of a lump sum or periodic payments for payment of arrears of rent; or
  - (e) an interest free loan by way of a lump sum or periodic payments for payment of arrears of rent.
- (2) Where assistance may be given in the form of a lump sum or periodic payments and may be either a grant or an interest free loan, the Commissioner has a discretion to decide the form in which the assistance is given.
- (3) In exercising his or her discretion under subclause (3) the Commissioner must have regard to:
- (a) the possibility of the applicant being evicted from the residence of which the applicant is a tenant; or
  - (b) the cost to the applicant of maintaining a reasonable standard of living for the household;
  - (c) the present and probable future ability of the applicant to repay a loan; and
  - (d) the efficient use of the Fund.

#### Assistance for arrears of rent

7. (1) Where, as a result of circumstances unforeseen by the applicant at a time when payments for rent were equivalent to 25 per cent or more of the weekly income of the applicant, the applicant owes arrears of rent, the Commissioner may provide assistance in accordance with clause 7 for payment of arrears.
- (2) Assistance under this clause will only be given in respect of the dwelling in which the applicant is residing at the date of the application.
- (3) Assistance provided under this clause must not exceed \$600 in respect of an applicant.

#### Assistance for Bond

8. (1) Where an applicant is required to pay an amount of rental bond under a tenancy agreement, the Commissioner may provide assistance to make that payment.
- (2) Assistance provided under this clause must not exceed \$600 in respect of an applicant.

#### Assistance for double rent

9. (1) Where an applicant has been allocated public rental housing and has not yet terminated a private tenancy agreement in respect of another property the Commissioner may grant assistance for the payment of the rent under the private agreement.
- (2) Assistance provided under this clause must not exceed \$600 in respect of an applicant.

#### Rental subsidy

10. (1) Where a rent subsidy is to be paid the amount payable is the lesser of;
- (a) the amount of actual weekly rent payments

required to be made by the applicant less the applicant's contribution; or

- (b) an amount equal to 133 per cent of the average weekly rent for a government dwelling having the maximum number of bedrooms which the Commissioner considers would meet the applicant's accommodation needs if the Commissioner were to apply clause 9 of the Public Rental Housing Assistance Program, less applicant's contribution.
- (2) Notwithstanding the provisions of subclause (1) no payment of rent subsidy will be made of an amount less than \$2 per week.
- (3) Notwithstanding the provisions of subclause (1) the amount of rental subsidy payable to an applicant is limited to:
- (a) a maximum of \$50 per week if the applicant has no dependent children; or
  - (b) if the applicant has dependent children, a weekly maximum of \$50 plus \$10 for each dependent child.
- (4) (a) Rent subsidy is payable for a period of six months.
- (b) At the expiration of a period for which assistance has been granted the applicant may apply for assistance for a further period of six months.
- (5) In this clause 'the applicant's contribution' means an amount equal to 25 per cent of the applicant's income other than Family Allowance Supplement paid under Part IX of the Commonwealth *Social Security Act 1947* plus 10 per cent of the amount of Family Allowance Supplement paid to the applicant, plus 100 per cent of Supplementary Rental Assistance paid to the applicant under that Act, plus an amount equal to 10 per cent of the income of each independent person, other than the applicant's spouse, who is resident in the household.

#### Loans

11. If the Commissioner offers assistance in the form of a loan, the offer is conditional upon the applicant entering into a loan agreement with the Commissioner.

#### Hardship

12. (1) The Commissioner has a discretion to grant assistance to applicants not eligible for assistance under this program but who are suffering severe hardship which cannot be alleviated by any other means.
- (2) Assistance is to be provided under this clause only if to do so is in accordance with the objects of this program and in the form or forms which it would have been provided to the applicant if the applicant was eligible for assistance.
- (3) Assistance is to be provided under this clause only if the applicant is lawfully present in Australia and his or her presence is not subject to any time limit imposed by law.

#### Further information

13. (1) The Commissioner may at any time in writing request an applicant to provide further information in connection with an application.
- (2) If such information is not provided within twenty-eight days or such further time as the Commissioner allows, the application is to be treated as having been withdrawn by the applicant.

#### Joint applicants

14. Where a household consists of the applicant and one or more independent persons, two persons in the household must apply as joint applicants and the Commissioner may require that the person in the household

with the highest weekly income applies as one of the joint applicants.

#### **Change of circumstances**

15. (1) An applicant must advise the Commissioner of any change in circumstances which affects his or her eligibility for assistance or the kind or amount of assistance which he or she may be granted.
- (2) If the Commissioner receives information from the applicant or otherwise that the applicant's circumstances have changed in such a way as to affect the applicant's eligibility for assistance or the kind or amount of assistance which he or she may be granted, the Commissioner may review the decision to grant assistance to the applicant and the decision as to the kind and amount of assistance to be granted and may alter or revoke those decisions.

#### **Notice of decision**

16. (1) Where the Commissioner makes a decision upon an application under this program he or she must within twenty-eight days after the date of the decision cause notice in writing of the decision to be given to the applicant.
- (2) A notice must include a statement to the effect that the applicant may within twenty-eight days of service of the notice on the applicant lodge an objection in writing with the Commissioner.

#### **Objections**

17. (1) A person who is dissatisfied with a decision on an application may lodge a written objection to the decision with the Commissioner within twenty-eight days after the date on which notice of it is served on the person.
- (2) An objection must state fully and in detail the grounds on which it is made.
- (3) The Commissioner must consider any objection and may either disallow it, or allow it wholly or in part.
- (4) The Commissioner must, within twenty-eight days after the date of the decision, cause written notice of the decision to be served on the objector.

#### **Late lodgment of objections**

18. (1) If the period within which a person may lodge an objection has ended, the person may nevertheless send an objection to the Commissioner with a written application to treat the objection as having been duly lodged.
- (2) An application under subclause (1) must state fully and in detail the reasons for the person failing to lodge the objection within the specified period.
- (3) The Commissioner must consider each such application and may grant or refuse it.
- (4) The Commissioner must give the applicant written notice of his or her decision on an application.
- (5) If the Commissioner grants an application the objection to which the application relates must be treated as having been duly lodged.

#### **Review of decisions**

19. (1) Application may be made to the Administrative Appeals Tribunal for review of a decision by the Commissioner:
  - (a) disallowing an objection wholly or in part;
  - (b) refusing an application under subclause 20 (1).
- (2) under subclause 20 (4), a notice must:
  - (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and
  - (b) except where subsection 26 (11) of that Act

applies, include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 26 of that Act.

- (3) The validity of a decision referred to in subclause (1) is not to be taken to be affected by a failure to comply with subclause (2).

#### **Officers to observe secrecy**

20. (1) A person shall not, directly or indirectly, except in the performance of his or her duties or in exercise of his or her powers or functions, under this program, or pursuant to the *Freedom of Information Act 1989*, and while he or she is or after he or she ceases to be an officer, make a record of, or divulge or communicate to any persons, any information with respect to the affairs of another person acquired by him or her in the performance of his or her duties, or in the exercise of his or her powers or functions, under this program.
- (2) Notwithstanding anything contained in subclause (1) and officer may:
  - (a) divulge any such information to any prescribed authority or person, provided such divulgence relates to law enforcement and is connected with the investigation and prosecution of an alleged offence
  - (b) divulge any such information to a person who, in the opinion of the Commissioner, is expressly or impliedly authorised by the person to whom the information relates to obtain it.
- (3) An authority or person to whom information is divulged under subclause (2) and any person or employee under the control of that authority or person, shall in respect of that information, be subject to the same rights, privileges, obligations and liabilities under this program and had acquired the information in performance of those duties.

Dated this 14th day of September 1989.

TONY RAYMOND WATERS  
Commissioner for Housing