

VARIATION TO PUBLIC RENTAL HOUSING ASSISTANCE PROGRAM

Instrument No. 155 of 1998

This Instrument of Variation is published in accordance with section 6 of the Subordinate Laws Act 1989.

Under section 12 of the Housing Assistance Act 1987, I make a variation to the Public Rental Housing Assistance Program as follows:

Interpretation

1. In this instrument, "Program" means the Public Rental Housing Assistance Program published in Australian Capital Territory Gazette No. 20 of 1989, dated 4 October 1989 as amended by the following instruments:
 - (a) No. 1 of 1989 - notified in Australian Capital Territory Gazette No. 28 of 1989 dated 29 November 1989;
 - (b) No. 6 of 1990 - notified in Australian Capital Territory Special Gazette No. S39 of 1990 dated 29 June 1990;
 - (c) No. 152 of 1992 - notified in Australian Capital Territory Special Gazette No. 171 of 1992 dated 1 October 1992;
 - (d) No. 3 of 1993 - notified in Australian Capital Territory Gazette No. 3 of 1993 dated 20 January 1993;
 - (e) No. 135 of 1993 - notified in Australian Capital Territory Special Gazette No. S205 of 1993 dated 1 October 1993;
 - (f) No. 141 of 1993 - notified in Australian Capital Territory Special Gazette No. S205 of 1993 dated 1 October 1993;
 - (g) No. 18 of 1995 - notified in Australian Capital Territory Special Gazette No. S31 of 1995 dated 31 January 1995;
 - (h) No. 101 of 1995 - notified in Australian Capital Territory Special Gazette No. S179 of 1995 dated 14 July 1995; and
 - (i) No. 76 of 1996 - notified in Australian Capital Territory Special Gazette No S107 of 1996 dated 31 May 1996.

Principles

2. Clause 2 of the Program is varied by omitting "Schedule 1 to the Housing Assistance Act 1987" and substituting "The Housing Agreement".

Definitions

3. Clause 4(1) of the Program is varied by:
 - (a) Adding the following definition:

""Housing Agreement" has the meaning given in the *Housing Assistance Act 1987*;"
 - (b) In respect of paragraph (a) of the definition of "Income":
 - (i) Omitting "Part 2.17"; and
 - (ii) Omitting "basic rate of family payment" and substituting "minimum rate of family allowance"; and
 - (c) Omitting paragraph (c) of the definition of "Income".

Rent Rebate

4. The Program is varied by omitting clause 17 and substituting the following:

"Rent rebate

- 17.(1) A tenant may apply to the Commissioner for rent rebate.
- (2) An application must be in the approved form and must contain such information as the Commissioner reasonably requires.
- (3) Subject to the provisions of this clause the Commissioner must grant a rebate of rent of the amount by which the weekly rent payable by the tenant under clause 16 is more than the Basic Rent.
- (4) The Commissioner may not grant a rent rebate so that the amount of weekly rent payable by the tenant after deduction of the rebate is less than \$20.
- (5) For the purpose of this clause 17:

"Basic Rent" means:

 - (a) in relation to an Existing Tenant, the sum of:
 - (i) the tenant's Base Income;
 - (ii) 10% of dependent child payments payable to the tenant;

- (iii) 10% of the income of any independent person in the household other than the tenant; and
- (iv) any component of the rent for the tenant's accommodation which is in respect of hot water, space heating, garages or other facilities and is specified by the Commissioner to form part of the basic rent; and

(b) in relation to a New Tenant, the sum of:

- (i) 25% of the weekly income of the tenant and any independent person in the household other than the tenant, other than dependent child payments;
- (ii) 10% of dependent child payments payable to the tenant or any independent person in the household other than the tenant; and
- (iii) any component of the rent for the tenant's accommodation which is in respect of hot water, space heating, garages or other facilities and is specified by the Commissioner to form part of the basic rent;

"Base Income" in relation to an Existing Tenant means:

(a) In respect of the period from 1 July 1998 to 31 December 1998, whichever is the lesser of:

- (i) the sum of:
 - 22% of that part of the weekly income of the tenant, other than dependent child payments, which does not exceed 25% of A.C.T. Average Weekly Earnings;
 - 25% of that part of the weekly income of the tenant, other than dependent child payments, which exceeds 25% of A.C.T. Average Weekly Earnings but does not exceed 50% of A.C.T. Average Weekly Earnings;
 - 30% of that part of the weekly income of the tenant, other than dependent child payments, which exceeds 50% of A.C.T. Average Weekly Earnings but does not

exceed A.C.T. Average Weekly Earnings;
and

- 35% of that part of the weekly income of the tenant, other than dependent child payments, which exceeds A.C.T. Average Weekly Earnings; or
- (ii) 25% of the tenant's income excluding dependent child payments;
- (b) In respect of the period from 1 January 1999 to 31 December 1999, whichever is the lesser of:
- (i) the sum of:
- 23.5% of that part of the weekly income of the tenant, other than dependent child payments, which does not exceed 25% of A.C.T. Average Weekly Earnings;
 - 26.5% of that part of the weekly income of the tenant, other than dependent child payments, which exceeds 25% of A.C.T. Average Weekly Earnings but does not exceed 50% of A.C.T. Average Weekly Earnings;
 - 31.5% of that part of the weekly income of the tenant other than dependent child payments which exceeds 50% of A.C.T. Average Weekly Earnings but does not exceed A.C.T. Average Weekly Earnings; and
 - 36.5% of that part of the weekly income of the tenant other than dependent child payments which exceeds A.C.T. Average Weekly Earnings; or
- (ii) 25% of the tenant's income excluding dependent child payments; and
- (c) In respect of the period on and after 1 January 2000, 25% of the weekly income of the tenant other than dependent child payments;

"Excluded Transfer" means a transfer under paragraph 18(2)(a), other than:

- (a) a transfer to accommodation of smaller size than that which the tenant previously occupied: or
- (b) a transfer in respect of which the tenant is granted priority under this Program;

"Existing Tenant" means:

- (a) a tenant whose tenancy commenced before 1 July 1998; or
- (b) a tenant whose current tenancy commenced on or after 1 July 1998 if:
 - (i) prior to 1 July 1998 the tenant or a member of the tenant's household was a tenant of the Commissioner under this Program ("the Original Tenancy"); and
 - (ii) the tenant's current tenancy derives from the Original Tenancy without interruption through any of the following occurring on one or more occasions:
 - (A) a new tenancy being granted to the same tenant in respect of the same property for any reason;
 - (B) a transfer of the tenancy of the same property to another tenant, being a member of the previous tenant's household; and
 - (C) a transfer to another property in accordance with clause 18 of this Program, other than an Excluded Transfer;

"New Tenant" means a tenant whose tenancy commenced on or after 1 July 1998, other than a tenant referred to in paragraph (b) of the definition of Existing Tenant.

- (6) Rent rebate is granted for a period of 6 months.
- (7) The Commissioner may from time to time extend by up to 6 months the period of rent rebate granted to a tenant.
- (8) A grant of rent rebate takes effect from the date of application, provided that:
 - (a) where the tenant was receiving rent rebate immediately prior to the application and the Commissioner determines

that the tenant's rent rebate has increased, the Commissioner may determine a date of effect not more than two weeks prior to the date of application; and

- (b) the Commissioner may determine an earlier date of effect where exceptional circumstances exist.
- (9) The Commissioner may require a tenant who has applied for or is receiving rent rebate to provide further information in writing at any time.
 - (10) The Commissioner may from time to time review the rent rebate granted to a tenant and may suspend, vary or terminate the grant of rent rebate if it appears to the Commissioner for any reason that the tenant is or was not eligible for rent rebate or is or was eligible for a different amount of rent rebate.
 - (11) A suspension, variation or termination of a grant of rent rebate takes effect from the date of the review, provided that:
 - (a) where the tenant notified the Commissioner of a change in circumstances and the Commissioner determines that the tenant's rent rebate has increased, the Commissioner may determine a date of effect not more than two weeks prior to the date of notification; and
 - (b) the Commissioner may determine an earlier date of effect where:
 - (i) the tenant has failed to provide full and correct information in relation to his or her application for rent rebate or in response to a request by the Commissioner under subclause 17(9); or
 - (ii) exceptional circumstances exist.
 - (12) A tenant who is subletting his or her accommodation is not eligible for rent rebate.
 - (13) In this clause 17:

"dependent child payments" means:

- (a) family allowance in addition to the minimum rate paid under the *Commonwealth Social Security Act 1991*; and
- (b) that part of a service pension payable under the *Commonwealth Veterans' Entitlements Act 1986* in respect of a child; and

"tenant" includes a tenant's co-habiting spouse who is not a party to the tenancy agreement."

Commencement

5. The variations made by this Instrument commence on the day on which this Instrument is notified in the Australian Capital Territory Gazette.


Date: ... 1 July 1998 ...


John Wynants
delegate of the Commissioner for Housing

APPROVAL

Under section 12 of the Housing Assistance Act 1987, I approve the variation to the Public Rental Housing Assistance Program made by the Commissioner for Housing by instrument dated 1998.

Date: 1 July 1998


Brendan Smyth
Minister for Urban Services