

2003

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

HOUSING ASSISTANCE ACT 1987

AMENDMENT OF PUBLIC RENTAL HOUSING ASSISTANCE PROGRAM

DISALLOWABLE INSTRUMENT No DI2003 - 121

EXPLANATORY STATEMENT

**(Circulated by authority of
Bill Wood MLA
Minister for Disability Housing and Community Services)**

AMENDMENT OF PUBLIC RENTAL HOUSING ASSISTANCE PROGRAM

AUTHORITY

Section 12 of the Housing Assistance Act 1987 empowers the Commissioner for Housing to prepare in the form of a disallowable instrument a housing assistance program or an amendment of a program.

A program or amendment may not be implemented without the approval of the responsible Minister. Following approval, the program or amendment is required to be notified in the Legislation Register and presented to the Legislative Assembly, in accordance with the Legislation Act 2001.

BACKGROUND

The Public Rental Housing Assistance Program is a housing assistance program operating under the Housing Assistance Act 1987. The program was published in ACT Gazette No 20 on 4 October 1989 and amended from time to time, as specified at clause 1 of the instrument. The program is required to operate in accordance with the principles of the Commonwealth State Housing Agreement.

This program amendment was prepared by the Commissioner for Housing, approved by the Minister for Disability, Housing and Community Services and notified in the Legislation Register on 18 June 2003.

The Public Rental Housing Assistance Program provides rental housing to eligible persons in the ACT who are otherwise unable to afford or obtain adequate and appropriate housing. Public housing is provided at concessional rents to people on low incomes.

PURPOSE AND CONSEQUENCES

The purpose of this amendment is to give effect to Government policy to promote increased equity in a number of key areas of the Program. Briefly, this amendment will:

- allow a housing applicant's effective registration date to be changed where their priority category is upgraded;
- permit the Commissioner to deem that a housing applicant who lives outside Canberra remains eligible for assistance for a further period of three months if they lose their employment in the ACT (providing time to regain ACT employment);
- clarify and expand the program provisions relating to the order in which housing assistance is provided to eligible applicants.

The amendment also encompasses some relatively minor definitional and procedural changes.

SPECIFIC CHANGES

Following is a detailed explanation of changes to the Program as specified in the instrument.

Clause 1 provides details of the program being amended, including previous amendments, and is self-explanatory.

Clause 2 amends the Program by omitting the definition of ‘spouse’ at clause 4(1) and adding the new definitions of ‘domestic partner’ and ‘domestic partnership’ in accordance with Government policy as reflected in the recent amendment to the Legislation Act 2001. The new definition ‘Request for Review’ is also added.

Clause 3 amends the Program by omitting clause 4(4) which is now redundant as a result of the new definitions of ‘domestic partner’ and ‘domestic partnership’.

Clause 4 amends the Program by omitting references to ‘spouse’ or ‘de facto spouse’ throughout the Program and substituting the new definition specified at clause 2.

Clause 5 amends the Program by omitting clause 6(3) and substituting arrangements specifying more precisely the circumstances in which the Commissioner may vary the Priority Category assigned to an application for housing assistance.

Clause 6 amends the Program by adding new clause 7(2A) enabling the Commissioner to change a housing applicant’s registration date on the Applicant List where the Priority Category for the person’s application is varied. The purpose of this change is to ensure that an applicant whose priority rating is upgraded does not obtain an unfair advantage over other applicants who may have been at the higher level of need for a much longer period than the ‘upgrading’ applicant.

Clause 7 amends the Program by omitting paragraph (c) of clause 7(4) and substituting a paragraph re-worded around the new definition of ‘domestic partnership’ requiring an applicant to notify the Commissioner in respect of any change in such a relationship.

Clause 8 amends the Program by adding new clauses 7(10) and 7(11) enabling the Commissioner to deem that an applicant who lives outside the ACT remains eligible for a further period of up to three months following the loss of employment in the ACT. The applicant would be removed from the Applicant List if they do not regain employment (or take up residence) in the ACT within that period. Under the previous provisions the Commissioner had no specific discretion in these circumstances and was ordinarily required to remove the applicant from the Applicant List immediately they ceased to meet any of the eligibility criteria.

Clause 9 amends the Program by omitting clause 8(2) and substituting new provisions creating a more structured and fairer framework for the allocation of housing assistance to applicants. New clause 8(2) reflects the fundamental objective that assistance is to be allocated in chronological order having regard to an applicant’s assessed level of need. Two exceptions to this rule are provided for. Subject to the Commissioner’s discretion, subclause (2A) provides for the deferral of assistance for an applicant with less than 6 months residence or employment in the ACT. Subclause (2B) provides a specific discretion to expedite assistance in extraordinary circumstances involving applicants with urgent or critical need which, in the Commissioner’s opinion, cannot reasonably be resolved in any other way. Such circumstances might include applicants who, for example, are in special housing need arising directly from a state of emergency declared by the Chief Minister, or who have an urgent need for alternative accommodation arising from participation in a Witness Protection Plan.

Clause 10 amends the Program by omitting clauses 20, 21, 22 ,23 and 24 and substituting re-drafted provisions for notifying applicants about decisions of the Commissioner, and for the review of decisions.

The substance of the previous provisions has been essentially maintained. This includes an obligation on the Commissioner to inform an applicant in writing within 28 days of making decisions of the kinds specified, and the right of an applicant to request a review of specified decisions by the Commissioner, or by the Administrative Appeals Tribunal where the applicant is dissatisfied with the Commissioner's decision on review.

The role of the Housing Review Committee in advising the Commissioner in relation to review matters has been preserved as an important part of the review process. For administrative efficiency, the Commissioner will now have a broader discretion to decide the circumstances in which a matter should be referred to the Committee for advice. The previous arrangements under which the Commissioner may accept, reject or vary a recommendation of the Housing Review Committee have been maintained. As indicated above, applicants will continue to have access to the Administrative Appeals Tribunal in seeking independent review of specified decisions of the Commissioner.

Clause 11 amends the Program by substituting "Privacy" for "Secrecy", and is self-explanatory.

Clause 12 specifies the commencement date of the instrument and is self-explanatory.