Australian Capital Territory

Housing Assistance Act 2007

A2007-8

Republication No 11

Effective: 1 January 2014

Republication date: 1 January 2014

Last amendment made by A2013-22
(republication for amendments by A2013-18)

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Housing Assistance Act 2007* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 January 2014. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 January 2014.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is $140 for an individual and $700 for a corporation (see *Legislation Act 2001*, s 133).

Australian Capital Territory

Housing Assistance Act 2007

Contents

Page

Part 1 Preliminary

1 Name of Act 2
3 Dictionary 2
4 Notes 2

Part 2 Objects and important concepts

6 Objects of Act 3
7 What is *housing assistance*? 4
8 When is someone *eligible* for housing assistance? 4

Part 3 Housing Commissioner

9 Housing commissioner—establishment 5
10 Housing commissioner—powers generally 5
11 Housing commissioner—functions 6
12 Housing commissioner—no power for contracts of employment 6

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

		Page
13	Limits on housing commissioner—joint ventures	7
14	Notice of joint ventures	7
15	Limit on housing commissioner—large contracts	8
16	Housing commissioner—Ministerial directions	8
17	Housing commissioner—delegation	8

Part 4 Housing assistance programs

18	What is a *housing assistance program*?	9
19	Approved housing assistance programs	9
20	Approved housing assistance programs—determinations	9
21	Approved housing assistance programs—operational guidelines	10
22	Approved housing assistance programs—market rent	10
23	Approved housing assistance programs—rent review	11
24	Housing assistance applicants—requirement for further information	11
25	Housing assistance recipients—requirement for information	12

Part 4A Affordable and community housing programs

25A	Definitions—pt 4A	14
25B	Housing commissioner etc may give assistance to registered community housing provider	14
25C	Affordable and community housing programs—housing commissioner to report to Minister	15

Part 4B Official visitors

25V	Meaning of *official visitor* etc	16
25W	Official visitors must give notice of visit	16

Part 5 Protection of information

28	Meaning of *protected information*—pt 5	18
29	FOI Act exemption—documents containing protected information	19

Part 6 Commonwealth-Territory funding agreements

30	What is a *Commonwealth-Territory funding agreement*?	21
31	Notification of Commonwealth-Territory funding agreements	21

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Part 6A Notification and review of decisions

31A Meaning of *reviewable decision*—pt 6A 22
31B Reviewable decision notices 22
31C Applications for review 22

Part 7 Miscellaneous

32 Placing unleased land under housing commissioner's control 23
33 Unleased land placed under housing commissioner's control—powers 23
34 Unneeded land may be returned 24
35 Information to Minister 25
36 Financial arrangements 25
37 Protection of officials from liability 25
38 Determination of fees 26
39 Approved forms 26
40 Regulation-making power 26

Schedule 1 Reviewable decisions 27

Dictionary 28

Endnotes

1 About the endnotes 30
2 Abbreviation key 30
3 Legislation history 31
4 Amendment history 33
5 Earlier republications 39

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Australian Capital Territory

Housing Assistance Act 2007

An Act to provide for housing assistance, and for other purposes

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Housing Assistance Act 2007*.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (***signpost definitions***) to other terms defined elsewhere in this Act.

For example, the signpost definition '***housing assistance***—see section 7.' means that the term 'housing assistance' is defined in that section.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 2 Objects and important concepts

6 Objects of Act

(1) The main objects of this Act are—

(a) to maximise the opportunities for everyone in the ACT to have access to housing that is affordable, secure and appropriate to their needs; and

(b) to facilitate the provision of housing assistance for those most in need; and

(c) to maximise value for money in the provision of housing assistance; and

(d) to promote a choice of forms of housing assistance, and providers of housing assistance, for entities eligible for housing assistance; and

Note ***Entity*** includes a person—see the Legislation Act, dict, pt 1.

(e) to facilitate the provision of rental housing that—

(i) has adequate amenity, is of an adequate size and is appropriately located for employment opportunities and necessary services and facilities; and

(ii) is coordinated with any support services (provided under other laws) required by consumers of housing assistance to live in the community; and

(f) to facilitate the provision of an adequate supply of affordable home finance for people on low and moderate incomes; and

(g) to promote the development of flexible and innovative financial arrangements to facilitate access to home ownership for people on low and moderate incomes; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(h) to promote the growth of a community housing sector as a viable alternative to public and private rental housing and home ownership; and

(i) to promote the establishment of appropriate mechanisms and forums to allow input into housing policy by consumers, and potential consumers, of housing assistance and by representative non-government agencies involved in housing policy and provision.

(2) A person administering this Act must have regard to the objects of the Act to the maximum extent practicable considering the resources available to the person.

7 What is *housing assistance*?

In this Act:

housing assistance means services, programs, assets, rebates and amounts, provided under an approved housing assistance program to help entities who are eligible for assistance under the program to meet their emergency, short-term, medium-term and long-term housing needs.

Note ***Approved housing assistance program***—see s 19.

8 When is someone *eligible* for housing assistance?

For this Act, an entity is ***eligible*** for housing assistance if the entity meets the eligibility criteria under an approved housing assistance program.

Note ***Entity*** includes a person—see the Legislation Act, dict, pt 1.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 3 Housing Commissioner

9 Housing commissioner—establishment

(1) There is a Commissioner for Social Housing (the ***housing commissioner***).

(2) The housing commissioner is a corporation and must have a seal.

(3) The director-general is the housing commissioner.

10 Housing commissioner—powers generally

(1) The housing commissioner has all the powers of a person, unless expressly excluded by this Act.

Examples of powers

1 to enter into a contract

2 to own and dispose of property

3 to sue and be sued

4 to act as a trustee

Note 1 ***Person*** includes an individual and a corporation (see Legislation Act, dict, pt 1).

Note 2 See s 12 to s 15 for limits on the housing commissioner's powers.

Note 3 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) Without limiting subsection (1), the housing commissioner may enter into arrangements with entities to provide housing assistance.

Note ***Entity*** includes a person—see the Legislation Act, dict, pt 1.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

11 Housing commissioner—functions

(1) The housing commissioner has the following functions:

(a) administering, on behalf of the Territory, programs and funding arrangements for delivering housing assistance in the ACT by way of—

(i) public rental housing; and

(ii) home ownership; and

(iii) financial assistance to home owners and tenants; and

(iv) community housing; and

(v) affordable housing;

(b) administering, on behalf of the Territory, any services relating to housing assistance that the Minister approves under subsection (2).

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def ***entity***).

(2) The Minister may approve stated services relating to housing assistance.

(3) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

12 Housing commissioner—no power for contracts of employment

The housing commissioner does not have the power to employ staff on a contract of employment.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

13 Limits on housing commissioner—joint ventures

(1) The housing commissioner must not—

(a) enter into negotiations for a joint venture without the Minister's prior written approval; or

(b) enter into an agreement for a joint venture without the Executive's prior written approval.

(2) An approval under subsection (1)—

(a) may apply generally or may relate to a particular proposed joint venture; and

(b) may be given subject to the conditions or restrictions stated in the approval.

14 Notice of joint ventures

(1) This section applies if the housing commissioner enters into an agreement for a joint venture.

(2) The housing commissioner must, not later than 14 days after the day the commissioner enters into the agreement, give the Minister a written statement (the ***commissioner's statement***) setting out the details of, and the reasons for entering into, the agreement.

(3) The Minister must present a copy of the commissioner's statement to the Legislative Assembly not later than 6 sitting days after the day the Minister is given the statement.

(4) However, the copy of the commissioner's statement presented to the Legislative Assembly need not include any material that is commercially sensitive.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) If commercially sensitive information is not included in the presented copy of the commissioner's statement, the Minister must, when presenting the statement to the Legislative Assembly, also present a further statement setting out the general nature of the commercially sensitive information and the reason for it not being included in the presented statement.

15 Limit on housing commissioner—large contracts

The housing commissioner must not, without the Minister's prior written approval, enter into a contract which involves the payment or receipt of a total amount larger than $5 million.

16 Housing commissioner—Ministerial directions

(1) The Minister may give a direction to the housing commissioner about the exercise of the commissioner's functions.

(2) The housing commissioner must exercise the commissioner's functions in accordance with any direction given by the Minister.

(3) A direction is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

17 Housing commissioner—delegation

The housing commissioner may delegate the commissioner's functions under this Act or another territory law to a public servant.

Note For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 4 Housing assistance programs

18 What is a *housing assistance program*?

In this Act:

housing assistance program means a program for providing housing assistance that includes the following:

(a) the kind of assistance that may be provided under the program;

(b) the eligibility criteria for assistance under the program;

(c) how decisions of the housing commissioner under the program may be reviewed.

Note 1 ***Housing assistance***—see s 7.

Note 2 Power given under an Act to make a statutory instrument (including a program) includes power to amend or repeal the instrument (see Legislation Act, s 46 (1)).

19 Approved housing assistance programs

(1) The Minister may approve a housing assistance program.

(2) An approved housing assistance program is a disallowable instrument.

Note 1 Power given under an Act to make a statutory instrument (including a program) includes power to amend or repeal the instrument (see Legislation Act, s 46 (1)).

Note 2 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

20 Approved housing assistance programs—determinations

(1) An approved housing assistance program may provide for the housing commissioner to make determinations for the program.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) A determination under subsection (1), and each amendment (if any) of a determination, is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

21 Approved housing assistance programs—operational guidelines

(1) The housing commissioner may issue guidelines (***housing operation guidelines***) outlining procedures for the management or operation of approved housing assistance programs.

(2) Housing operation guidelines—

(a) may deal with matters also dealt with elsewhere under this Act; but

(b) must not be inconsistent with this Act (including approved housing assistance programs).

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any approved housing assistance program or regulation (see Legislation Act, s 104).

(3) A housing operation guideline, and each amendment (if any) of a guideline, is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

22 Approved housing assistance programs—market rent

(1) If housing is being rented to an entity under an approved housing assistance program, the entity must be charged market rent for the housing.

(2) However, an approved housing assistance program may provide for a rebate of rent in accordance with the program.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) In this section:

market rent, for housing, means the rent that would be charged by the lessor for the housing if the housing were rented by a willing lessor to a willing tenant—

(a) dealing with each other at arm's length; and

(b) each of whom had acted knowledgeably, sensibly and without compulsion.

23 Approved housing assistance programs—rent review

The housing commissioner must review the rent charged for housing rented under an approved housing assistance program at least once each year.

24 Housing assistance applicants—requirement for further information

(1) This section applies if an entity applies for housing assistance.

(2) The housing commissioner may require the entity to give the commissioner further stated information that the commissioner reasonably needs to decide the application.

Note ***Information*** includes a document—see the dictionary.

(3) The housing commissioner may, by written notice to the entity, refuse the application if—

(a) the requirement is made in writing; and

(b) the requirement states a reasonable time (of at least 7 days after the day the requirement is given to the entity) for providing the information; and

(c) the entity does not provide the information in accordance with the requirement.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

25 Housing assistance recipients—requirement for information

(1) This section applies if an entity is receiving housing assistance.

(2) The housing commissioner may, at any time, require the entity to give the commissioner stated information that the commissioner reasonably needs—

(a) to review the housing assistance being provided to the entity; or

(b) to provide housing assistance to the entity; or

(c) for the good management of an approved housing assistance program or of assets held by the commissioner; or

(d) to otherwise exercise the commissioner's functions under this Act.

Note ***Information*** includes a document—see the dictionary.

(3) The housing commissioner may suspend or cancel all or part of the entity's housing assistance if—

(a) the requirement is made in writing; and

(b) the requirement states a reasonable time (of at least 7 days after the day the requirement is given to the entity) for giving the information; and

(c) the entity does not give the information in accordance with the requirement.

Note The decision to suspend or cancel all or part of an entity's housing assistance is a reviewable decision (see s 31A), and the housing commissioner must give a reviewable decision notice to the entity (see s 31B).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) The reviewable decision notice given to the entity must include—

(a) a statement that the housing assistance is suspended or cancelled; and

(b) when the suspension or cancellation begins; and

(c) if housing assistance is suspended—when the suspension ends.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 4A Affordable and community housing programs

25A Definitions—pt 4A

In this part:

Community Housing Providers National Law (ACT) means the provisions applying because of the *Community Housing Providers National Law (ACT) Act 2013*, section 7.

registered community housing provider—see the *Community Housing Providers National Law (ACT)*, section 4 (1).

25B Housing commissioner etc may give assistance to registered community housing provider

(1) The housing commissioner or another Territory entity may give assistance to a registered community housing provider.

Examples—assistance by housing commissioner

1 a grant of money

2 a transfer of land

3 a lease of land or property for use as long-term affordable rental housing

4 a commercial partnership or joint venture between the housing commissioner and registered community housing provider

Examples—assistance by Territory entity

1 a secured loan

2 a tax concession

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) Assistance may be given subject to conditions.

(3) Nothing in this section requires the housing commissioner or a Territory entity to give assistance to a registered community housing provider.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

25C Affordable and community housing programs—housing commissioner to report to Minister

(1) The housing commissioner must, if asked by the Minister, give the Minister a written report about the assistance given to registered community housing providers under section 25B.

(2) If the housing commissioner gives the Minister a report mentioned in subsection (1), the Minister must present the report to the Legislative Assembly within 6 sitting days after the day the Minister is given the report.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 4B Official visitors

Note At least 1 official visitor must be appointed for this Act under the *Official Visitor Act 2012* (the ***OV Act***).

The OV Act sets out the functions of official visitors which includes visiting visitable places, handling complaints from entitled people and reporting on those matters.

This part defines what is an ***entitled person*** and a ***visitable place*** for the OV Act. This part also prescribes other matters for the OV Act.

25V Meaning of *official visitor* etc

In this Act:

entitled person means a person—

(a) who is homeless or at risk of homelessness who is staying in a visitable place; or

(b) prescribed by regulation.

official visitor means an official visitor for this Act appointed under the *Official Visitor Act 2012*, section 10.

visitable place means multiple occupancy supported accommodation for people who are homeless or at risk of homelessness, provided by an entity funded by the Territory.

25W Official visitors must give notice of visit

(1) An official visitor must give an operating entity for a visitable place written notice that the official visitor intends to visit the place at least 24 hours before the official visitor's visit.

(2) However, the official visitor may visit a visitable place without giving notice to the operating entity if—

(a) the official visitor reasonably believes, or has been given a complaint, that an entitled person at the visitable place is at risk of abuse or harm; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the entitled person consents to the visit.

(3) In this section:

operating entity, for a visitable place, means—

(a) if the Territory operates the place—the director-general; or

(b) in any other case—the entity that operates the place.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 5 Protection of information

28 Meaning of *protected information*—pt 5

(1) For this part, information is ***protected information*** if it—

(a) identifies an entity that has applied for housing assistance as having applied for housing assistance; or

(b) identifies an entity that is or has been a housing assistance recipient as a housing assistance recipient or former housing assistance recipient; or

(c) identifies land that is a housing assistance property as a housing assistance property; or

(d) is protected personal information about an entity that—

(i) has applied for housing assistance; or

(ii) is or has been a housing assistance recipient; or

(e) is information prescribed by regulation for this definition; or

(f) would allow something to which paragraph (a), (b), (c), (d) or (e) applies to be worked out.

Note ***Entity*** includes a person—see the Legislation Act, dict, pt 1.

(2) In this section:

housing assistance property means—

(a) land owned, controlled or held by the housing commissioner; or

(b) land used by an entity contracted by the commissioner to provide housing assistance.

Example of land controlled or held by the housing commissioner—par (a)

land leased by the commissioner from a private landlord to provide public rental housing

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Example of entity contracted by the housing commissioner—par (b)

a community organisation that is contracted by the commissioner to operate a refuge

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

housing assistance recipient means an entity receiving housing assistance.

Examples of housing assistance recipients

1 a tenant of a housing assistance property

2 a person accommodated at a refuge or other residential facility that is operated by a community organisation receiving housing assistance to provide the accommodation

protected personal information, about an entity that is or has been a housing assistance recipient, means—

(a) the entity's name, telephone number or address; or

(b) any other information prescribed by regulation for this definition.

29 FOI Act exemption—documents containing protected information

(1) For the purposes of the *Freedom of Information Act 1989* (the ***FOI Act***), a document is an exempt document if—

(a) the document is in the possession of the housing commissioner; and

(b) its disclosure under the FOI Act would involve the disclosure of protected information.

(2) However, subsection (1) does not apply in relation to a request under either of the following sections of the FOI Act if the request is made by a person to whom the document relates:

(a) section 14 (Requests for access);

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) section 48 (Persons may make application for amendment of records).

(3) To remove any doubt, subsection (1) is additional to, and does not limit, the operation of the FOI Act, part 4 (Exempt documents).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 6 Commonwealth-Territory funding agreements

30 What is a *Commonwealth-Territory funding agreement*?

In this Act:

Commonwealth-Territory funding agreement means an agreement between the Commonwealth and the Territory for the Commonwealth to give financial assistance to the Territory for housing assistance or to promote the objects of this Act.

31 Notification of Commonwealth-Territory funding agreements

(1) This section applies if the Territory enters into or amends a Commonwealth-Territory funding agreement.

(2) The agreement or amendment is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 6A Notification and review of decisions

31A Meaning of *reviewable decision*—pt 6A

In this part:

reviewable decision means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

31B Reviewable decision notices

If the housing commissioner makes a reviewable decision, the commissioner must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

Note 1 The housing commissioner must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

31C Applications for review

The following may apply to the ACAT for review of a reviewable decision:

(a) an entity mentioned in schedule 1, column 4 in relation to the decision;

(b) any other person whose interests are affected by the decision.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 7 Miscellaneous

32 Placing unleased land under housing commissioner's control

(1) The Executive may direct the planning and land authority to place unleased territory land under the control of the housing commissioner.

(2) However, if land that is placed under the housing commissioner's control under subsection (1) is subject to an existing tenancy, the land is placed under the commissioner's control subject to the tenancy.

(3) To remove any doubt, the housing commissioner may exercise the commissioner's powers under section 33 in relation to a tenancy to which subsection (2) applies, including, for example, by ending the tenancy.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(4) A direction under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

(5) In this section:

existing tenancy, for land placed under the housing commissioner's control, means a tenancy that was in force immediately before the land was placed under the commissioner's control.

unleased territory land means territory land that is not leased under the *Planning and Development Act 2007* or the *Unit Titles Act 2001*.

33 Unleased land placed under housing commissioner's control—powers

(1) This section applies to land placed under the control of the housing commissioner under section 32.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The housing commissioner may do 1 or more of the following in relation to the land:

(a) manage the land;

(b) authorise people to enter the land;

(c) use the land in any way the commissioner considers appropriate for the commissioner's functions;

(d) arrange for the grant to someone else of a lease of, or licence to occupy, the land;

(e) obtain a lease for the land in the name of the housing commissioner and transfer the lease;

(f) if the land is held by an entity under a lease—

(i) do anything in relation to the land that the Territory could do in relation to the land immediately before the land was placed under the commissioner's control; or

(ii) exercise any power under the *Recovery of Lands Act 1929* that the Territory may exercise for the land under that Act on behalf of the Commonwealth.

Note 1 The *Recovery of Lands Act 1929* provides for the Territory to end a lease and take action against people. However, it does not apply to leases under the *Residential Tenancies Act 1997*.

Note 2 See also the *Planning and Development Act 2007*, s 312 for the recovery of land from a former licencee.

(3) However, a lease or licence must not be granted by anyone for the land except with the housing commissioner's prior written agreement.

34 Unneeded land may be returned

(1) This section applies if the housing commissioner is satisfied that unleased land that has been placed under the commissioner's control under section 32 is no longer needed for this Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The housing commissioner may, by instrument, surrender control of the land to the planning and land authority.

(3) An instrument under subsection (2) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

35 Information to Minister

(1) If the Minister asks the housing commissioner at any time to give the Minister information (including protected information) about any matter relating to the commissioner's functions, the commissioner must comply with the request.

(2) In this section:

protected information—see section 28.

36 Financial arrangements

(1) All amounts paid to or by the housing commissioner for this Act (including amounts paid under a Commonwealth-Territory funding agreement) must be paid into or out of a directorate banking account, or territory banking account, within the meaning of the *Financial Management Act 1996*.

(2) To remove any doubt, amounts owed to, or paid to or by, the housing commissioner are amounts owed to, or paid to or by, the Territory.

37 Protection of officials from liability

(1) In this section:

official means—

(a) the housing commissioner; or

(b) anyone else exercising a function under this Act.

(2) An official is not personally liable for anything done or omitted to be done honestly and without recklessness—

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(a) in the exercise of a function under this Act; or

(b) in the reasonable belief that the conduct was in the exercise of a function under this Act.

(3) Any liability that would, apart from this section, attach to an official attaches instead to the Territory.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any approved housing assistance program or regulation (see Legislation Act, s 104).

38 Determination of fees

(1) The Minister may determine fees for this Act.

Note The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

(2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

39 Approved forms

(1) The housing commissioner may approve forms for this Act.

(2) If the housing commissioner approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see the Legislation Act, s 255.

(3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

40 Regulation-making power

The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Schedule 1 Reviewable decisions

(see pt 6A)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	24	refuse application for housing assistance	applicant
2	25	suspend or cancel all or part of housing assistance provided to entity	entity

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1 defines the following terms:

- ACAT
- director-general (see s 163)
- entity
- exercise
- function
- Minister (see s 162)
- planning and land authority
- reviewable decision notice
- territory land
- year.

affordable housing means housing that is affordable by people on low or moderate incomes.

approved housing assistance program means a housing assistance program approved under section 19.

Commonwealth-Territory funding agreement—see section 30.

community housing means rental housing for—

(a) people on low and moderate incomes or with special needs; or

(b) nonprofit community organisations.

Community Housing Providers National Law (ACT), for part 4A (Affordable and community housing programs)—see section 25A.

eligible, for housing assistance—see section 8.

entitled person—see section 25V.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

housing—

(a) means residential housing and other forms of residential accommodation; and

(b) includes the fences, outbuildings and other improvements and the connections for utilities and other services provided or reasonably required for the accommodation.

housing assistance—see section 7.

housing assistance program—see section 18.

housing commissioner means the Commissioner for Social Housing established under section 9.

information includes a document.

official visitor—see section 25V.

protected information, for part 5 (Protection of information)—see section 28.

registered community housing provider, for part 4A (Affordable and community housing programs)—see section 25A.

reviewable decision, for part 6A (Notification and review of decisions—see section 31A.

visitable place—see section 25V.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
<u>underlining</u> = whole or part not commenced or to be expired

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

3 Legislation history

Housing Assistance Act 2007 A2007-8
notified LR 10 May 2007
s 1, s 2 commenced 10 May 2007 (LA s 75 (1))
remainder commenced 10 November 2007 (s 2 and LA s 79)

as modified by

Housing Assistance Regulation 2008 SL2008-7 ss 3-5
notified LR 18 March 2008
s 1, s 2 commenced 18 March 2008 (LA s 75 (1))
remainder commenced 19 March 2008 (s 2)

as amended by

Housing Assistance Amendment Act 2008 A2008-33
notified LR 2 September 2008
s 1, s 2 commenced 2 September 2008 (LA s 75 (1))
remainder commenced 2 March 2009 (s 2 and LA s 79)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.56
notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.56 commenced 2 March 2009 (s 2 (2) and see A2008-33, s 2 and LA s 79)

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.42
notified LR 1 September 2009
s 1, s 2 commenced 1 September 2009 (LA s 75 (1))
sch 3 pt 3.42 commenced 22 September 2009 (s 2)

Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.39
notified LR 26 November 2009
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))
sch 3 pt 3.39 commenced 17 December 2009 (s 2)

Statute Law Amendment Act 2010 A2010-18 sch 3 pt 3.8
notified LR 13 May 2010
s 1, s 2 commenced 13 May 2010 (LA s 75 (1))
sch 3 pt 3.8 commenced 3 June 2010 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.81

notified LR 30 June 2011
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))
sch 1 pt 1.81 commenced 1 July 2011 (s 2 (1))

Evidence (Consequential Amendments) Act 2011 A2011-48 sch 1 pt 1.20

notified LR 22 November 2011
s 1, s 2 commenced 22 November 2011 (LA s 75 (1))
sch 1 pt 1.20 commenced 1 March 2012 (s 2 (1) and see Evidence Act 2011 A2011-12, s 2 and CN2012-4)

Official Visitor Act 2012 A2012-33 sch 1 pt 1.4

notified LR 15 June 2012
s 1, s 2 commenced 15 June 2012 (LA s 75 (1))
sch 1 pt 1.4 commenced 1 September 2013 (s 2 as am by A2013-22 s 4)

Community Housing Providers National Law (ACT) Act 2013 A2013-18 sch 1 pt 1.1

notified LR 23 May 2013
s 1, s 2 commenced 23 May 2013 (LA s 75 (1))
sch 1 pt 1.1 commenced 1 January 2014 (s 2 and CN2013-10)

Official Visitor Amendment Act 2013 A2013-22 sch 1 pt 1.4

notified LR 17 June 2013
s 1, s 2 commenced 17 June 2013 (LA s 75 (1))
sch 1 pt 1.4 commenced 1 September 2013 (s 2 and see Official Visitor Act 2012 A2012-33 s 2 as am by this Act)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

4 Amendment history

Commencement

s 2	om LA s 89 (4)

Offences against Act—application of Criminal Code etc

s 5	om A2010-18 amdt 3.9

Objects of Act

s 6 hdg	sub A2009-49 amdt 3.89

Housing commissioner—establishment

s 9	am A2011-22 amdt 1.251; A2011-48 amdt 1.32

Housing commissioner—functions

s 11	am A2008-33 s 4

Housing commissioner—delegation

s 17	am A2008-33 s 5; A2013-18 amdt 1.1

Housing assistance recipients—requirement for information

s 25	am A2008-37 amdt 1.241

Affordable and community housing programs

pt 4A hdg	ins A2008-33 s 7 sub A2013-18 amdt 1.2

Affordable and community housing providers

div 4A.1 hdg	ins A2008-33 s 7 om A2013-18 amdt 1.2

Definitions—pt 4A

s 25A	ins A2008-33 s 7 sub A2013-18 amdt 1.2 def ***Community Housing Providers National Law (ACT)*** ins A2013-18 amdt 1.2 def ***registered community housing provider*** ins A2013-18 amdt 1.2

Housing commissioner etc may give assistance to registered community housing provider

s 25B	ins A2008-33 s 7 sub A2013-18 amdt 1.2

Affordable and community housing programs—housing commissioner to report to Minister

s 25C	ins A2008-33 s 7 sub A2013-18 amdt 1.2

Public access—register

s 25D	ins A2008-33 s 7 om A2013-18 amdt 1.2

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Notice about changes of particulars in register

s 25E ins A2008-33 s 7
om A2013-18 amdt 1.2

Affordable housing provider—eligibility criteria

s 25F ins A2008-33 s 7
om A2013-18 amdt 1.2

Community housing provider—eligibility criteria

s 25G ins A2008-33 s 7
om A2013-18 amdt 1.2

Affordable and community housing providers—trustees and subsidiaries

s 25H ins A2008-33 s 7
om A2013-18 amdt 1.2

Community housing providers—standards

s 25I ins A2008-33 s 7
om A2013-18 amdt 1.2

Community housing providers—compliance with standards

s 25J ins A2008-33 s 7
om A2013-18 amdt 1.2

Affordable and community housing providers—monitoring guidelines

s 25K ins A2008-33 s 7
om A2013-18 amdt 1.2

Affordable and community housing providers—compliance with monitoring guidelines

s 25L ins A2008-33 s 7
om A2013-18 amdt 1.2

Affordable and community housing providers—monitoring standards, guidelines etc

s 25M ins A2008-33 s 7
om A2013-18 amdt 1.2

Affordable and community housing providers—report to housing commissioner

s 25N ins A2008-33 s 7
om A2013-18 amdt 1.2

Affordable and community housing providers—changes to constitution or rules

s 25O ins A2008-33 s 7
om A2013-18 amdt 1.2

Exemption from requirement or approval—changes to constitution or rules

s 25P ins A2008-33 s 7
om A2013-18 amdt 1.2

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Affordable and community housing programs

div 4A.2 hdg	ins A2008-33 s 7 om A2013-18 amdt 1.2

Affordable and community housing programs—housing commissioner may give assistance

s 25Q	ins A2008-33 s 7 om A2013-18 amdt 1.2

Affordable and community housing programs—requirement for information etc

s 25R	ins A2008-33 s 7 om A2013-18 amdt 1.2

Housing commissioner's functions

div 4A.3 hdg	ins A2008-33 s 7 om A2013-18 amdt 1.2

Housing commissioner's functions—housing commissioner may intervene

s 25S	ins A2008-33 s 7 om A2013-18 amdt 1.2

Affordable and community housing providers—removal from register

s 25T	ins A2008-33 s 7 om A2013-18 amdt 1.2

Affordable and community housing programs—housing commissioner to report to Minister

s 25U	ins A2008-33 s 7 om A2013-18 amdt 1.2

Official visitors

pt 4B hdg	ins A2012-33 amdt 1.34 note am A2013-22 amdt 1.22

Meaning of *official visitor* etc

s 25V hdg	sub A2013-22 amdt 1.23
s 25V	ins A2012-33 amdt 1.34 am A2013-22 amdt 1.24

Official visitors must give notice of visit

s 25W hdg	am A2013-22 amdt 1.25
s 25W	ins A2012-33 amdt 1.34 am A2013-22 amdts 1.25-1.28

Requirements for information—AAT review

s 26	om A2008-33 s 6

Requirements for information—notice of reviewable decisions

s 27	om A2008-33 s 6

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Notification and review of decisions
pt 6A hdg ins A2008-33 s 8
sub A2008-37 amdt 1.242

Meaning of *reviewable decision*—pt 6A
s 31A ins A2008-33 s 8
sub A2008-37 amdt 1.242

Reviewable decision notices
s 31B ins A2008-33 s 7
sub A2008-37 amdt 1.242

Applications for review
s 31C ins A2008-37 amdt 1.242

Placing unleased land under housing commissioner's control
s 32 am A2009-49 amdt 3.90

Unleased land placed under housing commissioner's control—powers
s 33 am A2009-49 amdt 3.91

Financial arrangements
s 36 am A2009-49 amdt 3.92; A2011-22 amdt 1.252

Legislation amended—sch 1
s 41 om LA s 89 (3)

Legislation repealed
s 42 om LA s 89 (3)

Transitional—Housing Assistance Act 1987
pt 10 hdg exp 10 November 2008 (s 110)

Definitions—pt 10
s 100 exp 10 November 2008 (s 110)
def ***old Act*** exp 10 November 2008 (s 110)
def ***old housing assistance program*** exp 10 November 2008 (s 110)

Transitional—rights and liabilities under old Act
s 101 mod SL2008-7 s 3
(1)-(3), (4) exp 10 November 2008 (s 110 (LA s 88 declaration applies))
(3A)-(3C) exp 10 November 2008 (s 101 (3C))

Transitional—corresponding housing assistance programs and things
s 102 exp 10 November 2008 (s 110 (LA s 88 declaration applies))

Transitional—mentions of commissioner
s 102A ins as mod SL2008-7 s 4
exp 10 November 2008 (s 102A (2))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Transitional—uncompleted applications for AAT review

s 103	exp 10 November 2008 (s 110 (LA s 88 declaration applies))

Transitional—other uncompleted proceedings

s 103A	ins as mod SL2008-7 s 5 exp 10 November 2008 (s 103A (5) (LA s 88 declaration applies))

Transitional—sensitive information under old Act

s 104	exp 10 November 2008 (s 110 (LA s 88 declaration applies))

Transitional—notification of existing Commonwealth-Territory funding agreements

s 105	exp 10 November 2008 (s 110)

Transitional—land placed under control of housing commissioner under old Act

s 106	exp 10 November 2008 (s 110 (LA s 88 declaration applies))

Transitional—standard residential tenancy terms, cl 36

s 107	exp 10 November 2008 (s 110 (LA s 88 declaration applies))

Transitional—outdated references to old Act

s 108	exp 10 November 2008 (s 110 (LA s 88 declaration applies))

Transitional regulations

s 109	exp 10 November 2008 (s 110 (LA s 88 declaration applies))

Expiry—pt 10

s 110	exp 10 November 2008 (s 110)

Reviewable decisions

sch 1	ins A2008-37 amdt 1.243 am A2009-20 amdt 3.99, amdt 3.100; items renum R5 LA; A2013-18 amdt 1.3

Consequential amendments

sch 1 pt 1.1	om LA s 89 (1) (b)
sch 1 pts 1.2-1.11	om LA s 89 (3)

Dictionary

dict	am A2008-37 amdt 1.244; A2009-49 amdt 3.93, amdt 3.94; A2011-22 amdt 1.253; A2012-33 amdt 1.35; A2013-22 amdt 1.29 def ***affordable housing*** ins A2008-33 s 9 def ***Community Housing Providers National Law (ACT)*** ins A2013-18 amdt 1.4 def ***company limited by guarantee*** ins A2008-33 s 9 om A2013-18 amdt 1.5 def ***company limited by shares*** ins A2008-33 s 9 om A2013-18 amdt 1.5

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***entitled person*** ins A2012-33 amdt 1.36
def ***housing provider*** ins A2008-33 s 9
om A2013-18 amdt 1.5
def ***incorporated association*** ins A2008-33 s 9
om A2013-18 amdt 1.5
def ***monitoring guidelines*** ins A2008-33 s 9
om A2013-18 amdt 1.5
def ***official visitor*** ins A2013-22 amdt 1.30
def ***registered community housing provider*** ins A2013-18 amdt 1.6
def ***reviewable decision*** ins A2008-37 amdt 1.245
def ***standards*** ins A2008-33 s 9
om A2013-18 amdt 1.7
def ***visitable place*** ins A2012-33 amdt 1.36

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 10 Nov 2007	10 Nov 2007– 18 Mar 2008	not amended	new Act
R2 19 Mar 2008	19 Mar 2008– 10 Nov 2008	not amended	modification by SL2008-7
R3 11 Nov 2008	11 Nov 2008– 1 Mar 2009	A2008-37	commenced expiry
R4 2 Mar 2009	2 Mar 2009– 21 Sept 2009	A2008-37	amendments by A2008-33 and A2008-37
R5 22 Sept 2009	22 Sept 2009– 16 Dec 2009	A2009-20	amendments by A2009-20
R6 17 Dec 2009	17 Dec 2009– 2 June 2010	A2009-49	amendments by A2010-49
R7 3 June 2010	3 June 2010– 30 June 2011	A2010-18	amendments by A2010-18
R8 1 July 2011	1 July 2011– 29 Feb 2012	A2011-22	amendments by A2011-22
R9 1 Mar 2012	1 Mar 2012– 31 Aug 2013	A2011-48	amendments by A2011-48
R10 1 Sept 2013	1 Sept 2013– 31 Dec 2013	A2013-22	amendments by A2012-33 and A2013-22

© Australian Capital Territory 2014

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au