



Australian Capital Territory

# **Housing Assistance Act 2007**

**A2007-8**

**Republication No 2**

**Effective: 19 March 2008 – 10 November 2008**

Republication date: 19 March 2008

Act not amended  
(republiation for modification by SL2008-7)

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 19 March 2008. It also includes any amendment, repeal or expiry affecting the republished law.

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](http://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 or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### 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 *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Housing Assistance Act 2007

## Contents

---

	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Name of Act 2
3	Dictionary 2
4	Notes 2
5	Offences against Act—application of Criminal Code etc 3
<b>Part 2</b>	<b>Objects and important concepts</b>
6	Objects 4
7	What is <i>housing assistance</i> ? 5
8	When is someone <i>eligible</i> for housing assistance? 5
<b>Part 3</b>	<b>Housing Commissioner</b>
9	Housing commissioner—establishment 6
10	Housing commissioner—powers generally 6

---

R2  
19/03/08

Housing Assistance Act 2007  
Effective: 19/03/08-10/11/08

contents 1

## Contents

---

	Page	
11	Housing commissioner—functions	7
12	Housing commissioner—no power for contracts of employment	7
13	Limits on housing commissioner—joint ventures	7
14	Notice of joint ventures	8
15	Limit on housing commissioner—large contracts	9
16	Housing commissioner—Ministerial directions	9
17	Housing commissioner—delegation	9
<b>Part 4</b>	<b>Housing assistance programs</b>	
18	What is a <i>housing assistance program</i> ?	10
19	Approved housing assistance programs	10
20	Approved housing assistance programs—determinations	10
21	Approved housing assistance programs—operational guidelines	11
22	Approved housing assistance programs—market rent	11
23	Approved housing assistance programs—rent review	12
24	Housing assistance applicants—requirement for further information	12
25	Housing assistance recipients—requirement for information	13
26	Requirements for information—AAT review	14
27	Requirements for information—notice of reviewable decisions	14
<b>Part 5</b>	<b>Protection of information</b>	
28	Meaning of <i>protected information</i> —pt 5	15
29	FOI Act exemption—documents containing protected information	16
<b>Part 6</b>	<b>Commonwealth-Territory funding agreements</b>	
30	What is a <i>Commonwealth-Territory funding agreement</i> ?	18
31	Notification of Commonwealth-Territory funding agreements	18
<b>Part 7</b>	<b>Miscellaneous</b>	
32	Placing unleased land under housing commissioner's control	19
33	Unleased land placed under housing commissioner's control—powers	20
34	Unneeded land may be returned	21
35	Information to Minister	21
36	Financial arrangements	21
37	Protection of officials from liability	22

	Page
38	22
39	22
40	23
<b>Part 10</b>	<b>Transitional—Housing Assistance Act 1987</b>
100	24
101	24
102	25
102A	27
103	27
103A	28
104	28
105	28
106	28
107	29
108	29
109	30
110	30
<b>Dictionary</b>	<b>31</b>
<b>Endnotes</b>	
1	33
2	33
3	34
4	34
5	35
6	36





Australian Capital Territory

# Housing Assistance Act 2007

---

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

---

## 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.



## 5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Objects and important concepts

### 6 Objects

- (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

- (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.

## 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.

*Note* For provisions about proof of seals, see the *Evidence Act 1995* (Cwlth), s 150 and s 151.

(3) The chief executive 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.

## 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;
  - (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.

## 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.
- (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.

## 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.



- (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.

- (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.

**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, by written notice to the entity, 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 providing the information; and
    - (c) the entity does not provide the information in accordance with the requirement.
  - (4) A notice under subsection (3) must state—
    - (a) 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.

*Note* The notice must also comply with the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, s 25B (1) (see this Act, s 27).

## 26 Requirements for information—AAT review

An entity mentioned in table 26, column 3 may apply to the administrative appeals tribunal for review of a decision by the housing commissioner mentioned in column 2 for the entity.

**Table 26 Reviewable decisions**

<b>column 1 item</b>	<b>column 2 decision</b>	<b>column 3 affected entity</b>
1	section 24—refusal of an application for housing assistance	the applicant for the assistance
2	section 25—suspension or cancellation of all or part of the housing assistance being provided to an entity	the entity

---

## 27 Requirements for information—notice of reviewable decisions

- (1) The housing commissioner must give written notice of a decision mentioned in table 26, column 2 to the entity mentioned in column 3 for the decision.
- (2) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

## 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

**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);
  - (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).

## 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.



## 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 *Land (Planning and Environment) Act 1991* 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.
- (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 *Land (Planning and Environment) Act 1991*, s 189 for the recovery of land held under a licence.

- (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.
- (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 departmental 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—
- (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.

## Part 10 Transitional—Housing Assistance Act 1987

### 100 Definitions—pt 10

In this part:

*old Act* means the *Housing Assistance Act 1987*.

*old housing assistance program* means a housing assistance program under the old Act.

### **M** 101 Transitional—rights and liabilities under old Act

- (1) This section applies if, immediately before the commencement of this section, an entity had a right or liability under the old Act.

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

- (2) The repeal of the old Act does not affect the right or liability.

#### **Examples of rights**

- 1 a right to occupy land under a tenancy agreement or licence
- 2 a rebate on rent payable under a tenancy agreement

#### **Example of liability**

a requirement under an old housing assistance program to pay rent

*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).

- (3) The right or liability continues, subject to this Act, as if it were a right or liability under an approved housing assistance program.
- (4) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

**102 Transitional—corresponding housing assistance programs and things**

- (1) The housing commissioner may declare that—
- (a) an approved housing assistance program corresponds to an old housing assistance program; and
  - (b) a thing under an old housing assistance program corresponds to a thing under an approved housing assistance program.

**Example**

A housing assistance program under the old Act (the *old program*) provides for various things, including—

- (a) applications for assistance, transfer of housing, rental rebates and to have a person's name returned to the register of eligible applicants; and
- (b) the keeping of a register of eligible applicants; and
- (c) the allocation of a needs category to eligible applicants; and
- (d) the review of certain decisions.

The housing commissioner might declare that an approved housing assistance program for public rental housing (the *new program*) corresponds to the old program and that—

- (a) a particular kind of application under the old program corresponds to a particular kind of application under the new program; and
- (b) the register under the old program corresponds to a register or list under the new program; and
- (c) a needs category under the old program corresponds to a priority category (however described) under the new program; and
- (d) an application to the commissioner for review of a reviewable decision under the old program is an application for a stated kind of review under the new program.

*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) A declaration may be made under subsection (1) whether or not the programs or things correspond, or substantially correspond, with each other.

- (3) However, a declaration made under subsection (1) must not—
- (a) for a right continued under section 101 (3)—reduce the right;  
or
  - (b) for a liability continued under section 101 (3)—increase the liability.
- (4) If the housing commissioner declares under subsection (1) that a thing (the *old thing*) under an old housing assistance program corresponds to a thing (the *new thing*) under an approved housing assistance program—
- (a) the old thing is taken to be the new thing under the approved housing assistance program; and
  - (b) the new thing is not invalid only because something required in relation to it under the approved housing assistance program has not been done.
- (5) For this section, the housing commissioner may give any direction the commissioner considers necessary or desirable to facilitate the application of a declaration under subsection (1) in relation to an entity.
- (6) This section is subject to section 103 and section 109 (Transitional regulations).
- (7) A declaration under subsection (1) is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (8) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.



**M 102A Transitional—mentions of commissioner****103 Transitional—uncompleted applications for AAT review**

- (1) This section applies if—
  - (a) before the commencement of this section (the *commencement*), an application for review to the administrative appeals tribunal had been made in relation to a decision under an old housing assistance program; and
  - (b) immediately before the commencement, the proceeding on the application had not ended; and
  - (c) the thing to which the decision relates is declared under section 102 to correspond to a thing (the *new thing*) under an approved housing assistance program.
- (2) If this section applies—
  - (a) the proceeding may be continued as if the application had been made in relation to the new thing; and
  - (b) the decision-maker is taken to be the housing commissioner.
- (3) For this section, the administrative appeals tribunal may give any direction the tribunal considers necessary or desirable to facilitate a matter in relation to the application for review.
- (4) However, the administrative appeals tribunal must not make a decision that—
  - (a) for a right continued under section 101 (3)—reduces the right; or
  - (b) for a liability continued under section 101 (3)—increases the liability.
- (5) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

**M 103A Transitional—other uncompleted proceedings****104 Transitional—sensitive information under old Act**

- (1) For section 28 (Meaning of *protected information*—pt 5), a reference to an entity having *applied for housing assistance* includes an entity that applied for assistance under an old housing assistance program.
- (2) For section 28, the definition of *housing assistance recipient* includes an entity that received assistance under an old housing assistance program.
- (3) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

**105 Transitional—notification of existing Commonwealth-Territory funding agreements**

- (1) This section applies to a Commonwealth-Territory funding agreement, and any amendment of the agreement, that is in force immediately before the commencement of this section.
- (2) The agreement and amendment may be notified on the ACT legislation register under section 31 (Notification of Commonwealth-Territory funding agreements).
- (3) In this section:

*ACT legislation register*—see the Legislation Act, section 18.

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

- (1) For this Act, a reference to land placed under the control of the housing commissioner under section 32 (Placing unleased land under housing commissioner's control) includes land placed under the commissioner for housing's control under the old Act, section 16 or section 17.

- (2) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

**107 Transitional—standard residential tenancy terms, cl 36**

- (1) This section applies to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1997* if the agreement includes a clause in accordance with that Act, schedule 1 (Standard residential tenancy terms), clause 36 (the *relevant clause*) as in force immediately before the commencement of this section.
- (2) A reference in the relevant clause in the residential tenancy agreement to the commissioner for housing is taken to be a reference to the housing commissioner.
- (3) A reference in the relevant clause in the residential tenancy agreement to the *Housing Assistance Act 1987*, section 15 (3) is taken to be a reference to this Act, section 23.
- (4) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

**108 Transitional—outdated references to old Act**

- (1) In any Act, instrument made under an Act or document, a reference to the old Act is, in relation to anything to which this Act applies, a reference to this Act.

*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).

- (2) In any Act, instrument made under an Act or document, a reference to a provision of the old Act is, in relation to anything to which this Act applies, a reference to the corresponding provision of this Act.
- (3) In any Act, instrument made under an Act or document, a reference to anything that is no longer applicable because of the repeal of the old Act by this Act and for which there is a corresponding thing

under this Act, is taken to be a reference to the thing under this Act, if the context allows and if otherwise appropriate.

- (4) This section is subject to a declaration under section 102 (1) (Transitional—corresponding housing assistance programs and things).
- (5) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

**109 Transitional regulations**

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.
- (2) A regulation may modify this part (including its operation in relation to another territory law) to make provision in relation to anything that, in the Executive’s opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.
- (4) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

**110 Expiry—pt 10**

This part expires 1 year after the day this section commences.

## 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:

- chief executive (see s 163)
- commissioner for revenue
- entity
- exercise
- function
- human rights commission
- Minister (see s 162)
- planning and land authority
- territory land
- year.

***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.

***eligible***, for housing assistance—see section 8.

***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.

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

## 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 and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

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

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

## Endnotes

3 Legislation history

---

### 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)

### 4 Amendment history

#### **Commencement**

s 2 om LA s 89 (4)

#### **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)

#### **Transitional—rights and liabilities under old Act**

s 101 mod SL2008-7 s 3  
(3A)-(3C) exp 10 November 2008 (s 101 (3C))  
exp 10 November 2008 (s 110 (LA s 88 declaration applies))

#### **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))

#### **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)

**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)

## 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  
19/03/08

Housing Assistance Act 2007  
 Effective: 19/03/08-10/11/08

page 35

## Endnotes

6 Modifications of republished law with temporary effect

---

### **6 Modifications of republished law with temporary effect**

The following modifications have not been included in this republication:

<b>Housing Assistance Regulation 2008 SL2008-7 ss 3-5</b>
---

### **3 Modification of Act, s 101—Act, s 109**

The Act, section 101 is modified by inserting the following:

- (3A) If immediately before 10 November 2007, a right or asset vested in the commissioner under the old Act, the right or asset vests in the housing commissioner.
- (3B) If immediately before 10 November 2007, the commissioner under the old Act was under a liability or obligation, the liability or obligation attaches to the housing commissioner.
- (3C) Subsections (3A) and (3B) and this subsection expire on 10 November 2008.

### **4 Modification of Act, pt 10, new section 102A—Act, s 109**

The Act, part 10 is modified by inserting the following:

#### **102A Transitional—mentions of commissioner**

- (1) In an Act, an instrument made under an Act or document, a reference to the commissioner under the old Act is taken to be a reference to the housing commissioner.
- (2) This section expires on 10 November 2008.

**5 Modification of Act, pt 10, new section 103A—Act, s 109**

The Act, part 10 is modified by inserting the following:

**103A Transitional—other uncompleted proceedings**

- (1) This section applies if—
  - (a) before the commencement of this section (the *commencement*), an application to a court had been made; and
  - (b) the commissioner under the old Act was a party to a court proceeding; and
  - (c) immediately before the commencement, the proceeding on the application had not ended.
- (2) The housing commissioner is taken to be substituted for the commissioner for the purpose of the proceeding.
- (3) In this section:  
*court* means the Supreme Court or the Magistrates Court.
- (4) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (5) This section expires on 10 November 2008.

© Australian Capital Territory 2008