



AUSTRALIAN
CAPITAL TERRITORY

SPECIAL

GAZETTE

No. S125, Monday 20 July 1992

AUSTRALIAN CAPITAL TERRITORY

HOUSING ASSISTANCE ACT 1987

NO. 131 of 1992

Under Section 12 of the Housing Assistance Act 1987, I prepare the following housing assistance program:

HOMESAFE HOUSING ASSISTANCE PROGRAM

1. **NAME OF PROGRAM**

This Program may be cited as the HomeSafe Housing Assistance Program.

2. **OBJECT OF PROGRAM**

On behalf of the Australian Capital Territory the Commissioner for Housing is responsible for the allocation of housing assistance funds within the community having regard to both the needs of individuals and the benefit of the community as a whole.

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2. Housing Assistance Act 1987

The object of this Program is to provide Loans to persons who are experiencing difficulty in meeting an obligation under a Mortgage, with a view to those Loans being repaid as soon as possible.

3. DEFINITIONS AND INTERPRETATION

3.1 In this Program except where the contrary intention appears:

"Applicant" includes joint applicants.

"Commissioner" means the Commissioner for Housing for the Australian Capital Territory appointed under the Housing Assistance Act 1987.

"Eligible Person" means a person whom the Commissioner determines is eligible for a loan under this Program.

"Income" means income as defined from time to time in the Social Security Act 1947 (Commonwealth) but does not include such categories of income as the Commissioner in its discretion may exclude.

"Lender" means a financial institution which holds a Mortgage over the Property.

"Loan" means a Loan which may be given by the Commissioner at the request of the Applicant to assist the Applicant in meeting an obligation under a Mortgage.

"Mortgage" means a mortgage by the Applicant in respect of the Property being the first mortgage entered into for the purpose of acquiring the property.

"Percentage" means the percentage of Income which the Applicant is required to pay towards the Mortgage.

"Property" means all that piece or parcel of land described by a Certificate of Title that is the Applicant's principal place of residence and which the Applicant seeks to retain with a Loan under this Program.

"Tribunal" means the Australian Capital Territory Administrative Appeals Tribunal established by the Administrative Appeals Tribunal Act 1989.

3.2 In this Program unless the contrary intention appears:

- 3.2.1 a word importing the singular includes the plural and vice versa;
- 3.2.2 a word importing one gender includes any other gender;
- 3.2.3 a reference to a clause, sub-clause or paragraph is a reference to a clause, sub-clause or paragraph of this Program;
- 3.2.4 a reference to an Act includes that Act as amended from time to time and any Act by which it is replaced.

3.3 The Commissioner may make any determination under this Program by reference to any scale, rate, formula or other criterion published in any document or writing by any person, firm, corporation, body or agency whether governmental or non-governmental.

4. **ELIGIBILITY**

- 4.1 The Commissioner shall grant assistance under this Program only if it determines that the Applicant is an Eligible Person.
- 4.2 Notwithstanding sub-clause 4.1, the Commissioner shall not grant assistance under this Program if:

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- 4.2.1 the application for assistance submitted by the Applicant is false or misleading in any material respect; or
- 4.2.2 further information is requested by the Commissioner under sub-clause 5.3 and is not received by the Commissioner within 28 days from the date of that request.
- 4.3 The Commissioner shall determine that the Applicant is an Eligible Person only if it is satisfied that:
 - 4.3.1 the application is in respect of a Property in the Australian Capital Territory;
 - 4.3.2 the Applicant does not own or have an interest in any other residential property within Australia;
 - 4.3.3 the Applicant is at least eighteen years of age;
 - 4.3.4 the Applicant has not changed his or her Income or arranged his or her financial affairs by or as a result of any artificial or contrived scheme or arrangement for the purpose of/or which has the effect of the Applicant:
 - 4.3.4.1 qualifying for assistance under this Program or any government or welfare assistance of any kind (whether State, Territory or Commonwealth); and/or
 - 4.3.4.2 obtaining a taxation benefit or other advantage.
- 4.4 In addition to the criteria set out in sub-clause 4.3 the Commissioner shall in determining that the Applicant is an Eligible Person have regard to whether:
 - 4.4.1 through circumstances beyond his or her control as determined by the Commissioner, the Applicant is unable to meet an obligation under a Mortgage;
 - 4.4.2 the Property is not significantly in excess of reasonable family needs as assessed by the Commissioner in accordance with the criteria adopted for determination of accommodation needs under Schedule 1 of the Housing Assistance Act 1987;
 - 4.4.3 the Applicant can demonstrate commitment to the Mortgage;
 - 4.4.4 it is likely that the Applicant will be able to resume payment of the instalments under the Mortgage;

- 4.4.5 the Applicant has exhausted all other options available to him such as the extension of loan term, disposal of non essential assets and deferral of interest that will adequately reduce the level of monthly commitment;
- 4.4.6 Mortgage repayments exceed the Percentage of the Applicant's Income which the Commissioner shall determine from time to time; and
- 4.4.7 the needs of other applicants can be met taking into account the funds and facilities available to the Commissioner to fulfil the objectives of this Program.

5. APPLICATION

- 5.1 An application for assistance under this Program shall be in writing in the form and contain such information as the Commissioner may require.
- 5.2 The Commissioner will examine each application for assistance within 28 days of receipt of each application and its supporting documentation to determine whether the Applicant is an Eligible Person.
- 5.3 The Commissioner may require further information from the Applicant before approving an application under this clause.
- 5.4 Where the Mortgage is in joint names, both mortgagors must apply jointly unless the Commissioner determines otherwise.
- 5.5 The Commissioner may consider a further Application from a person who has already received assistance under this program.

6. ASSISTANCE

- 6.1 The Commissioner may grant assistance to an Eligible Person in one of the following ways:
 - 6.1.1 a Loan by way of periodic payments paid to the Lender to assist in the payment of mortgage instalments;
 - 6.1.2 a Loan by way of a sum paid to the Lender to discharge arrears; or
 - 6.1.3 a combination of both.

6. Housing Assistance Act 1987

- 6.2 The maximum Loan amount which the Commissioner may lend to any Eligible Person under this Program shall be determined from time to time by the Commissioner.
- 6.3 The maximum period of time over which the Loan is advanced in the form of periodic payments to the Lender shall be determined from time to time by the Commissioner.
- 6.4 The Commissioner shall not require repayment of a Loan within 12 months of the granting of the Loan.
- 6.5 The Loan shall be repaid to the Commissioner by way of a lump sum payment or by instalments.
- 6.6 Where the Loan is repaid to the Commissioner by instalment the sum of Mortgage repayment and the instalment to repay the Loan granted under this Program shall not exceed the Percentage of the Applicant's Income which the Commissioner shall determine from time to time.
- 6.7 Notwithstanding sub-clause 6.6, any part of the Loan not previously paid to the Commissioner shall be paid to the Commissioner on the last day of the term of the Mortgage or upon discharge of the Mortgage whichever is the earlier.

7. SECURITY

The Eligible Person shall execute an agreement in respect of any Loan made under this Program.

8. INTEREST

The Commissioner shall charge interest on the Loan at a rate determined by the Commissioner from time to time.

9. SECURITY

The Commissioner shall not disclose information obtained in connection with this Program other than:

- 9.1 in the performance of its duties or functions under this Program;
- 9.2 in accordance with the Freedom of Information Act 1989;
- 9.3 in accordance with the Privacy Act 1988 (Commonwealth); or
- 9.4 where the person who is the subject of the information consents to its release.

10. REVIEW

10.1 Where the Commissioner makes:

- 10.1.1 a determination under clause 4 that the Applicant is not an Eligible Person; or
- 10.1.2 a determination under sub-clause 5.4 not to accept an application; or
- 10.1.3 a decision under clause 6 not to grant the maximum amount of assistance; or
- 10.1.4 a decision under sub-clause 10.13 not to grant an application for the late lodgement of an objection;

it shall, within 28 days after the date of determination or decision cause notice in writing of the determination or decision to be given to the Applicant.

10.2 Such notice must include a statement to the effect that the person may, within 28 days of receiving a notice under sub-clause 10.1 lodge an objection in writing against the determination or decision with the Commissioner.

10.3 The validity of a determination or decision referred to in sub-clause 10.1 is not affected by a failure to comply with sub-clause 10.2.

10.4 A person may, within 28 days of receiving a notice under sub-clause 10.1 lodge an objection in writing against the determination or decision with the Commissioner.

10.5 The objection must state fully and in detail the grounds on which it is made.

10.6 The Commissioner shall consider the objection and shall, within 28 days, either affirm or amend the determination or decision.

10.7 Where the Commissioner makes a decision under sub-clause 10.6, to affirm or amend a determination or decision the Commissioner shall, within 28 days after the date of that decision, cause written notice of the decision to be given to the person.

10.8 A notice under sub-clause 10.7 shall include:

- 10.8.1 a statement to the effect that, an application may be made to the Tribunal for a review of the determination or decision affirmed within 28 days; and

8. Housing Assistance Act 1987

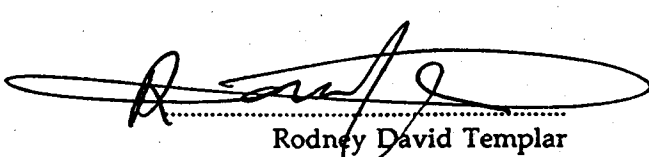
- 10.8.2 a statement to the effect that the person who lodged the objection may request a statement of reason for the determination or decision.
- 10.9 The validity of a decision referred to in sub-clause 10.6 is not affected by a failure to comply with sub-clause 10.8.
- 10.10 A person may apply to the Tribunal for review of a determination or decision affirmed or amended under sub-clause 10.6.
- 10.11 Notwithstanding sub-clause 10.4, a person may make, following the expiry of the specified period, a late lodgement of objection in writing against the determination or decision with an application to treat the objection as having been duly lodged.
- 10.12 An application under sub-clause 10.11 must state fully and in detail the reasons for the person failing to lodge the objection within the specified period.
- 10.13 The Commissioner shall consider each such application and may grant or refuse it.
- 10.14 The Commissioner shall give the person written notice of any decision on an application.
- 10.15 If the Commissioner grants an application the objection to which the application relates must be treated as having been duly lodged.

11. TRANSITION

Any application for assistance received by the Commissioner and which is not approved prior to the date of gazettal of this Program shall be deemed to have been lodged under this Program.

- Note: (1) This Program is published pursuant to section 6 of the Subordinate Laws Act 1989.
- (2) The Housing Agreement defined in section 3 of the Housing Assistance Act 1987 shall apply to this Program.

Date: 18/6/92


Rodney David Templar
Commissioner for Housing

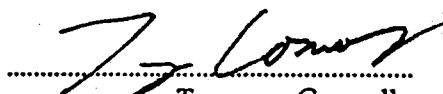
18/6/92

APPROVAL

Under Section 12 of the Housing Assistance Act 1987, I APPROVE the HomeSafe
Housing Assistance Program made by the Commissioner for Housing by
instrument dated 7 5-17 1992.

Date:

7-7-92



Terrence Connolly
Minister for Housing and
Community Services