

# Rental Bonds Housing Assistance Program 2003 (No 1)

Disallowable instrument DI2003—153

made under the

Housing Assistance Act 1987, s 12

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I make a housing assistance program as follows.

## **Title**

1. This Program may be cited as the Rental Bonds Housing Assistance Program.

## **Principles**

2. The Housing Agreement applies to this Program.

## **Object**

3. The object of this Program is to provide financial assistance to eligible persons in the Australian Capital Territory experiencing financial difficulties in meeting a requirement to pay a rental bond.

## **Definitions and Interpretation**

4. In this Program, unless the contrary intention appears:

“**Applicant**” means a person who has made an application for assistance under this Program and unless the contrary intention appears, includes joint applicants;

“**application**” means an application on the form approved by the Commissioner for assistance under this Program;

“**assistance**” means assistance under this Program;

“**Commissioner**” means the Commissioner for Housing appointed under the *Housing Assistance Act 1987*;

**“dwelling”** means the rental dwelling to which the application relates;

**“Housing Agreement”** has the same meaning given in the *Housing Assistance Act 1987*;

**“Housing Review Committee”** means an advisory body the members of which are selected from the ACT community and appointed by the Minister on such terms and conditions as are specified in their appointment, established to reconsider decisions of the types reviewable by the Administrative Appeals Tribunal under this Program or any decisions of the Commissioner that are specifically made referable to it for reconsideration under this Program and to recommend to the Commissioner whether the decision be affirmed or varied;

**“income”** means the income of a person, or the combined income of more than one person, as determined in accordance with the Public Rental Housing Assistance Program;

**“loan agreement”** means a loan agreement in the form and on the terms and conditions from time to time determined by the Commissioner for the purposes of this Program;

**“Public Rental Housing Assistance Program”** means the Public Rental Housing Assistance Program, as amended from time to time, established under section 12 of the *Housing Assistance Act 1987*;

**“rent”** means a sum payable periodically whether designated as rent or otherwise, as consideration for the right to occupy premises, whether with or without other rights in relation to the occupation of the premises;

**“rental bond”** means an amount paid or payable by an Applicant as security for the performance of his or her obligations under a residential tenancy agreement;

**“Request for Review”** means a request in writing by an Applicant for a review of a decision by the Commissioner upon an application for assistance; and

**“residential tenancy agreement”** has the same meaning as in the *Residential Tenancies Act 1997*.

## **Applications**

5. (1) A person may apply to the Commissioner for assistance.
- (2) An application must:
  - (a) be in writing;

- (b) be signed by the Applicant; and
- (c) include such information as the Commissioner may reasonably require in relation to the application.

### **Eligibility**

6. (1) Subject to this Program, an Applicant is eligible for assistance if:
- (a) he or she satisfies the eligibility criteria specified in clauses 5(3) and (6) of the Public Rental Housing Assistance Program; and
  - (b) he or she has entered into or proposes to enter into a residential tenancy agreement for a dwelling in the ACT under the terms of which a rental bond is required to be paid by the Applicant.
- (2) Despite anything to the contrary in the Public Rental Housing Assistance Program, for the purposes of clause 6(1)(a) above, “household” means the persons who reside or intend to reside together in a dwelling to which the application relates unless the Commissioner determines otherwise.
- (3) Unless the Commissioner determines otherwise, an Applicant is not eligible for assistance if at the date of his or her application, the Applicant:
- (a) owes a debt to the Commissioner for rent, water charges, maintenance costs or any other monies due relating to residential property in the ACT;
  - (b) owes a debt to the Commissioner in relation to a loan under this Program;
  - (c) has breached a term or condition of a tenancy agreement to which the Commissioner was a party; or
  - (d) in the reasonable opinion of the Commissioner, having regard to the Applicant’s financial position, is able to pay the rental bond from his or her resources.
- (4) Unless the Commissioner determines otherwise, an Applicant is not eligible for assistance if the application for assistance submitted by the Applicant is false or misleading in any material respect.
- (5) Unless the Commissioner determines otherwise, an Applicant is not eligible for assistance if the sum of the periodic loan repayment under the loan agreement and the Applicant’s rental payments under the residential

tenancy agreement would exceed 40 percent of the Applicant's income for the same period as that to which the loan repayment relates.

- (6) The Commissioner may in his or her absolute discretion vary the percentage referred to in clause 6(5) to a lesser percentage if in the Commissioner's opinion the Applicant would not be able to repay the proposed loan and pay the rent under the residential tenancy agreement.

### **Assistance by way of a Loan**

7.
  - (1) Subject to clause 7(4) and the availability of resources for the Program, the Commissioner may make a loan to an Applicant for the purpose of paying a rental bond.
  - (2) The total amount outstanding under all loans to an Applicant under this Program at any time must not exceed 80 percent of the rental bond required to be paid in respect of the dwelling.
  - (3) The Commissioner will not charge interest or any other credit charge on a loan under this Program.
  - (4) Assistance will only be provided if the Applicant enters into a loan agreement with the Commissioner.
  - (5) If the application is made by joint applicants, each applicant must enter into a loan agreement as joint borrowers.
  - (6) The Applicant must:
    - (a) use the loan only to pay the rental bond;
    - (b) if required under the loan agreement, assign all of his or her rights and interests in the rental bond to the Commissioner, in the manner specified in the loan agreement; and
    - (c) repay the loan in accordance with the loan agreement.

### **Further information**

8.
  - (1) The Commissioner may at any time in writing request an Applicant to provide further information in connection with his or her application.
  - (2) If the requested information is not provided within 7 days or such further time as the Commissioner allows, the application is to be treated as having been withdrawn by the Applicant.

### **Joint applicants**

9. All persons intending to reside in the dwelling must apply as joint applicants, other than:
- (a) any dependent child; and
  - (b) any other person who the Commissioner may exempt from this requirement.

### **Change of circumstances**

10. (1) The Applicant must notify the Commissioner in writing within 7 days of:
- (a) the termination of any residential tenancy agreement in relation to the dwelling by any party to the tenancy agreement; and
  - (b) the Applicant permanently vacating the dwelling.
- (2) If the residential tenancy agreement in relation to the dwelling is terminated then in accordance with the loan agreement:
- (a) the balance of the rental bond held by the Office of Rental Bonds will be paid to the Commissioner; and
  - (b) any outstanding amount payable under the loan agreement will be repayable to the Commissioner by the Applicant.
- (3) If the Applicant permanently vacates the dwelling then, unless the Commissioner determines otherwise, all outstanding amounts under the loan agreement will be repayable to the Commissioner by the Applicant in accordance with the loan agreement.
- (4) If, in accordance with the loan agreement, the balance of a rental bond is paid to the Commissioner:
- (a) the Commissioner will apply all amounts received from the Office of Rental Bonds towards repayment of any outstanding amount under the loan agreement; and
  - (b) if the Commissioner receives an amount exceeding the outstanding balance under the loan agreement, the Commissioner will pay the amount of the excess to the Applicant.

### **Hardship**

11. The Commissioner may disregard any of the criteria specified in clause 6(1)(a) of the Program for the purpose of determining that an Applicant is eligible for assistance under this Program if the Applicant is suffering severe hardship which cannot be alleviated by any other means.

### **Notice of decision**

12. (1) When the Commissioner makes a decision upon an application under this Program he or she must notify the Applicant in writing of the decision within 7 days of the date of the decision.
- (2) A notice must include a statement to the effect that the Applicant may within 7 days of service of the notice on the Applicant request in writing a review of the decision by the Commissioner.

### **Request for Review of decision**

13. (1) A person who is dissatisfied with a decision by the Commissioner on an application may lodge a Request for Review with the Commissioner within 7 days of the date on which notice of the decision is served on the person or such other longer timeframe as the Commissioner may determine.
- (2) A Request for Review must state fully and in detail the grounds on which it is made.
- (3) On receipt of a Request for Review, the Commissioner may:
- (a) review the decision the subject of the Request for Review; or
- (b) refer it to the Housing Review Committee for consideration, and may accept, reject or vary the recommendation of the Housing Review Committee in relation to that Request for Review.
- (4) The Commissioner must, within 7 days of the date of the decision, notify the Applicant in writing of the decision under clause 13(3).

### **Review of Decisions by Administrative Appeals Tribunal**

14. (1) The Applicant may apply to the Administrative Appeals Tribunal for review of a decision by the Commissioner disallowing a Request for Review wholly or in part under clause 13(3).

- (2) Notice of a decision served in accordance with clause 13(4) must:
  - (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and
  - (b) except where section 26(11) of that Act applies, include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 26 of that Act.
- (3) The validity of a decision referred to in clause 14(2) is not to be taken to be affected by a failure to comply with clause 14(2).

### **Privacy**

- 15. The Commissioner must not disclose information obtained in connection with this Program other than:
  - (a) in the performance of his or her duties or functions under this Program;
  - (b) in accordance with the *Freedom of Information Act 1989*;
  - (c) in accordance with the *Privacy Act 1988* (Commonwealth); or
  - (d) where the person who is the subject of the information consents to its release.

### **Commencement**

- 16. This Program commences on 1 July 2003.

Sandra Lambert  
Commissioner for Housing

24 June 2003

I approve the Rental Bonds Housing Assistance Program made by the Commissioner for Housing by this instrument.

Bill Wood  
Minister for Disability, Housing and Community Services

24 June 2003