

Housing Assistance Public Rental Housing Assistance Program 2005 (No 2)

Disallowable instrument DI2005–281

made under the

Housing Assistance Act 1987, s 12 (1) (Housing assistance programs)

1 Name of instrument

This instrument is the *Housing Assistance Public Rental Housing Assistance Program 2005 (No 2)*.

2 Commencement

This instrument commences on the day after Notification.

3 Object of program

The object of the program is to provide rental accommodation to eligible people in the ACT who are unable to afford or obtain adequate and appropriate housing.

4 Housing agreement to apply

The housing agreement applies to this program.

5 Interpretation

Note 1 The *Housing Assistance Act 1987* contains definitions that apply to this program. The Act defines the following terms:

- commissioner
- dwelling
- housing
- housing agreement.

Note 2 The Legislation Act also contains definitions and other provisions relevant to this program. For example, the Legislation Act, dict, pt 1 defines the following terms:

- Act
- Commonwealth
- domestic partner
- domestic partnership
- month
- person

- the Territory
- working day.

Note 3 A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

In this program—

ACT average weekly earnings (ACT AWE) means the estimate of average weekly earnings for the ACT for all employees given by the Australian Bureau of Statistics in its most recent quarterly publication specifying average weekly earnings for the States and Territories.

applicant—

- (a) means someone who applies for assistance under this program; and
- (b) subject to clause 8 (3), includes joint applicants.

application means an application under this program—

- (a) for assistance; or
- (b) for a transfer from housing provided by way of assistance to other housing provided by way of assistance; or
- (c) for a rent rebate; or
- (d) to have a person's name returned to the register.

asset eligibility limit means—

- (a) the amount the commissioner determines; or
- (b) if the commissioner has not determined an amount—\$40 000.

assets, of a person, means all assets owned by the person—

- (a) including assets in which the person has a contingent or beneficial interest; but
- (b) not including assets of a kind that the commissioner has determined are not assets for the purpose of this definition.

assistance means the provision of rental housing by the commissioner under this program.

Note ***Housing*** is defined as residential housing including dwellings and other forms of residential accommodation (see the Act, s 3).

eligible applicant means a person who has applied for, and is eligible for, assistance under this program.

gross income means income before deduction of tax or tax instalments.

higher education provider means a university or other higher education provider established, recognised or approved under the *Tertiary Accreditation and Registration Act 2003*.

household—

- (a) for a dwelling provided by way of assistance—means the people who live together in the dwelling; or

- (b) for a dwelling to be provided by way of assistance—means the people who intend to live together in the dwelling.

housing review committee—see clause 26.

independent person means a person receiving a weekly income of at least \$100.

priority category, means a priority category determined by the commissioner under clause 10.

register means the register kept under clause 11.

rent means an amount payable periodically as consideration for the right to occupy housing, whether with or without other rights in relation to the occupation of the housing.

rental period means—

- (a) for a weekly tenancy agreement—a period of a week in relation to which 1 week’s rent becomes payable under the agreement; and
- (b) for a fortnightly tenancy agreement—a period of a fortnight in relation to which 1 fortnight’s rent becomes payable under the agreement.

tenant means a person who is a tenant under a tenancy agreement with the commissioner in relation to housing provided by way of assistance.

6 Meaning of income

- (1) For this program, **income**, for a person—
- (a) means personal earnings, valuable consideration, profits or any other amounts the person has earned, derived, received or become entitled to, for the person’s own use or benefit, by any means from any source; and
- (b) includes a periodical payment or benefit by way of gift or allowance; and
- (c) includes an amount taken to be earned, derived or received by the person under subclause (3).
- (2) However, **income**, for a person—
- (a) does not include income that the commissioner determines is not income for this program; and
- (b) does not include an amount expended by the person for a purpose determined by the commissioner for this program.
- (3) For subclause (1) (a), a person may be taken to have earned, derived, received or become entitled to an amount if—
- (a) the commissioner is satisfied that the person would have earned, derived, received or become entitled to the amount if the person had taken reasonable action to secure the amount and the action is or was reasonably available to the person; or

Examples for par (a)

- 1 a pension or other benefit to which the person would have been entitled if the person had applied for it
- 2 interest or return on moneys at a reasonable rate available to the person if the person took steps to recover it.

Note An example is part of this instrument, 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).

- (b) if the person receives a lump sum payment (by compensation or otherwise)—the commissioner considers the payment to be wholly or partly on account of income lost or foregone by the person during a period (before or after the person receives the payment, or both); or
- (c) for a self-employed person, an amount equivalent to the entitlement of the person to a relevant pension or benefit under the Commonwealth Social Security Act.

Example for par (c)

Where a person would, but for being self-employed, be entitled to Newstart allowance, the Commissioner may deem the person to be receiving the equivalent of the Newstart Allowance.

- (4) For subclause (3) (b), the amount the person is taken to have earned, derived, received or become entitled to is not more than the amount of the lump sum, or the part of it that the commissioner considers to be income lost or foregone in the period, distributed in equal weekly payments over the period.
- (5) Despite any other provision of this program, any income of a person (other than an applicant, a tenant or a domestic partner of a tenant) whose weekly income is less than \$100 is not income for this program.

Note For the meaning of *domestic partner*, see the Legislation Act, s 169.

7 Working out weekly income

- (1) For this program, the *weekly income* of an applicant is the greater of—
 - (a) the person's gross income each week as at the day the application is made; and
 - (b) the average gross weekly income of the person in—
 - (i) the 26-week period immediately before the day when the application is made; or
 - (ii) another period decided by the commissioner as appropriate in the circumstances of the application.
- (2) However, the commissioner may disregard an amount for subclause (1) (a) or (b) if the commissioner considers it is appropriate in the circumstances of the application.

8 Application for assistance

- (1) A person may apply, in writing, to the commissioner for assistance under this program.

Note If the commissioner approves a form for an application, the form must be used.

- (2) The application must contain the information that the commissioner reasonably requires.

Note 1 The Information Privacy Principles apply to the commissioner. Principle 4 states requirements about the storage and security of personal information and principle 11 states when personal information may be disclosed (see *Privacy Act 1988* (Cwlth), s 14).

Note 2 Access to information may be sought under the *Freedom of Information Act 1989* (which also provides that certain information is exempt from disclosure).

- (3) If 2 or more people apply as a household, the commissioner must decide which 1 or more of them is to be considered as the applicant or the joint applicants.

9 Eligibility for assistance

- (1) An applicant is eligible for assistance under this program if—
- (a) each applicant is in Australia lawfully; and
 - (b) each applicant's presence in Australia is not subject to any time limit imposed by law; and
 - (c) at least 1 applicant is—
 - (i) resident in the ACT; or
 - (ii) employed in the ACT; or
 - (iii) enrolled to study at a high school or secondary college in the ACT; or
 - (iv) enrolled in a course of study of at least 1 academic year with a higher education provider in the ACT; and
 - (d) each of the applicants is at least 16 years of age; and
 - (e) none of the applicants has any interest in residential real property in Australia; and
 - (f) the combined value of assets of the applicants is not more than the asset eligibility limit; and
 - (g) if the household is 1 person only, the person's weekly income is not more than 60% of ACT AWE; and
 - (h) if the household is made up of 2 persons only, their combined weekly income is not more than 100% of ACT AWE; and
 - (i) if the household is made up of more than 2 people, the weekly income of the applicants plus 10% of the combined weekly income of all other independent people in the household is not more than 100% of ACT AWE plus 10% of ACT AWE for each person in the household in excess of 2 people.
- (2) However, subclause (1) (b) does not apply to the extent that the commissioner decides that a certain time limit imposed by law is not relevant to eligibility.

- (3) Also, subclause (1) (e) does not apply to property in which an applicant has an interest if—
- (a) the commissioner decides it is not reasonable for the applicant to live in the property having regard to the following:
 - (i) the nature or location of the property;
 - (ii) the nature of the applicant’s interest in the property;
 - (iii) any restraining order, protection order or other order of a similar kind that affects the applicant’s ability to live in the property;
 - (iv) any pending or anticipated action under the *Family Law Act 1975* (Cwlth) which may result in the property being the subject of an order under that Act; and
 - (b) the commissioner is satisfied that the applicant has made or is making reasonable efforts to dispose of the applicant’s interest in the property.
- (4) Unless the commissioner decides otherwise, an applicant is not eligible for assistance if—
- (a) the application is false or misleading in any material way; or
 - (b) the applicant has 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 purposes or, including the purpose of, or having the effect of—
 - (i) being eligible for assistance under this program or any other welfare or government assistance (whether from the Territory, the Commonwealth or a State); or
 - (ii) obtaining a taxation benefit or any other advantage.

10 Priority

- (1) The commissioner must determine priority categories and the criteria for allocating categories to eligible applicants.
- (2) In determining categories and criteria the commissioner must have regard to the relative need of applicants.
- (3) The commissioner must give a priority category to the application of an eligible applicant, having regard to the criteria and the needs of the applicant.
- (4) The commissioner may change the priority category given to an application—
 - (a) if the applicant applies for a change to the priority category; or
 - (b) after a review by the commissioner of the priority category given to the application, having regard to the criteria and the needs of the applicant.
- (5) An eligible applicant must tell the commissioner, in writing, of any relevant change in the applicant’s circumstances which happens before the allocation of assistance.

- (6) For subclause (5), a *relevant change in circumstances*, for an applicant, means any of the following:
- (a) a change of the applicant's address;
 - (b) the applicant's absence from the ACT for more than 1 month;
 - (c) the entering into a domestic partnership by the applicant or any change in a domestic partnership of the applicant;
 - (d) a change in the applicant's household;
 - (e) any change in the circumstances of the applicant or the applicant's household which would result in the applicant not being an eligible applicant;
 - (f) any other change that the commissioner decides is a relevant change and tells the applicant about in writing.

Note For the meaning of *domestic partnership*, see the Legislation Act, s 169.

11 Register

- (1) The commissioner must keep a register of all eligible applicants.
- (2) The commissioner must enter the names of eligible applicants on the register in the order in which their applications are received by the commissioner.
- (3) However, if the commissioner changes the priority category for an application under clause 10 (4), unless the commissioner determines otherwise, the applicant's name must be moved on the register to the place it would appear if the application was made—
 - (a) on the day the applicant applied for the change to priority category; or
 - (b) if the applicant did not apply for the change—on the day the priority category was changed.

12 Removal from register

- (1) If an applicant whose name is entered on the register is absent from the ACT for at least 1 month, the commissioner may remove the person's name from the register for the period of the absence.
- (2) An applicant's name removed from the register under subclause (1) may be returned to the register in a place equivalent to the place it appeared before it was removed if the applicant asks the commissioner to do so within 12 months after the day it was removed.
- (3) If an application is taken to have been withdrawn under clause 25 (2) (Further information), the name of the applicant must be removed from the register.
- (4) An applicant's name removed from the register under subclause (3) may be returned to the register in a place equivalent to the place it appeared before it was removed if the applicant asks the commissioner to do so within 6 months after the day it was removed.

- (5) If an applicant whose name is entered on the register ceases to be an eligible applicant, the commissioner must remove the applicant's name from the register.
- (6) However, if the applicant ceases to be an eligible applicant only because of the applicant's loss of employment in the ACT, the commissioner may determine that the applicant may remain on the register for a period of up to 3 months starting on the day the applicant ceased to be eligible provided that the applicant shall not be allocated assistance until the applicant is eligible.
- (7) If after the end of the period mentioned in subclause (6), the applicant is not an eligible applicant, the commissioner must remove the applicant's name from the register.

13 Provision of assistance

- (1) This clause is subject to the availability and suitability of housing to be provided by way of assistance.
- (2) The commissioner may provide rental housing assistance to an eligible applicant.
- (3) The order in which the commissioner provides assistance to eligible applicants is to be determined by the priority category given to each application and the order of applicants' names on the register.
- (4) Without limiting subclause (3), if an applicant has been resident, employed or enrolled to study continuously in the ACT for less than 6 months immediately before the application is made, unless the commissioner decides otherwise, the applicant will not be provided with assistance until—
 - (a) the person has been resident or employed or enrolled to study in the ACT continuously for at least 6 months; or
 - (b) all other eligible applicants whose applications have the same priority category as the applicant's priority category have been provided with assistance.
- (5) The Commissioner may provide assistance earlier than it would have been provided under subclauses (3) and (4) if, in the commissioner's opinion, the applicant has an urgent or critical need which cannot be satisfactorily resolved by any other reasonable means.
- (6) Unless the commissioner decides otherwise, an applicant is not eligible for assistance if, at the time assistance is to be provided, the applicant—
 - (a) owes a debt to the Territory or the Commonwealth for rent, excess water charges, maintenance costs or any other amount due relating to a residential property in the ACT; or
 - (b) has breached a term or condition of a tenancy agreement to which the commissioner or the Commonwealth is a party.
- (7) If the commissioner decides to provide assistance to an eligible applicant, the commissioner must, orally or in writing—
 - (a) offer the applicant assistance; and

- (b) tell the applicant that if the applicant wishes to accept the offer, the applicant must tell the commissioner before close of business on the next working day after the day the offer is made.
- (8) The commissioner may remove an applicant's name from the register if the applicant—
 - (a) fails to accept an offer in accordance with subclause (7) (b); or
 - (b) does not respond to a written offer of assistance; or
 - (c) refuses an offer of assistance.
- (9) If an applicant's name is removed from the register under subclause (8) (a) or (b), the commissioner may return it to the register in a place equivalent to the place it appeared before it was removed if—
 - (a) the applicant was an eligible applicant for the whole period during which the name was removed from the register; and
 - (b) the applicant asks the commissioner to return the applicant's name to the register within 6 months after the day it was removed.
- (10) If an applicant's name is removed from the register under subclause (8) (c), the commissioner may return it to the register in a place equivalent to the place it appeared before it was removed if—
 - (a) the applicant was an eligible applicant for the whole period during which the name was removed from the register; and
 - (b) the applicant asks the commissioner to return the applicant's name to the register within 14 days after the day it was removed.

14 Type of accommodation

- (1) Rental housing assistance provided under this program is rental accommodation on land—
 - (a) under control of the commissioner under the Act, section 16 (1) or section 17 (1); or
 - (b) leased by the commissioner from the Commonwealth or the Territory.
- (2) The commissioner may decide the size, type and location of rental housing to be provided to an applicant by way of assistance or on transfer under clause 23 or clause 24.
- (3) In making a decision, the commissioner must take into account—
 - (a) the availability of different sizes and types of dwellings in various locations; and
 - (b) the accommodation needs of the applicant; and
 - (c) the preferences expressed by the applicant.

15 Aged persons' accommodation

- (1) This clause applies if an applicant is—

- (a) old enough to be eligible for an age pension under the *Social Security Act 1991* (Cwlth); or
 - (b) receives a service pension under the *Veterans' Entitlement Act 1986* (Cwlth).
- (2) Despite clause 14 (2), the commissioner may provide the applicant, by way of assistance, aged persons' accommodation, if—
- (a) it is available; and
 - (b) the applicant agrees to accept it as assistance.
- (3) In this clause:
- aged persons' accommodation*** means rental accommodation that the commissioner designates is aged persons' accommodation for this clause.

16 Hardship

If the commissioner is satisfied that an applicant is suffering severe hardship that cannot be alleviated by any other means, the commissioner may disregard any criteria mentioned in clause 9 (1) (other than paragraph 9 (1) (d)) in deciding whether the applicant is eligible for assistance.

17 Tenancy agreement

- (1) If an applicant accepts assistance, the applicant must enter into a tenancy agreement with the commissioner before occupying the housing provided by way of assistance.
- (2) If a person occupies housing provided by way of assistance and then transfers to other housing provided by way of assistance (the ***second dwelling***) the person must enter into a tenancy agreement with the commissioner in relation to the second dwelling before occupying the second dwelling.
- (3) The Territory may exercise any right given to the commissioner under a tenancy agreement.

18 Rent

In working out the market rent for a dwelling, or reviewing rent for a dwelling, the commissioner must take into account what may be included as market rent under the Act, section 15 (2);

Note Rent charged for rental housing assistance must be market rent (see the Act, s 15). The commissioner must review the rent for each dwelling annually (see s 15 (3)).

19 Change in rent payable

- (1) This clause applies if the commissioner decides to change the amount of rent payable for a dwelling occupied by a tenant.
- (2) The commissioner must give each tenant written notice about the change.
- (3) The notice must state—
 - (a) the rent payable as a result of the decision; and

- (b) the day when the decision takes effect.
- (4) The day when the decision takes effect must be—
 - (a) if the rent is increased—at least 60 days after the day when the commissioner makes the decision; and
 - (b) if the rent is decreased—the day when the commissioner makes the decision.
- (5) The amount stated as the rent payable in the notice is taken to be the amount of rent payable under the tenancy agreement between the tenant and the commissioner in relation to the dwelling from the first rent period starting on or after the day when the decision takes effect.

20 Rent rebate

- (1) A tenant may apply to the commissioner for rent rebate.

Note If the commissioner approves a form for an application, the form must be used.
- (2) The application must contain the information that the commissioner reasonably requires.
- (3) The commissioner must grant the tenant a rent rebate in accordance with this clause.
- (4) The rent rebate for a tenant is the amount by which the weekly rent payable by the tenant under the tenancy agreement is more than the total of the following (the *basic rent*):
 - (a) 25% of the weekly income of the household, other than—
 - (i) the weekly income of all members of the household (other than the tenant) who are under 18 years old; and
 - (ii) dependent child payments;
 - (b) 10% of the weekly income (other than dependent child payments) of all members of the household (other than the tenant) who are independent people under 18 years old;
 - (c) 10% of dependent child payments payable to any member of the household;
 - (d) any component of the rent that is—
 - (i) in relation to hot water, space heating, garages or other facilities; and
 - (ii) determined by the commissioner to form part of the basic rent.
- (5) However, the rebate must be reduced by any amount necessary to result in a weekly rent payable by the tenant (after deduction of the rebate) of at least \$5.
- (6) Also, the commissioner must not grant a rent rebate if the amount of rent rebate to which the tenant would be entitled, but for this subclause, is less than \$5.

- (7) Subject to subclauses (5) and (6), the commissioner may round an amount of rent rebate up or down to result in the weekly rent payable by a tenant (after deduction of the rebate) being rounded to the nearest 5 cents.
- (8) Subject to sub-clause 20(8A), 20(9) and clause 21, the commissioner must grant a rent rebate to a tenant for a period of 6 months.
- (8A) In the event the commissioner considers that the income of the household income is likely to vary within a shorter period than 6 months, the commissioner may grant a rebate for a shorter period

Examples for paragraph 8A

The household receives reduced income due to an industry annual shutdown

- (9) The commissioner may, from time to time, extend by up to 6 months the period of rent rebate granted.
- (10) A grant of rent rebate takes effect from—
 - (a) the expiry of any previous grant of rebate; or
 - (b) the date of application for the rebate; or
 - (c) if the tenant was receiving rent rebate immediately before the application and the commissioner determines that the rebate has increased—a date, decided by the commissioner, not more than 2 weeks before the date of application; or
 - (d) if the commissioner is satisfied that exceptional circumstances exist—from an earlier date decided by the commissioner.
- (11) Despite anything else in this clause, unless the commissioner decides that special circumstances exist, a tenant is not entitled to rent rebate if the tenant—
 - (a) is subletting the housing the subject of the tenancy agreement; or
 - (b) stops living at, or is absent from, the housing without the consent of the commissioner; or
 - (c) is absent from the housing for a period longer than 3 months.
- (12) In this clause:

dependent child payments means—

- (a) family tax benefit part A paid under the *Social Security Act 1991* (Cwlth); or
- (b) any part of a service pension payable under the *Veterans' Entitlement Act 1986* (Cwlth) in relation to a child;

worked out as the lesser of the total amount payable and the total amount that would be payable in relation to 3 children at the maximum rate available.

21 Review of rent rebate

- (1) The commissioner may, at any time, ask a tenant who is receiving a rent rebate to give the commissioner further information in writing.

- (2) The commissioner may, from time to time, review the rent rebate granted to a tenant.
- (3) If the commissioner thinks, for any reason, that the tenant is or was not eligible for rent rebate or is or was eligible for a different amount of rent rebate, the commissioner may suspend, amend or revoke the grant of rent rebate.
- (4) A suspension, amendment or revocation of a grant of rent rebate takes effect from—
 - (a) the date of the review; or
 - (b) if the tenant notified the commissioner of a change in circumstances and the commissioner has decided that the tenant's rent rebate has increased—a date earlier than the date of review, decided by the commissioner, not more than 2 weeks before the date of notification; or
 - (c) a date earlier than the date of review decided by the commissioner if—
 - (i) the tenant failed to provide full and correct information under clause 20 (2) or when asked by the commissioner under subclause (1); or
 - (ii) exceptional circumstances exist.

22 Tenancy commencement rebate

- (1) Despite clause 20, the commissioner must, on entering into a tenancy agreement with a tenant under clause 17 (1), give a rebate to the tenant of an amount equivalent to the initial rent.
- (2) This clause does not apply to a tenancy agreement entered into following a transfer under clause 23 or clause 24 or the creation of a new tenancy by the addition or vacation of a tenant.
- (3) For this clause:
initial rent means rent for the remainder of the week in which a tenancy is signed plus one fortnight.

23 Applications for transfer

- (1) A tenant may apply to the commissioner to transfer to other housing provided by way of assistance.
Note If the commissioner approves a form for an application, the form must be used.
- (2) This program applies to the application as if it were an initial application for assistance.
- (3) However, if the tenant applies to transfer to a dwelling with fewer bedrooms than the dwelling occupied by the tenant, the applicant is taken to satisfy the criteria mentioned in clause 9 (1) (Eligibility for assistance).

- (4) Also, if the tenant has agreed with another tenant (the *second tenant*) that the second tenant applies to the commissioner to transfer to the dwelling occupied by the tenant, the following clauses do not apply to the application:
- (a) clause 10 (Priority);
 - (b) clause 11 (Register);
 - (c) clause 13 (except clause 13(6)) (Provision of assistance).

24 Commissioner may require transfer

- (1) The commissioner may require a tenant to transfer to other housing provided by way of assistance if the commissioner considers that—
- (a) the condition of the dwelling occupied by the tenant is likely to cause serious harm to the health and safety of household members or the public; or
 - (b) a household member should be transferred in the interests of community harmony.
- (2) The commissioner may require a tenant to transfer to other housing provided by way of assistance for the purpose of repair, renovation, disposal or redevelopment of the dwelling occupied by the tenant.

25 Further information

- (1) The commissioner may at any time ask an applicant for further information in relation to the application.

Note 1 **Application** means an application—

- (a) for assistance; or
- (b) for a transfer from housing provided by way of assistance to other housing provided by way of assistance; or
- (c) for a rent rebate; or
- (d) to have a person's name returned to the register.

Note 2 The Information Privacy Principles apply to the commissioner. Principle 4 states requirements about the storage and security of personal information and principle 11 states when personal information may be disclosed (see *Privacy Act 1988* (Cwlth), s 14).

Note 3 Access to information may be sought under the *Freedom of Information Act 1989* (which also provides that certain information is exempt from disclosure).

- (2) The application is taken to have been withdrawn by the applicant if the information requested is not given to the commissioner within 28 days after the request is made or any further time that the commissioner allows.

26 Housing review committee

- (1) The Minister may establish an advisory committee (the *housing review committee*) to consider decisions under this Program to be reviewed by the commissioner and to make recommendations to the commissioner about those decisions.
- (2) Members of the committee must be selected from the general community.

27 Notice of reviewable decision

- (1) The following decisions of the commissioner are *reviewable decisions*:
 - (a) a decision about an application for assistance; or
 - (b) a decision to grant, or refuse to grant, a rent rebate; or
 - (c) a decision to return, or refuse to return, an applicant's name to the register; or
 - (d) a decision about the priority category given to an application;
 - (e) a decision revoking or amending a decision mentioned in paragraph (a), (b), (c) or (d).
- (2) The commissioner must give an applicant or tenant affected by the decision (an *affected person*) written notice about the decision within 28 days after the day the decision is made.
- (3) The notice must include a statement that the affected person may within 28 days of receiving the notice ask, in writing, for a review of the decision.
- (4) For subclause (1) (a), a decision by the commissioner to end a tenancy granted under this program on any ground which is lawfully available in relation to the tenancy and any action by the commissioner in relation to the decision is not a reviewable decision.

28 Review of decision

- (1) An affected person may ask the commissioner, in writing, for a review of a reviewable decision.
- (2) The request must be made within 28 days after the person is given notice of the decision.
- (3) The request must include full details of the grounds on which it is made.

Note If the commissioner approves a form for a request, the form must be used.
- (4) If the commissioner receives a request, the commissioner may—
 - (a) review the decision; or
 - (b) refer it to the housing review committee for recommendation and accept, vary, or reject the recommendation.
- (5) The commissioner must give the affected person written notice of the decision under subclause (4) within 28 days after the decision is made.
- (6) 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).
- (7) In particular, the notice must tell the person—
 - (a) that the person has the right to apply to the administrative appeals tribunal for review of the decision, and how the application must be made; and
 - (b) about the options available under other Territory laws to have the decision reviewed by a court or the ombudsman.

29 Late request for review

- (1) Despite clause 28 (2), an affected person may ask the commissioner, in writing, for a review of a reviewable decision more than 28 days after the person is given notice of the decision.
- (2) The request must be accompanied by an application to treat the request as made within time.

Note If the commissioner approves a form for an application, the form must be used.

- (3) The application must include full details of why the person did not make the request in time.
- (4) If the commissioner receives an application, the commissioner may accept or refuse the application.
- (5) The commissioner must give the affected person written notice of the decision.
- (6) 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).
- (7) In particular, the notice must tell the person—
 - (a) that the person has the right to apply to the administrative appeals tribunal for review of the decision, and how the application must be made; and
 - (b) about the options available under other Territory laws to have the decision reviewed by a court or the ombudsman.
- (8) If the commissioner accepts the application, the request for review is taken to have been made in accordance with clause 28 (2).

30 AAT review

Application may be made to the Administrative Appeals Tribunal for review of a decision under clause 28 (4) or clause 29 (4).

31 Approved forms

- (1) The commissioner may, in writing, approve forms for this program.

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

- (2) If the commissioner approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

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

32 Repeal

The Housing Assistance Public Rental Housing Assistance Program 2005 DI2005-164 is repealed.

Sandra Lambert
Commissioner for Housing

8 December 2005

I approve the Public Rental Housing Assistance Program made by the commissioner for Housing by this instrument.

John Hargreaves
Minister for Disability, Housing and Community Services
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