

Safer Families Assistance Program 2018 (No 1)

Disallowable Instrument DI2018-271

made under the

Housing Assistance Act 2007, s 19 (1) (Approved housing assistance programs)

1 Name of Instrument

This instrument is the Safer Families Assistance Program 2018 (No 1).

2 Commencement

The instrument commences on the day after notification.

3 Object of Program

The object of this program is to provide assistance to people seeking to escape family violence to establish or sustain a family home, and related expenses.

4 Interpretation

Note 1 The *Housing Assistance Act 2007* contains definitions that apply to this program. The Act defines the following terms:

- housing commissioner
- housing operation guidelines
- information

Note 2 The *Legislation Act 2001* also contains definitions and other provisions relevant to this program. For example, the *Legislation Act 2001*, dictionary, Part 1 defines the following terms:

- Act
- Commonwealth
- month
- domestic partner
- 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, unless the contrary intention appears—

AAWE means the estimate of average weekly earnings for Australia for all employees given by the Australian Bureau of Statistics under the trend estimates in its most recent quarterly publication specifying average weekly earnings for Australia.

applicant means someone who applies for family safety assistance under this program.

application means an application for family safety assistance under this program.

application date means the date the housing commissioner receives an application for family safety assistance.

dependent child means a child under 18 years of age who is part of the household of a sole applicant and in relation to whom the applicant receives or is entitled to receive dependent child payments as defined in clause 25 (10) of PRHAP unless the housing commissioner decides otherwise in particular circumstances.

family home is any home an eligible applicant currently resides or is seeking to reside.

family safety assistance means assistance provided to an eligible applicant in accordance with clause 7.

family violence has the meaning as set out in section 8 of the *Family Violence Act 2016*.

eligible applicant means a person who has applied for, and is eligible for family safety assistance at the application date.

gross income means income before deduction of tax or tax instalments and includes non-taxable income.

hardship means a person who is experiencing difficulty in relation to meeting their financial obligations in relation to sustaining or re-establishing a family home, or related expenses.

income has the meaning as set out in section 11.

PRHAP means the Housing Assistance Public Rental Housing Assistance Program established under section 19(1) of the Act.

rental bond loan assistance means a rental bond loan provided to a person by the ACT Government under a section 19(1) housing assistance program of the *Housing Assistance Act 1997*.

weekly income has the meaning as set out in section 11.

5 Determinations

The housing commissioner may make determinations for this program.

Note A determination, and each amendment (if any) to it, is a notifiable instrument and must be notified under the *Legislation Act 2001*.

6 Housing operation guidelines

The housing commissioner may issue housing operation guidelines outlining procedures for the management or operation of this program.

Note A housing operation guideline, and each amendment (if any) to it, is a notifiable instrument and must be notified under the *Legislation Act 2001*.

7 Family safety assistance

- (1) The housing commissioner may issue assistance to support people seeking to escape family violence to sustain or re-establish a family home, and related expenses.
- (2) The assistance under this program is \$2000.
- (3) The applicant must use the assistance to sustain or re-establish a family home, and related expenses. This includes, but is not limited to:
 - (a) mortgage or rental payments
 - (b) white goods, furniture and furnishings
 - (c) accessing legal services in relation to the family violence, or sustaining or re-establishing a family home
 - (d) supporting children to participate in recreational activities
 - (e) pet care expenses
 - (f) transport, and
 - (g) any other related expenses.
- (4) For the purposes of subsection 3(g), this program recognises there are a range of costs incurred by people seeking to escape family violence that impede their ability to establish or sustain a family home. This includes activities that assist members of the household to have a sense normality and connection to their community, school and workplace.

8 Application for family safety assistance

- (1) The application for family safety assistance may be an approved form.

Note 1 If the housing commissioner approves a form for an application, the form must be used.

Note 2 The housing commissioner may approve one or more forms for the same purpose (see *Legislation Act 2001*, s255(7)).

- (2) The applicant must be:
 - (a) referred by a service in the Territory that works to address family violence, or
 - (b) another form of community support service where that service forms the reasonable view that family violence is or has occurred. This includes but is not limited to:
 - a. a general practitioner
 - b. a medical professional

- c. a police officer
 - d. a social worker (including from a religious institution)
 - e. an officer from a specialist housing and homelessness provider
 - f. a Child Youth and Family protection officer.
- (3) The application must contain the information that the housing commissioner reasonably requires to determine an applicant’s eligibility under section 9.

Note 1 The Territory Privacy Principles apply to the housing commissioner. Principle 4 states requirements about the storage and security of personal information and principle 11 states when personal information may be disclosed (see *Information Privacy Act 2014*, s 13).

Note 2 The *Health Records (Privacy and Access) Act 1997* Privacy Principles apply to the housing commissioner. Principle 2 states the requirements about the solicitation of health records. Principle 9 states the limitations on the use of personal health information. Principle 10 states the requirements about the limitations of disclosure of personal health information.

Note 3 Access to information may be sought under the *Freedom of Information Act 2016* (which also provides that certain information is exempt from disclosure).

Note 4 If the information is not provided in accordance with a notice under section 24 (3) or section 25 (2) of the *Housing Assistance Act 2007* the application may be refused.

9 Eligibility criteria for family safety assistance

- (1) An applicant is eligible for family safety assistance if the applicant is:
- (a) seeking to escape family violence and has financial obligations in relation to sustaining or re-establishing a family home, or related expenses;
 - (b) a resident, or applying for a residential tenancy, in the Territory;
 - (c) in Australia lawfully;
 - (d) at least 16 years of age;
 - (e) if the applicant is a sole person household, the applicant’s weekly income is not more than 150% of AAWE;
 - (f) if the applicant’s household is made up of 2 persons only, and section 9(1)(h) does not apply, their combined weekly income is not more than 200% of AAWE;
 - (g) if the applicant’s household is made up of more than 2 people, and section 9(1)(h) does not apply, the weekly income of the applicants plus 20% of the combined weekly income of all other independent people in the household is not more than 200% of AAWE plus 20% of AAWE for each person in the household in excess of 2 people; and
 - (h) if the household is made up of only a sole applicant and one or more dependent children, their total weekly income is not more than 200% of AAWE plus 20% of AAWE for each dependent child;
- (2) For the purposes of section 9(1)(h) only, “total weekly income” means the weekly income of the applicant plus 20% of the combined weekly income of all other independent people in the household (if any).

- (3) Unless the housing commissioner decides otherwise, an applicant is not eligible for family safety assistance if the application is false or misleading in any material way.
- (4) Unless the housing commissioner decides otherwise, an applicant receiving another form of housing assistance under section 19(1) of the *Housing Assistance Act 1997*, other than rental bond loan assistance, is not eligible for safer families assistance.

Example for par (4)

An applicant who is a current ACT public housing tenant is already in receipt of housing assistance under section 19(1) of the *Housing Assistance Act 1997* and is therefore not eligible for safer families assistance unless the commissioner decides otherwise. An applicant who is on the public housing waiting list is not an ACT public housing tenant and is therefore not precluded from accessing safer families assistance under this provision.

10 Eligibility exemptions

If the housing commissioner is satisfied that an applicant is suffering hardship, the housing commissioner may, in the commissioner's absolute discretion, disregard any criteria mentioned in section 9 (other than section 9(1)(a)) in deciding whether the applicant is eligible for family safety assistance.

11 Meaning of income

- (1) For this program, *income* means —
 - (a) earnings in the form of salary or wages (including bonuses and overtime);
 - (b) any other payment received in exchange for services (including commission, tips and gratuities);
 - (c) any payment received in exchange for the temporary provision or use of assets (including rent or lease payments);
 - (d) interest from bank accounts, dividends and other income from investments; and
 - (e) any periodic payment or benefit provided by way of allowance, pension or gift (including statutory payments received from the commonwealth, territory, state or other government body).
- (2) However, *income*, does not mean monies paid by the commonwealth, territory, state or other government body, where —
 - (a) the monies are provided for an express purpose, that is not housing-related or to meet the general cost of living; or

Example for par (a)

Payment of National Disability Insurance Scheme (NDIS) funding as defined under the *Social Security Act 1991* (Cwlth) whether the funding is self or agency managed; payment of a child care benefit under the *A New Tax System (Family Assistance) Act 1999*.

- (b) the monies are a one-off special purpose payment unrelated to housing.

Example for par (b)

One-off energy supplements provided to pension recipients; crisis, emergency relief or short term financial assistance; victims of crime compensation payments.

12 Working out income

- (1) For this program, the *income* of an applicant may be determined by —
 - (a) their gross income for the year immediately before the application date;
or
 - (b) having regard for their average gross weekly income in the month immediately before the application date, where a reasonable view is formed that the applicant is in receipt of a steady income stream.

13 Further information

The housing commissioner may at any time ask an applicant for further information in relation to an application if that information is needed to establish eligibility under sections 8, 9 and 10.

Note 1 The Territory Privacy Principles apply to the housing commissioner. Principle 4 states requirements about the storage and security of personal information and principle 11 states when personal information may be disclosed (see *Information Privacy Act 2014*, s 13).

Note 2 The *Health Records (Privacy and Access) Act 1997* Privacy Principles apply to the housing commissioner. Principle 2 states the requirements about the solicitation of health records. Principle 9 states the limitations on the use of personal health information. Principle 10 states the requirements about the limitations of disclosure of personal health information.

Note 3 Access to information may be sought under the *Freedom of Information Act 2016* (which also provides that certain information is exempt from disclosure).

Note 4 If the information is not provided in accordance with a notice under section 24 (3) or section 25 (2) of the *Housing Assistance Act 2007* the application may be refused.

14 Notice of internally reviewable decision

- (1) The following decisions of the housing commissioner are internally reviewable decisions:
 - (a) a decision about an application for family safety assistance; or
 - (b) a decision revoking or amending a decision mentioned in paragraph (a).
- (2) The housing commissioner must give an applicant (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.

Note Notice of an internally reviewable decision must comply with section 8 of the *ACT Civil and Administrative Tribunal Regulation 2009*.

15 Review of decision

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

Note If the housing commissioner approves a form for a request, the form must be used.

- (4) If the housing commissioner receives a request, the housing commissioner may—
 - (a) review the decision; or
 - (b) refer it to an advisory committee established by the housing commissioner for recommendation and accept, vary or reject the recommendation.
- (5) The housing commissioner must give the affected person written notice of the decision under subsection (4) within 28 days after the decision is made.
- (6) The notice must be in accordance with the requirements of the *ACT Civil and Administrative Tribunal Regulation 2009*, section 7.
- (7) In particular, the notice must tell the person—
 - (a) that the person has the right to apply to the ACT Civil and Administrative Tribunal for review of the decision, and how the application for review 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) A decision relating to eligibility exemptions under section 10 is not a reviewable decision under this section.

16 ACAT review

An application may be made to the ACT Civil and Administrative Tribunal for review of a decision under section 15 (4)(a) or a decision to accept vary or reject a recommendation under section 15 (4)(b).

Yvette Berry
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30 October 2018