

1993

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

HOUSING ASSISTANCE ACT 1987

**VARIATIONS TO
PUBLIC RENTAL HOUSING ASSISTANCE PROGRAM
RENT RELIEF PROGRAM
SHORT TERM LODGING HOUSING ASSISTANCE PROGRAM**

**DETERMINATION NO. 140 OF 1993
DETERMINATION NO. 141 OF 1993
DETERMINATION NO. 142 OF 1993**

EXPLANATORY STATEMENT

**(Circulated by authority of
Terry Connolly MLA
Minister for Housing
and Community Services)**

VARIATIONS TO PUBLIC RENTAL HOUSING ASSISTANCE PROGRAM; RENT RELIEF PROGRAM; AND SHORT TERM LODGING HOUSING ASSISTANCE PROGRAM

AUTHORITY

Section 12 of the Housing Assistance Act 1987 empowers the Commissioner for Housing to prepare in the form of an instrument in writing a housing assistance program or variation to a program.

A program or variation may not be implemented without the approval of the responsible Minister. Following approval, the program or variation is required to be published in the Gazette and laid before the Legislative Assembly, in accordance with Section 6 of the Subordinate Laws Act 1989, where it may be disallowed.

BACKGROUND

The three programs which are the subject of these Instruments are housing assistance programs operating under the Housing Assistance Act 1987. The Public Rental Housing Assistance Program was published in ACT Gazette No 20 on 4 October 1989 and subsequently varied; the Rent Relief Program, in ACT Gazette No 26 on 15 November 1989 and subsequently varied; and the Short Term Lodging Housing Assistance Program, in Commonwealth Gazette No GN 34 on 23 December 1987, and subsequently varied. All three programs are funded, or eligible for funding, under the Commonwealth State Housing Agreement (CSHA) and are required to operate in accordance with the principles of that Agreement.

The variations were prepared by the acting Commissioner for Housing, approved by the Minister for Housing and Community Services, and published in ACT Gazette No. S 205 on

Applicants eligible for rent relief are those registered on the waiting list for public rental housing, who are renting privately as an interim measure while they await the allocation of a public dwelling.

Applicants eligible for assistance under the Short Term Lodging Housing Assistance Program are those registered on the waiting list for public housing, who have a demonstrated need for short term accommodation while they wait out their time for standard public rental housing. Short term accommodation for this purpose is provided at Jerrabomberra House, a boarding house managed by the ACT Housing Trust.

PURPOSE AND CONSEQUENCES

These variations give effect to changes to the arrangements for rent rebate and rent relief assistance announced by the Government in the 1993/94 ACT Budget. In accordance with established Government policy, the formula for calculating

occupancy fees for Jerrabomberra House is also varied to keep it in line with the rent rebate formula.

SPECIFIC CHANGES

Following are details of changes to the programs as specified in the Instruments.

Variation to the Public Rental Housing Assistance Program

Clause 1 specifies the title of the instrument and is self explanatory.

Clause 2 specifies the commencement date of the instrument and is self explanatory.

Clause 3 provides details of the program which is varied by the instrument.

Clause 4, Variations

- 4.1 This provision increases the base contribution rate from 20% of a tenant's income to 21% and reduces the level of income to which the base rate applies, from income not exceeding 50% of ACT average weekly earnings (ACTAWE) to income not exceeding 25% of ACTAWE (currently \$144.75).
- 4.2 This provision reduces the income level to which the second step of the calculation process applies (25% of income), from incomes above 50% of ACTAWE to incomes between 25% and 50% of ACTAWE.
- 4.3 This provision introduces third and fourth steps to the process, requiring incomes between 50% of ACTAWE and full ACTAWE to be assessed at 30% and incomes above ACTAWE, at 35%.
- 4.4 This introduces a limiting provision to ensure that the sum total of the calculations at 4.1, 4.2 and 4.3 above do not exceed 24% of a tenant's income.
- 4.5 This provision is necessary to bring the program into line with the policy that a public tenant is not eligible for a rebate of rent while subletting their dwelling. Although this has been the established policy for many years, recent legal advice indicated that the program did not confer a power on the Commissioner to refuse a rebate in these circumstances. This provision rectifies that deficiency.

The above income levels exclude dependent child payments paid under the Social Security Act 1991 and the Veterans' Entitlements Act 1986 which continue to be assessed at 10% of income, in recognition of the special purpose for which that form of assistance is provided.

Clause 5 provides for the base contribution rate to be increased to 22% of income and the total maximum contribution rate, to 25% of income, on 1 July 1993.

Clause 6 amends the definition of "tenant" for the purpose of rent rebate assessment to include a co-habiting spouse who is not a formal party to the tenancy agreement. This removes an inequity that technically could have allowed such a person to contribute to the rent for a dwelling at a lower rate

(percentage of income) than their partner. This change makes it clear that a co-habiting spouse who is not a formal party to the tenancy contributes to the rent for the dwelling at the same rate as their partner, and also at the same rate as a spouse, including a de facto spouse, who is a formal party to the tenancy.

Clause 7, Revocation

This clause revokes a provision of Variation 152 of 1992 which has been superceded by this Variation.

Variation to the Rent Relief Program

Clause 1 specifies the title of the instrument and is self explanatory.

Clause 2 specifies the commencement date of the instrument and is self explanatory.

Clause 3 provides details of the program which is varied by the instrument.

Clause 4, Variations

- 4.1 This provision varies the eligibility criteria for assistance by extending from 6 months to 12 months the requirement for residence in the ACT under clause 5 (1) (m) of the program.
- 4.2 This adds a new requirement to the eligibility criteria under clause 5 of the program, which has the effect of excluding as a qualifying form of accommodation halls of residence and other hostel accommodation for students administered by tertiary institutions, and church and community organisations. Students who occupy standard forms of private rental housing continue to be eligible for assistance on the same basis as other members of the community.
- 4.3 This increases the applicant's rent contribution from 30% to 40% of income under clause 7(1) of the program relating to assistance with rent arrears; this is consistent with changes to the contribution rate in other clauses of the program.
- 4.4 The purpose of new subclause 10 (3A) is to prevent "double-dipping" by reducing an applicant's entitlement to rent subsidy under the program by any amount of rent assistance being received from the Departments of Social Security or Veterans' Affairs; previously an applicant could receive the maximum entitlement under the program while also receiving rent assistance from one of these other sources.
- 4.5 This provision amends clause 10(5) of the program in relation to rent subsidy assistance by:
 - increasing the applicant's contribution from 30% to 40% of income (4.5.1);
 - varying the way rent assistance under the Social Security and Veterans' Entitlements' Acts is treated, as a consequence of the provision at paragraph 4.4 of this instrument (4.5.2);

- removing an anomaly that could lead to rent assistance under the Social Security and Veterans' Entitlements Acts being double counted in assessing an applicant's entitlement to rent subsidy under the program (4.5.3);

-removing a further anomaly by redefining the reference to "independent person" to exclude "the applicant" rather than "the applicant's spouse" from this category of occupant (4.5.4); through this change and the one at paragraph 4.6 below, provision is made for both parties in a married or de facto relationship to be treated equally for the purpose of assessing their rent contribution; that is, neither is regarded as an "independent person", for whom the program specifies a lower contribution rate; "independent person" continues to include adult children resident in the dwelling who receive an assessable income.

- 4.6 New subclause 10(6) complements paragraph 4.5.4 above by extending the meaning of "applicant" to include a co-habiting spouse, whether or not he or she is a formal party to the application for rent assistance, bringing the program into line with established practice.

4.7

4.8&

- 4.9 Although not related to the amendments arising from the Budget, these provisions amend clause 19 of the program by removing inaccurate clause references and inserting the correct references.

Clause 5 provides for transitional arrangements to shield existing recipients of rent subsidy from the relevant program changes while they remain in the same dwelling for which assistance was being provided when the new arrangements came into effect. This ensures they are not disadvantaged after having entered into commitments in the expectation that the same level of assistance would continue to be provided.

Variation to the Short Term Lodging Housing Assistance Program.

Clause 1 specifies the title of the instrument and is self explanatory.

Clause 2 specifies the commencement date of the instrument and is self explanatory.

Clause 3 provides details of the program which is varied by the instrument.

Clause 4, Variations

These amendments reflect the changes to the public rental housing assistance program.

- 4.1 This provision increases the base contribution rate from 20% of a lodger's income to 21% and reduces the level of income to which the base rate applies, from income not exceeding 50% of ACT average weekly earnings (ACTAWE) to income not exceeding 25% of ACTAWE (currently \$144.75).
- 4.2 This provision reduces the income level to which the second step of the calculation process applies (25% of income), from incomes above 50% of ACTAWE to incomes between 25% and 50% of ACTAWE.

- 4.3** This provision introduces third and fourth steps to the process, requiring incomes between 50% of ACTAWE and full ACTAWE to be assessed at 30% and incomes above ACTAWE, at 35%.
- 4.4** This introduces a limiting provision to ensure that the sum total of the calculations at 4.1, 4.2 and 4.3 above do not exceed 24% of a lodger's income.

The above income levels exclude dependent child payments paid under the Social Security Act 1991 and the Veterans' Entitlements Act 1986, which continue to be assessed at 10% of income, in recognition of the special purpose for which that form of assistance is provided.

Clause 5 provides for the base contribution rate to be increased to 22% of income and the total maximum contribution rate, to 25% of income, on 1 July 1994

Clause 6, Revocation

This clause revokes a provision of Variation No 3 of 1993 which has been superceded by this Variation.