

1991

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

HOUSING ASSISTANCE (AMENDMENT) BILL 1991

EXPLANATORY MEMORANDUM

**Circulated by the Authority of the Minister for Housing and Community
Services**

Terry Connolly MLA

HOUSING ASSISTANCE (AMENDMENT) BILL 1991

The *Housing Assistance Act 1987* ("the Principal Act") establishes a framework for the provision of housing assistance and Part III make particular provision for the preparation of housing assistance programs by the Commissioner for Housing.

Section 12 of the Principal Act empowers the Commissioner for Housing to prepare housing assistance programs and to vary such programs. Programs and variations are expressed, in the Principal Act, to come within the definition of a "relevant instrument". Subsection 12(9A) provides that a relevant instrument is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*. As such, a relevant instrument is subject to the notification and tabling requirements of the *Subordinate Laws Act 1989* and may be subject to scrutiny and disallowance by the ACT Legislative Assembly.

While housing assistance programs and variations of such programs are disallowable instruments, fees determined by the Commissioner for Housing, under such programs, are not caught by the *Subordinate laws Act 1989* and are not expressed to be disallowable. This situation is inconsistent with other ACT legislation whereby determinations of fees of a similar nature are expressed to be disallowable instruments and are subject to Legislative Assembly scrutiny.

The Housing Assistance (Amendment) Bill 1991 ("the Bill") amends section 12 of the Principal Act to provide that a determination of fees made by the Commissioner for Housing, under a housing assistance program, comes within the definition of "relevant instrument" and is, therefore, a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*. Consequently, such a determination is of no effect if it fails to satisfy the notification and tabling requirements under section 10 of the *Subordinate Laws Act 1989*, and it may be subject to scrutiny and disallowance by the ACT Legislative Assembly.

The Bill gives effect to an undertaking to the Legislative Assembly's Standing Committee on Scrutiny of Bills and Subordinate Legislation.

The Bill has no financial implications.

Details of the bill are included in the Attachment.

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Clause 1 provides that the Bill, once enacted, will be known as the *Housing Assistance (Amendment) Act 1991*.

Clause 2 provides that any references in the Bill to the "Principal Act" are to be read as references to the *Housing Assistance Act 1987*.

Clause 3 amends section 12 of the Principal Act by omitting from subsection (10) the definition of "relevant instrument" and substituting a new definition of "relevant instrument" to add "a determination of fees made by the Commissioner under a housing assistance program, or a variation or revocation of such a determination" to the definition of "relevant instrument".