

Housing Assistance Public Rental Housing Assistance Program 2007 (No 1)

Disallowable instrument DI2007-267

made under the

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

EXPLANATORY STATEMENT

Housing assistance programs reflect the policy framework for the provision of public housing in the ACT.

The *Housing Assistance Act 2007* (**the Act**) provides for the Minister to approve housing assistance programs. An approved housing assistance program is a disallowable instrument.

Such programs are required to include the kind of assistance that may be provided, the eligibility criteria, and how decisions of the commissioner for social housing (**housing commissioner**) under the program may be reviewed.

The *Housing Assistance Public Rental Housing Assistance Program 2007 (No 1)* replaces the *Housing Assistance Public Rental Housing Assistance Program 2006 (No2)* (DI2006-178) being one of a series of programs which have operated under the *Housing Assistance Act 1987*.

Following is an outline of the provisions of the program:

Clause	Provision
1 and 2	Name of instrument and commencement date specified.
3	Object of the program specified.
4	Provides definitions relating to the program.
5	Specifies the three kinds of assistance available under the program.
6 and 7	Provides for the housing commissioner to make determinations and housing operation guidelines in accordance with the Act. These are notifiable instruments.
8	Specifies the arrangements for making an application for assistance under the program.
9	Specifies the eligibility criteria for the forms of assistance available under the program, as applicable.
10	Provides a discretion in the case of otherwise unresolvable severe hardship for the housing commissioner to disregard any of the eligibility criteria for rental housing assistance specified at clause 9(1),

	except for the age criterion of 16 years. The specific circumstances of the case must be sufficient to set aside the established intent of the program in relation to satisfying the eligibility criteria in clause 9.
11	Provides a broad definition of income for the purposes of the program, including personal earnings, profits or other amounts which an applicant may have earned, derived, received or become entitled to, including periodical payments or benefits by way of gift or allowance. Also included as income are entitlements forgone as part of salary packaging or other arrangements. The housing commissioner may determine particular types of income or amounts expended by persons for particular purposes do not constitute income for the program. The housing commissioner is also given the power to deem that particular applicants will be receiving an amount equivalent to a relevant pension or benefit where their stated income is less than that pension or benefit.
12	Specifies the options available to the housing commissioner as to how the weekly income of an applicant may be worked out for the purpose of the program. The working out of income would initially be assessed referable to the date of the application. The housing commissioner may subsequently seek to reassess the eligibility of the applicant and may nominate a new assessment date. In those circumstances the working out of income will be referable to the new assessment date. These arrangements seek to provide for a range of circumstances including those relating to a person, such as a recent retiree, for whom it may be unfair to assess eligibility on past income patterns. The housing commissioner may choose to disregard the greater of the total amounts calculated in accordance with the clause.
13	Provides a power to determine needs categories and criteria in line with the focus of the program to assist persons most in need. A needs category must be allocated to each application for rental housing assistance. Needs categories will be specified in a determination or determinations made by the housing commissioner, from time to time.
14	Specifies the arrangements for re-assessing an application for rental housing assistance, including the allocated needs category. A reassessment by the housing commissioner of the continuing eligibility of the applicant may occur at any time prior to the provision of rental housing assistance.
15	Specifies when an applicant must tell the housing commissioner about relevant changes in their circumstances.
16	Requires the housing commissioner to keep a register of all eligible applicants for rental housing assistance. Eligible applicants are allocated a needs category on the register.
17	Specifies the circumstances in which an applicant's name may be removed from the register and, where applicable, returned to the register.
18	Specifies the normal arrangements under which rental housing assistance is to be provided to eligible applicants.
19(1)	Provides for special arrangements for allocating dwellings earlier than otherwise provided for in the program in extreme circumstances.
19(2)	Provides for the housing commissioner to consider the provision of assistance to one or more remaining occupants in a dwelling following a tenancy breakdown.

19(4)	Provides the housing commissioner with the capacity to identify dwellings that may have particular attributes, for example, their location, condition or size, which, in the housing commissioner's opinion, make them difficult to let. Such dwellings may be dealt with by the housing commissioner in the interests of efficient management of the public housing stock outside the normal allocation provisions set out in the program, for example, if an offer of assistance in respect of a particular dwelling is not accepted by a number of eligible applicants the housing commissioner may offer the dwelling to someone who is not the next eligible applicant on the register. This may also apply to classes of dwellings that are identified by the housing commissioner.
19(6)	Provides the housing commissioner with the capacity to: (1) identify special needs applicants, for example, eligible applicants with particular housing requirements arising as a result of their age, physical or mental capacity, residency status or any other attributes decided by the housing commissioner; and (2) identify special needs dwellings which may be provided to special needs applicants, so as to ensure special needs applicants receive dwellings best suited to their housing needs.
20	Specifies the arrangements for transfers to alternative public housing dwellings. The program applies to the application for a rental transfer as if it were an initial application for rental housing assistance. Special arrangements are made for tenants who seek to move to dwellings with fewer bedrooms or to swap dwellings with another tenant, or who seek a transfer that would facilitate the more efficient use or management of the public housing stock.
21	Provides the housing commissioner with a broad discretion to decide the size, type and location of a dwelling to be provided as rental housing assistance. The housing commissioner must take into account the reasonable needs of the applicant and their expressed preferences, as well as the availability of different types of dwellings in various locations.
22	Requires an incoming tenant to enter into a tenancy agreement before moving into a dwelling allocated as rental housing assistance, unless otherwise agreed with the housing commissioner.
23	Requires the housing commissioner to take account of the requirements of the Act in working out the market rent of a dwelling.
24	Specifies the housing commissioner's obligations when changing the rent payable on an occupied dwelling. In particular the housing commissioner must give the tenant written notice in accordance with the requirements of the <i>Residential Tenancies Act 1997</i> .
25	Specifies the arrangements under which public tenants may qualify for a rent rebate. Rebates are calculated as a percentage of assessable household income in accordance with the provisions of the clause.
26	Specifies the arrangements under which a rent rebate may be re-assessed; for example as the result of a change in an applicant's circumstances or their failure to provide full and correct information at the time of application.

27	Makes provision for rent commencement assistance available to new tenants at the commencement of a new tenancy.
28	Specifies the arrangements under which the housing commissioner may require a tenant to transfer to alternative public housing. This may occur for example because the existing accommodation is no longer safe following fire or water damage or because the property requires substantial works or is to be redeveloped. Alternatively the housing commissioner may require a tenant to transfer to alternative public housing where the housing commissioner considers a member of the household should be transferred in the interests of community harmony.
29	Specifies the circumstances in which the housing commissioner may ask an applicant to provide further information in connection with an application for assistance, including a rent rebate. Failure to provide the information requested may lead to the refusal of an application as provided for in sections 24 or 25 of the <i>Housing Assistance Act 2007</i> .
30	Specifies the decisions of the housing commissioner that are <i>reviewable decisions</i> . Although these include most decisions made under the program, clause 30(1)(a) identifies a number of decisions that are not reviewable. These are decisions under clause 10 (<i>hardship</i>), clause 19 (1) (<i>extreme circumstances resulting in the allocation of rental housing assistance otherwise than in accordance with clause 18(3)</i>), clause 19 (2) (<i>assistance in the event of a tenancy breakdown</i>), clause 19(4) (<i>provision of specified dwellings</i>), clause 19(6) (<i>provision of special needs dwellings</i>) clause 20(4) (<i>decide that a transfer would enable more efficient use or management of the public housing stock</i>), clause 28(1)(a)(<i>decisions requiring transfer to alternative housing as a result of the physical condition of the dwelling</i>) and Clause 28(2) (<i>transfer in the event of repair or other specified matters</i>). These decisions involve the exercise of specialised powers outside the normal provisions of the program in relation to eligibility, special allocation arrangements and the management of stock.
31, 32	Specifies the process for the review of <i>reviewable decisions</i> .
33	Lays down the arrangements for approved forms.
34	Repeals the previous program.