

HOUSING ASSISTANCE ACT 1987

VARIATION TO RENT RELIEF PROGRAM

NO. 17 OF 1995

This Instrument of Variation is published in accordance with section 6 of the Subordinate Laws Act 1989.

Under section 12 of the Housing Assistance Act 1987, I make a variation to the Rent Relief Program as follows:

1. In this instrument, "Program" means the Rent Relief Program published in Australian Capital Territory Gazette No. 26 of 1989, dated 15 November 1989 as amended by the following instruments:
 - (a) No. 151 of 1992 - published in Australian Capital Territory Special Gazette No. S171 of 1992 dated 1 October 1992;
 - (b) No. 3 of 1993 - published in Australian Capital Territory Gazette No. 3 of 1993 dated 20 January 1993;
 - (c) No. 135 of 1993 - published in Australian Capital Territory Special Gazette No. S205 of 1993 dated 1 October 1993; and
 - (d) No. 140 of 1993 - published in Australian Capital Territory Special Gazette No. S205 of 1993 dated 1 October 1993.
2. Clause 1 of the Program is omitted and the following is substituted:

"1. The Housing Agreement set out in Schedule 1 to the Housing Assistance Act 1987 applies in relation to this Program."
3. Paragraph (b) of the definition of "Application" in subclause 3(1) of the Program is varied by omitting "Subclause 15(2)" and substituting "Subclause 13(2)".
4. The definition of "income" in subclause 3(1) of the Program is omitted and the following is substituted:

""income" means the income of a person, or the combined income of more than one person, as determined in accordance with the Public Rental Housing Assistance Program."

5. The definitions of "officer", "prescribed authority" and "the Fund" in subclause 3(1) of the Program are omitted.
6. Subclause 3(2) of the Program is omitted and the following is substituted:

"(2) For the purpose of this Program, "assets" means the assets of a person, or the combined assets of more than one person, as determined in accordance with the Public Rental Housing Assistance Program."
7. Subclause 3(3) of the Program is omitted and the following is substituted:

"(3) For the purpose of this Program, the rent payable by a person shall be determined by:

 - (a) dividing the rent payable in respect of the property equally between all persons residing at the property (including any dependent children); and
 - (b) attributing to each person the rent thus calculated for any dependent child of that person;

unless the Commissioner considers it appropriate to determine the rent in some other manner having regard to the circumstances of an Applicant."
8. Subclause 3(5) of the Program is omitted and the following is substituted:

"(5) For the purposes of this Program, if the Applicant has a spouse who is not a party to the application, the amount of dependent child payment, rent assistance or other income received by the Applicant shall be deemed to be one half of the total amount of dependent child payment, rent assistance or other income received by the Applicant and that spouse."
9. Subclause 5(1) of the Program is varied:
 - (a) by omitting "rent relief" and substituting "assistance under this Program";
 - (b) by omitting paragraphs (d) and (e) and substituting the following:

"(d) the value of the combined assets of the Applicant(s) does not exceed \$20,000;"
 - (c) by omitting "and" from paragraphs (k) and (n); and

(d) by omitting from paragraph (o);

"except where the applicant is, or will shortly become, a party to action under the Family Law Act 1975 and the real property in which the applicant has an interest may be the subject of an order under that Act, or where the applicant owns property and undertakes to dispose of it."

and substituting "; and".

10. The following provisions are inserted in the Program after subclause 5(2):

"(3) The Commissioner has a discretion to refuse to grant assistance to an applicant who:

- (a) owes a debt to the Commissioner or the Commonwealth for rent, excess water charges, maintenance costs or any other monies due relating to a residential property in the Australian Capital Territory; or
- (b) has breached a term or condition of a tenancy agreement to which the Commissioner or the Commonwealth was a party.

(4) The Commissioner has a discretion to refuse to grant assistance to an applicant if:

- (a) in the case of one Applicant with no dependent children - the value of the Applicant's assets exceeds \$4,000; and
- (b) in any other case - the combined value of the assets of all the Applicants exceed \$5,000.

(5) For the purpose of paragraph 5(1)(o), the Commissioner may disregard any property in which the Applicant has an interest if:

- (a) the Commissioner considers that it is not reasonable for the Applicant to reside in that property having regard to:
 - (i) the nature or location of that property;
 - (ii) the nature of the interest which the Applicant has in that property;

- (iii) a restraining order, protection order or other order of a similar kind which affects the Applicant's ability to reside in that property; or
 - (iv) any pending or anticipated action under the Family Law Act 1975 as a result of which that property may become 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 that property.
- (6) An Applicant is deemed to be eligible for assistance under this Program, but only for the purpose of a rental bond loan under paragraph 7(1)(a), if:
- (a) the Applicant is, or intends to become, a tenant of government rental accommodation of a type to which this subclause applies;
 - (b) the Applicant is required to pay a rental bond in respect of that government rental accommodation; and
 - (c) the Applicant would be eligible for assistance under this Program but for the operation of paragraphs 5(1)(j) and (n).
- (7) The Commissioner may make a determination in writing, that the preceding subclause applies to government rental accommodation of the type specified in that determination.
- (8) The Commissioner has a discretion to refuse to grant assistance to an applicant if:
- (a) the application for assistance submitted by the Applicant is false or misleading in any material respect; 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 purpose of (or which includes the purpose of) or which has the effect of:
 - (i) qualifying for assistance under this Program or any government or welfare assistance of any kind (whether State, Territory or Commonwealth); and/or
 - (ii) obtaining a taxation benefit or other advantage."

11. Clauses 6 to 9 (inclusive) of the Program and their respective clause headings are omitted and the following is substituted:

"Forms of Assistance

6. (1) Rent subsidy is payable in accordance with clause 10 to an Applicant who is eligible for assistance under this Program.

(2) The Commissioner may make loans in accordance with clause 7 to an Applicant who is eligible for assistance under this Program.

Assistance by way of Loans

7. (1) The Commissioner may make one or more loans to an Eligible Applicant for the purpose of:

- (a) paying a rental bond;
- (b) paying rent for a property where the Applicant is granted a tenancy of public rental housing prior to termination of the tenancy of that property and is obliged to pay rent under both tenancies at the same time; or
- (c) paying arrears of rent.

(2) The Commissioner shall not make a loan for the purpose of paying arrears of rent unless:

- (a) the rent was 40% or more of the Applicant's income at the time the arrears arose;
- (b) the Applicant was not in receipt of rent subsidy under this Program in respect of the time the arrears arose;
- (c) the Applicant was unable to pay rent due to factors which could not have been reasonably foreseen at the time the tenancy was entered into; and
- (d) at the time the loan is made the Applicant is residing in the Property to which the arrears of rent relate.

(3) In determining whether to make a loan to an eligible Applicant, the Commissioner shall have regard to:

- (a) the possibility of the applicant being evicted from the residence of which the applicant is a tenant;
- (b) the cost to the applicant of maintaining a reasonable standard of living for the household;
- (c) the present and probable future ability of the applicant to repay a loan; and
- (d) the efficient use of funds available to the Commissioner for the purposes of this Program,

(4) The total amount outstanding under all advances to an Applicant under this Program at any time shall not exceed \$600.

(5) The Commissioner shall not charge interest on a loan under this Program."

12. Paragraph 10(4)(a) of the Program is varied by omitting "6 months" and substituting;

"3 months or such further period, up to a maximum of 6 months, as the Commissioner may allow. If rent subsidy is paid in arrears in respect of a period prior to determination of entitlement, that period shall be included in the total period for which rent subsidy is payable"

13. Paragraph 10(4)(b) of the Program is varied by omitting "6 months"

14. The following provisions are inserted in the Program after subclause 10(4);

"(4A) Rent subsidy is payable in four-weekly instalments, or as a lump sum in respect of a period prior to determination of entitlement.

(4B) Rent subsidy is not payable unless the Applicant was residing in the property in respect of which rent subsidy is payable during the period to which the payment relates."

15. The following subclause is omitted from clause 10 of the Program;

"(6) In this Clause 10 the word "applicant" includes the co-habiting spouse of the applicant whether or not that spouse is a party to the application."

16. Clause 12 of the Program is omitted and the following is substituted:

"12 The Commissioner may disregard the criteria specified in paragraphs 5(1)(b), (d), (f), (g), (h), (l), (m), (o) and (p) and subclauses 5(2), (3) and (4) for the purpose of determining that an Applicant is eligible for assistance under this Program if the Applicant is suffering severe hardship which cannot be alleviated by any other means."

17. Clause 14 of the Program is omitted and the following is substituted:

"14. All persons residing in the property to which the application relates must apply as joint applicants, other than:

- (a) any dependent child; and
- (b) any other person who the Commissioner may exempt from this requirement."

18. Subclause 15(1) of the Program is varied by inserting "within 7 days" after "Commissioner".

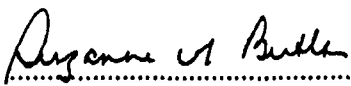
19. Clause 20 of the Program and the relevant clause heading is omitted and the following is substituted:

"Secrecy

20. The Commissioner shall not disclose information obtained in connection with this Program other than:

- (a) in the performance of its duties or functions under this Program;
- (b) in accordance with the Freedom of Information Act 1989;
- (c) in accordance with the Privacy Act 1988 (Commonwealth); or
- (d) where the person who is the subject of the information consents to its release."

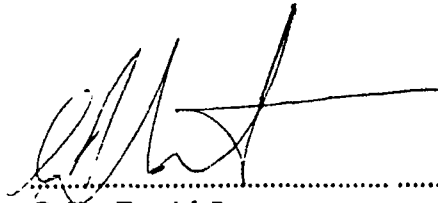
Date: 10th January 1995


 Suzanne Margaret Birtles
 Acting Commissioner for Housing

APPROVAL

Under section 12 of the Housing Assistance Act 1987, I approve the variation to the Rent Relief Program made by the Acting Commissioner for Housing by instrument dated 1995.

Date: 12/1/95



Colin David Lamont
Minister for Housing &
Community Services