



Australian Capital Territory

# Housing Assistance Act 2007

A2007-8

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Australian Capital Territory

# Housing Assistance Act 2007

A2007-8

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An Act to provide for housing assistance, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

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J2005-255

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Housing Assistance Act 2007*.

### 2 Commencement

This Act commences on a day fixed by the Minister by written notice.

*Note 1* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

*Note 3* If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

### 3 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*housing assistance*—see section 7.' means that the term 'housing assistance' is defined in that section.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

#### 4 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

#### 5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1* *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2* *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Objects and important concepts

### 6 Objects

- (1) The main objects of this Act are—
- (a) to maximise the opportunities for everyone in the ACT to have access to housing that is affordable, secure and appropriate to their needs; and
  - (b) to facilitate the provision of housing assistance for those most in need; and
  - (c) to maximise value for money in the provision of housing assistance; and
  - (d) to promote a choice of forms of housing assistance, and providers of housing assistance, for entities eligible for housing assistance; and
- Note* **Entity** includes a person—see the Legislation Act, dict, pt 1.
- (e) to facilitate the provision of rental housing that—
    - (i) has adequate amenity, is of an adequate size and is appropriately located for employment opportunities and necessary services and facilities; and
    - (ii) is coordinated with any support services (provided under other laws) required by consumers of housing assistance to live in the community; and
  - (f) to facilitate the provision of an adequate supply of affordable home finance for people on low and moderate incomes; and
  - (g) to promote the development of flexible and innovative financial arrangements to facilitate access to home ownership for people on low and moderate incomes; and

- (h) to promote the growth of a community housing sector as a viable alternative to public and private rental housing and home ownership; and
  - (i) to promote the establishment of appropriate mechanisms and forums to allow input into housing policy by consumers, and potential consumers, of housing assistance and by representative non-government agencies involved in housing policy and provision.
- (2) A person administering this Act must have regard to the objects of the Act to the maximum extent practicable considering the resources available to the person.

## **7 What is *housing assistance*?**

In this Act:

*housing assistance* means services, programs, assets, rebates and amounts, provided under an approved housing assistance program to help entities who are eligible for assistance under the program to meet their emergency, short-term, medium-term and long-term housing needs.

*Note* *Approved housing assistance program*—see s 19.

## **8 When is someone *eligible* for housing assistance?**

For this Act, an entity is *eligible* for housing assistance if the entity meets the eligibility criteria under an approved housing assistance program.

*Note* *Entity* includes a person—see the Legislation Act, dict, pt 1.

## Part 3 Housing Commissioner

### 9 Housing commissioner—establishment

(1) There is a Commissioner for Social Housing (the *housing commissioner*).

(2) The housing commissioner is a corporation and must have a seal.

*Note* For provisions about proof of seals, see the *Evidence Act 1995* (Cwlth), s 150 and s 151.

(3) The chief executive is the housing commissioner.

### 10 Housing commissioner—powers generally

(1) The housing commissioner has all the powers of a person, unless expressly excluded by this Act.

#### Examples of powers

- 1 to enter into a contract
- 2 to own and dispose of property
- 3 to sue and be sued
- 4 to act as a trustee

*Note 1* **Person** includes an individual and a corporation (see *Legislation Act*, dict, pt 1).

*Note 2* See s 12 to s 15 for limits on the housing commissioner's powers.

*Note 3* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act*, s 126 and s 132).

(2) Without limiting subsection (1), the housing commissioner may enter into arrangements with entities to provide housing assistance.

*Note* **Entity** includes a person—see the *Legislation Act*, dict, pt 1.

**11 Housing commissioner—functions**

- (1) The housing commissioner has the following functions:
- (a) administering, on behalf of the Territory, programs and funding arrangements for delivering housing assistance in the ACT by way of—
    - (i) public rental housing; and
    - (ii) home ownership; and
    - (iii) financial assistance to home owners and tenants; and
    - (iv) community housing;
  - (b) administering, on behalf of the Territory, any services relating to housing assistance that the Minister approves under subsection (2).

*Note* A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

- (2) The Minister may approve stated services relating to housing assistance.
- (3) An approval is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

**12 Housing commissioner—no power for contracts of employment**

The housing commissioner does not have the power to employ staff on a contract of employment.

**13 Limits on housing commissioner—joint ventures**

- (1) The housing commissioner must not—
- (a) enter into negotiations for a joint venture without the Minister's prior written approval; or

- (b) enter into an agreement for a joint venture without the Executive's prior written approval.
- (2) An approval under subsection (1)—
  - (a) may apply generally or may relate to a particular proposed joint venture; and
  - (b) may be given subject to the conditions or restrictions stated in the approval.

#### **14 Notice of joint ventures**

- (1) This section applies if the housing commissioner enters into an agreement for a joint venture.
- (2) The housing commissioner must, not later than 14 days after the day the commissioner enters into the agreement, give the Minister a written statement (the *commissioner's statement*) setting out the details of, and the reasons for entering into, the agreement.
- (3) The Minister must present a copy of the commissioner's statement to the Legislative Assembly not later than 6 sitting days after the day the Minister is given the statement.
- (4) However, the copy of the commissioner's statement presented to the Legislative Assembly need not include any material that is commercially sensitive.
- (5) If commercially sensitive information is not included in the presented copy of the commissioner's statement, the Minister must, when presenting the statement to the Legislative Assembly, also present a further statement setting out the general nature of the commercially sensitive information and the reason for it not being included in the presented statement.

**15 Limit on housing commissioner—large contracts**

The housing commissioner must not, without the Minister's prior written approval, enter into a contract which involves the payment or receipt of a total amount larger than \$5 million.

**16 Housing commissioner—Ministerial directions**

- (1) The Minister may give a direction to the housing commissioner about the exercise of the commissioner's functions.
- (2) The housing commissioner must exercise the commissioner's functions in accordance with any direction given by the Minister.
- (3) A direction is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

**17 Housing commissioner—delegation**

The housing commissioner may delegate the commissioner's functions under this Act or another territory law to a public servant.

*Note* For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

## Part 4 Housing assistance programs

### 18 What is a *housing assistance program*?

In this Act:

*housing assistance program* means a program for providing housing assistance that includes the following:

- (a) the kind of assistance that may be provided under the program;
- (b) the eligibility criteria for assistance under the program;
- (c) how decisions of the housing commissioner under the program may be reviewed.

*Note 1* **Housing assistance**—see s 7.

*Note 2* Power given under an Act to make a statutory instrument (including a program) includes power to amend or repeal the instrument (see Legislation Act, s 46 (1)).

### 19 Approved housing assistance programs

- (1) The Minister may approve a housing assistance program.
- (2) An approved housing assistance program is a disallowable instrument.

*Note 1* Power given under an Act to make a statutory instrument (including a program) includes power to amend or repeal the instrument (see Legislation Act, s 46 (1)).

*Note 2* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

### 20 Approved housing assistance programs—determinations

- (1) An approved housing assistance program may provide for the housing commissioner to make determinations for the program.

- (2) A determination under subsection (1), and each amendment (if any) of a determination, is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

## **21 Approved housing assistance programs—operational guidelines**

- (1) The housing commissioner may issue guidelines (*housing operation guidelines*) outlining procedures for the management or operation of approved housing assistance programs.
- (2) Housing operation guidelines—
- (a) may deal with matters also dealt with elsewhere under this Act; but
  - (b) must not be inconsistent with this Act (including approved housing assistance programs).

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any approved housing assistance program or regulation (see Legislation Act, s 104).

- (3) A housing operation guideline, and each amendment (if any) of a guideline, is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

## **22 Approved housing assistance programs—market rent**

- (1) If housing is being rented to an entity under an approved housing assistance program, the entity must be charged market rent for the housing.
- (2) However, an approved housing assistance program may provide for a rebate of rent in accordance with the program.

- (3) In this section:

*market rent*, for housing, means the rent that would be charged by the lessor for the housing if the housing were rented by a willing lessor to a willing tenant—

- (a) dealing with each other at arm's length; and
- (b) each of whom had acted knowledgeably, sensibly and without compulsion.

**23 Approved housing assistance programs—rent review**

The housing commissioner must review the rent charged for housing rented under an approved housing assistance program at least once each year.

**24 Housing assistance applicants—requirement for further information**

- (1) This section applies if an entity applies for housing assistance.
- (2) The housing commissioner may require the entity to give the commissioner further stated information that the commissioner reasonably needs to decide the application.

*Note* **Information** includes a document—see the dictionary.

- (3) The housing commissioner may, by written notice to the entity, refuse the application if—
  - (a) the requirement is made in writing; and
  - (b) the requirement states a reasonable time (of at least 7 days after the day the requirement is given to the entity) for providing the information; and
  - (c) the entity does not provide the information in accordance with the requirement.

**25 Housing assistance recipients—requirement for information**

- (1) This section applies if an entity is receiving housing assistance.
- (2) The housing commissioner may, at any time, require the entity to give the commissioner stated information that the commissioner reasonably needs—
  - (a) to review the housing assistance being provided to the entity; or
  - (b) to provide housing assistance to the entity; or
  - (c) for the good management of an approved housing assistance program or of assets held by the commissioner; or
  - (d) to otherwise exercise the commissioner's functions under this Act.

*Note* **Information** includes a document—see the dictionary.

- (3) The housing commissioner may, by written notice to the entity, suspend or cancel all or part of the entity's housing assistance if—
  - (a) the requirement is made in writing; and
  - (b) the requirement states a reasonable time (of at least 7 days after the day the requirement is given to the entity) for providing the information; and
  - (c) the entity does not provide the information in accordance with the requirement.
- (4) A notice under subsection (3) must state—
  - (a) that the housing assistance is suspended or cancelled; and
  - (b) when the suspension or cancellation begins; and

(c) if housing assistance is suspended—when the suspension ends.

*Note* The notice must also comply with the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, s 25B (1) (see this Act, s 27).

## 26 Requirements for information—AAT review

An entity mentioned in table 26, column 3 may apply to the administrative appeals tribunal for review of a decision by the housing commissioner mentioned in column 2 for the entity.

**Table 26** Reviewable decisions

<b>column 1 item</b>	<b>column 2 decision</b>	<b>column 3 affected entity</b>
1	section 24—refusal of an application for housing assistance	the applicant for the assistance
2	section 25—suspension or cancellation of all or part of the housing assistance being provided to an entity	the entity

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## 27 Requirements for information—notice of reviewable decisions

- (1) The housing commissioner must give written notice of a decision mentioned in table 26, column 2 to the entity mentioned in column 3 for the decision.
- (2) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

## Part 5 Protection of information

### 28 Meaning of *protected information*—pt 5

- (1) For this part, information is *protected information* if it—
- (a) identifies an entity that has applied for housing assistance as having applied for housing assistance; or
  - (b) identifies an entity that is or has been a housing assistance recipient as a housing assistance recipient or former housing assistance recipient; or
  - (c) identifies land that is a housing assistance property as a housing assistance property; or
  - (d) is protected personal information about an entity that—
    - (i) has applied for housing assistance; or
    - (ii) is or has been a housing assistance recipient; or
  - (e) is information prescribed by regulation for this definition; or
  - (f) would allow something to which paragraph (a), (b), (c), (d) or (e) applies to be worked out.

*Note* **Entity** includes a person—see the Legislation Act, dict, pt 1.

- (2) In this section:

**housing assistance property** means—

- (a) land owned, controlled or held by the housing commissioner; or

- (b) land used by an entity contracted by the commissioner to provide housing assistance.

**Example of land controlled or held by the housing commissioner—par (a)**

land leased by the commissioner from a private landlord to provide public rental housing

**Example of entity contracted by the housing commissioner—par (b)**

a community organisation that is contracted by the commissioner to operate a refuge

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

***housing assistance recipient*** means an entity receiving housing assistance.

**Examples of housing assistance recipients**

- 1 a tenant of a housing assistance property
- 2 a person accommodated at a refuge or other residential facility that is operated by a community organisation receiving housing assistance to provide the accommodation

***protected personal information***, about an entity that is or has been a housing assistance recipient, means—

- (a) the entity's name, telephone number or address; or
- (b) any other information prescribed by regulation for this definition.

**29 FOI Act exemption—documents containing protected information**

- (1) For the purposes of the *Freedom of Information Act 1989* (the ***FOI Act***), a document is an exempt document if—
  - (a) the document is in the possession of the housing commissioner; and

- (b) its disclosure under the FOI Act would involve the disclosure of protected information.
- (2) However, subsection (1) does not apply in relation to a request under either of the following sections of the FOI Act if the request is made by a person to whom the document relates:
  - (a) section 14 (Requests for access);
  - (b) section 48 (Persons may make application for amendment of records).
- (3) To remove any doubt, subsection (1) is additional to, and does not limit, the operation of the FOI Act, part 4 (Exempt documents).

## Part 6 Commonwealth-Territory funding agreements

### 30 What is a *Commonwealth-Territory funding agreement*?

In this Act:

*Commonwealth-Territory funding agreement* means an agreement between the Commonwealth and the Territory for the Commonwealth to give financial assistance to the Territory for housing assistance or to promote the objects of this Act.

### 31 Notification of Commonwealth-Territory funding agreements

- (1) This section applies if the Territory enters into or amends a Commonwealth-Territory funding agreement.
- (2) The agreement or amendment is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

## Part 7                      Miscellaneous

### 32                      **Placing unleased land under housing commissioner's control**

- (1) The Executive may direct the planning and land authority to place unleased territory land under the control of the housing commissioner.
- (2) However, if land that is placed under the housing commissioner's control under subsection (1) is subject to an existing tenancy, the land is placed under the commissioner's control subject to the tenancy.
- (3) To remove any doubt, the housing commissioner may exercise the commissioner's powers under section 33 in relation to a tenancy to which subsection (2) applies, including, for example, by ending the tenancy.

*Note*                      An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) A direction under subsection (1) is a notifiable instrument.

*Note*                      A notifiable instrument must be notified under the Legislation Act.

- (5) In this section:

***existing tenancy***, for land placed under the housing commissioner's control, means a tenancy that was in force immediately before the land was placed under the commissioner's control.

***unleased territory land*** means territory land that is not leased under the *Land (Planning and Environment) Act 1991* or the *Unit Titles Act 2001*.

**33 Unleased land placed under housing commissioner's control—powers**

- (1) This section applies to land placed under the control of the housing commissioner under section 32.
- (2) The housing commissioner may do 1 or more of the following in relation to the land:
  - (a) manage the land;
  - (b) authorise people to enter the land;
  - (c) use the land in any way the commissioner considers appropriate for the commissioner's functions;
  - (d) arrange for the grant to someone else of a lease of, or licence to occupy, the land;
  - (e) obtain a lease for the land in the name of the housing commissioner and transfer the lease;
  - (f) if the land is held by an entity under a lease—
    - (i) do anything in relation to the land that the Territory could do in relation to the land immediately before the land was placed under the commissioner's control; or
    - (ii) exercise any power under the *Recovery of Lands Act 1929* that the Territory may exercise for the land under that Act on behalf of the Commonwealth.
- (3) However, a lease or licence must not be granted by anyone for the land except with the housing commissioner's prior written agreement.

*Note 1* The *Recovery of Lands Act 1929* provides for the Territory to end a lease and take action against people. However, it does not apply to leases under the *Residential Tenancies Act 1997*.

*Note 2* See also the *Land (Planning and Environment) Act 1991*, s 189 for the recovery of land held under a licence.

**34 Unneeded land may be returned**

- (1) This section applies if the housing commissioner is satisfied that unleased land that has been placed under the commissioner's control under section 32 is no longer needed for this Act.
- (2) The housing commissioner may, by instrument, surrender control of the land to the planning and land authority.
- (3) An instrument under subsection (2) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

**35 Information to Minister**

- (1) If the Minister asks the housing commissioner at any time to give the Minister information (including protected information) about any matter relating to the commissioner's functions, the commissioner must comply with the request.
- (2) In this section:  
*protected information*—see section 28.

**36 Financial arrangements**

- (1) All amounts paid to or by the housing commissioner for this Act (including amounts paid under a Commonwealth-Territory funding agreement) must be paid into or out of a departmental banking account or territory banking account within the meaning of the *Financial Management Act 1996*.
- (2) To remove any doubt, amounts owed to, or paid to or by, the housing commissioner are amounts owed to, or paid to or by, the Territory.

**37 Protection of officials from liability**

- (1) In this section:

*official* means—

- (a) the housing commissioner; or
  - (b) anyone else exercising a function under this Act.
- (2) An official is not personally liable for anything done or omitted to be done honestly and without recklessness—
- (a) in the exercise of a function under this Act; or
  - (b) in the reasonable belief that the conduct was in the exercise of a function under this Act.
- (3) Any liability that would, apart from this section, attach to an official attaches instead to the Territory.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any approved housing assistance program or regulation (see Legislation Act, s 104).

**38 Determination of fees**

- (1) The Minister may determine fees for this Act.

*Note* The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

**39 Approved forms**

- (1) The housing commissioner may approve forms for this Act.
- (2) If the housing commissioner approves a form for a particular purpose, the approved form must be used for that purpose.

*Note* For other provisions about forms, see the Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

#### **40 Regulation-making power**

The Executive may make regulations for this Act.

*Note* A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

#### **41 Legislation amended—sch 1**

This Act amends the legislation mentioned in schedule 1.

#### **42 Legislation repealed**

- (1) The *Housing Assistance Act 1987* is repealed.
- (2) All legislative instruments under the *Housing Assistance Act 1987* are repealed.

## Part 10 Transitional—Housing Assistance Act 1987

### 100 Definitions—pt 10

In this part:

*old Act* means the *Housing Assistance Act 1987*.

*old housing assistance program* means a housing assistance program under the old Act.

### 101 Transitional—rights and liabilities under old Act

- (1) This section applies if, immediately before the commencement of this section, an entity had a right or liability under the old Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any old housing assistance programs (see Legislation Act, s 104).

- (2) The repeal of the old Act does not affect the right or liability.

#### Examples of rights

- 1 a right to occupy land under a tenancy agreement or licence
- 2 a rebate on rent payable under a tenancy agreement

#### Example of liability

a requirement under an old housing assistance program to pay rent

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The right or liability continues, subject to this Act, as if it were a right or liability under an approved housing assistance program.
- (4) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

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**102 Transitional—corresponding housing assistance programs and things**

- (1) The housing commissioner may declare that—
- (a) an approved housing assistance program corresponds to an old housing assistance program; and
  - (b) a thing under an old housing assistance program corresponds to a thing under an approved housing assistance program.

**Example**

A housing assistance program under the old Act (the *old program*) provides for various things, including—

- (a) applications for assistance, transfer of housing, rental rebates and to have a person's name returned to the register of eligible applicants; and
- (b) the keeping of a register of eligible applicants; and
- (c) the allocation of a needs category to eligible applicants; and
- (d) the review of certain decisions.

The housing commissioner might declare that an approved housing assistance program for public rental housing (the *new program*) corresponds to the old program and that—

- (a) a particular kind of application under the old program corresponds to a particular kind of application under the new program; and
- (b) the register under the old program corresponds to a register or list under the new program; and
- (c) a needs category under the old program corresponds to a priority category (however described) under the new program; and
- (d) an application to the commissioner for review of a reviewable decision under the old program is an application for a stated kind of review under the new program.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) A declaration may be made under subsection (1) whether or not the programs or things correspond, or substantially correspond, with each other.

- (3) However, a declaration made under subsection (1) must not—
- (a) for a right continued under section 101 (3)—reduce the right; or
  - (b) for a liability continued under section 101 (3)—increase the liability.
- (4) If the housing commissioner declares under subsection (1) that a thing (the *old thing*) under an old housing assistance program corresponds to a thing (the *new thing*) under an approved housing assistance program—
- (a) the old thing is taken to be the new thing under the approved housing assistance program; and
  - (b) the new thing is not invalid only because something required in relation to it under the approved housing assistance program has not been done.
- (5) For this section, the housing commissioner may give any direction the commissioner considers necessary or desirable to facilitate the application of a declaration under subsection (1) in relation to an entity.
- (6) This section is subject to section 103 and section 109 (Transitional regulations).
- (7) A declaration under subsection (1) is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (8) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

### **103 Transitional—uncompleted applications for AAT review**

- (1) This section applies if—
- (a) before the commencement of this section (the *commencement*), an application for review to the

- administrative appeals tribunal had been made in relation to a decision under an old housing assistance program; and
- (b) immediately before the commencement, the proceeding on the application had not ended; and
  - (c) the thing to which the decision relates is declared under section 102 to correspond to a thing (the *new thing*) under an approved housing assistance program.
- (2) If this section applies—
- (a) the proceeding may be continued as if the application had been made in relation to the new thing; and
  - (b) the decision-maker is taken to be the housing commissioner.
- (3) For this section, the administrative appeals tribunal may give any direction the tribunal considers necessary or desirable to facilitate a matter in relation to the application for review.
- (4) However, the administrative appeals tribunal must not make a decision that—
- (a) for a right continued under section 101 (3)—reduces the right; or
  - (b) for a liability continued under section 101 (3)—increases the liability.
- (5) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

#### **104 Transitional—sensitive information under old Act**

- (1) For section 28 (Meaning of *protected information*—pt 5), a reference to an entity having *applied for housing assistance* includes an entity that applied for assistance under an old housing assistance program.

- (2) For section 28, the definition of *housing assistance recipient* includes an entity that received assistance under an old housing assistance program.
- (3) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

**105 Transitional—notification of existing Commonwealth-Territory funding agreements**

- (1) This section applies to a Commonwealth-Territory funding agreement, and any amendment of the agreement, that is in force immediately before the commencement of this section.
- (2) The agreement and amendment may be notified on the ACT legislation register under section 31 (Notification of Commonwealth-Territory funding agreements).
- (3) In this section:  
*ACT legislation register*—see the Legislation Act, section 18.

**106 Transitional—land placed under control of housing commissioner under old Act**

- (1) For this Act, a reference to land placed under the control of the housing commissioner under section 32 (Placing unleased land under housing commissioner’s control) includes land placed under the commissioner for housing’s control under the old Act, section 16 or section 17.
- (2) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

**107 Transitional—standard residential tenancy terms, cl 36**

- (1) This section applies to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1997* if the agreement includes a clause in accordance with that Act, schedule 1 (Standard

residential tenancy terms), clause 36 (the *relevant clause*) as in force immediately before the commencement of this section.

- (2) A reference in the relevant clause in the residential tenancy agreement to the commissioner for housing is taken to be a reference to the housing commissioner.
- (3) A reference in the relevant clause in the residential tenancy agreement to the *Housing Assistance Act 1987*, section 15 (3) is taken to be a reference to this Act, section 23.
- (4) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

#### **108 Transitional—outdated references to old Act**

- (1) In any Act, instrument made under an Act or document, a reference to the old Act is, in relation to anything to which this Act applies, a reference to this Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any approved housing assistance program or regulation (see Legislation Act, s 104).

- (2) In any Act, instrument made under an Act or document, a reference to a provision of the old Act is, in relation to anything to which this Act applies, a reference to the corresponding provision of this Act.
- (3) In any Act, instrument made under an Act or document, a reference to anything that is no longer applicable because of the repeal of the old Act by this Act and for which there is a corresponding thing under this Act, is taken to be a reference to the thing under this Act, if the context allows and if otherwise appropriate.
- (4) This section is subject to a declaration under section 102 (1) (Transitional—corresponding housing assistance programs and things).
- (5) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

**109 Transitional regulations**

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.
- (2) A regulation may modify this part (including its operation in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.
- (4) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

**110 Expiry—pt 10**

This part expires 1 year after the day this section commences.

## **Schedule 1      Consequential amendments**

(see s 41)

### **Part 1.1                  Duties Act 1999**

#### **[1.1]      Section 64 (1) (a)**

*substitute*

- (a) the housing commissioner; or

### **Part 1.2                  Freedom of Information Act 1989**

#### **[1.2]      New section 6AA**

*before section 6A, insert*

#### **6AA      Exemption of lists of housing assistance properties**

- (1) This Act does not apply to a document that is, or a part of a document that contains, a list of housing assistance properties identified as housing assistance properties.

*Note*      For the exemption of documents in the possession of the housing commissioner containing protected information within the meaning of the *Housing Assistance Act 2007*, pt 5, see that Act, s 29.

- (2) In this section:

*housing assistance property*—see the *Housing Assistance Act 2007*, section 28 (2) (Meaning of *protected information*—pt 5).

#### **[1.3]      Sections 6AA and 6A**

*renumber as sections 6A and 6B*

**[1.4] Part 4 heading, new note**

*insert*

*Note* For the exemption of documents in the possession of the housing commissioner containing protected information within the meaning of the *Housing Assistance Act 2007*, pt 5, see that Act, s 29.

**Part 1.3 Land (Planning and Environment) Act 1991**

**[1.5] Section 159A (1), definition of *concessional lease*, paragraph (c) (ii)**

*substitute*

- (ii) a lease over land that, immediately before the grant of the lease, was owned, controlled or held by the housing commissioner under the *Housing Assistance Act 2007*; or

**Part 1.4 Land (Planning and Environment) Regulation 1992**

**[1.6] Section 19 heading**

*substitute*

**19 Housing commissioner remission—Act, s 184C (1)**

**[1.7] Section 19 (1) (a)**

*substitute*

- (a) the lease is held by the housing commissioner; and

**[1.8] Section 22 (2) (b)**

*substitute*

- (b) the lease is not a lease held by the housing commissioner to which section 19 (Housing commissioner remission—Act, s 184C (1)) applies.

**[1.9] Section 30 heading**

*substitute*

**30 Housing commissioner remission—Act, s 187C (1)**

**[1.10] Section 30 (a)**

*substitute*

- (a) each lease to be surrendered is held by the housing commissioner; and

## **Part 1.5 Land Tax Act 2004**

**[1.11] Section 10 (1) (c)**

*substitute*

- (c) a parcel of land owned by the housing commissioner under the *Housing Assistance Act 2007*;

## **Part 1.6 Legislation Act 2001**

**[1.12] Dictionary, part 1, definition of *commissioner for housing***

*omit*

**[1.13] Dictionary, part 1, new definition of *housing commissioner***

*insert*

*housing commissioner* means the Commissioner for Social Housing under the *Housing Assistance Act 2007*.

## **Part 1.7 Magistrates Court Act 1930**

**[1.14] Section 147B**

*substitute*

**147B Access to particulars of address**

- (1) For this division, the registrar may, in writing, ask a relevant person to give the registrar any details held by the person about an address of a stated person who is liable to pay a fine.
- (2) The relevant person must comply with the request as far as practicable.
- (3) In this section:

*relevant person* means—

- (a) the chief police officer; or
- (b) the housing commissioner; or
- (c) the chief executive (however described) of a government agency.

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**[1.15] Section 154**

*substitute*

**154 Access to personal information**

- (1) To ensure the payment of an outstanding fine, the registrar may, in writing, ask a relevant person to give the registrar stated particulars of personal information held by the person about the fine defaulter.
- (2) The relevant person must comply with the request as far as practicable.
- (3) In this section:

*personal information*, about a fine defaulter, means details about the defaulter's financial circumstances or criminal record.

*relevant person* means—

- (a) the chief police officer; or
- (b) the housing commissioner; or
- (c) the chief executive (however described) of a government agency.

**Part 1.8 Residential Tenancies Act 1997**

**[1.16] Section 107A (6)**

*substitute*

- (6) If the application is in relation to premises leased under an approved housing assistance program under the *Housing Assistance Act 2007*, the tribunal must not make an order under subsection (5) that is inconsistent with the eligibility criteria under the program.

**[1.17] Section 127A (3)**

*omit*

housing assistance programs under the *Housing Assistance Act 1987*

*substitute*

approved housing assistance programs under the *Housing Assistance Act 2007*

**[1.18] Schedule 1, clause 36**

*substitute*

- 36 (1) This clause applies if—
- (a) the housing commissioner is the lessor under this tenancy agreement; and
  - (b) the commissioner has decided to increase the rent after a review of rent under the *Housing Assistance Act 2007*, section 23.
- (2) Despite clause 35, the housing commissioner may increase the rent.
- (3) However, if a previous review of rent has been undertaken, the increase under subclause (2) must not take effect earlier than 1 year after the date the last rent increase for the premises took effect.

**[1.19] Further amendments, references to *commissioner for housing***

*omit*

commissioner for housing

*substitute*

housing commissioner

*in*

- section 10 (5)
- section 15 (5) and (6)
- section 107C (2), definition of *entity*
- section 127A (2)

**Part 1.9 Supreme Court Act 1933**

**[1.20] Section 49A (3), definition of *relevant person***

*substitute*

*relevant person* means—

- (a) the chief police officer; or
- (b) the housing commissioner; or
- (c) the chief executive (however described) of a government agency.

## Part 1.10 Uncollected Goods Act 1996

### [1.21] Sections 13 (c) and 27A

*omit*

commissioner for housing

*substitute*

housing commissioner

## Part 1.11 Victims of Crime (Financial Assistance) Act 1983

### [1.22] Section 63 (a) to (c)

*substitute*

- (a) the chief police officer;
- (b) the housing commissioner;
- (c) the chief executive (however described) of a government agency.

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## Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1 defines the following terms:

- chief executive (see s 163)
- commissioner for revenue
- entity
- exercise
- function
- human rights commission
- Minister (see s 162)
- planning and land authority
- territory land
- year.

***approved housing assistance program*** means a housing assistance program approved under section 19.

***Commonwealth-Territory funding agreement***—see section 30.

***community housing*** means rental housing for—

- (a) people on low and moderate incomes or with special needs; or
- (b) nonprofit community organisations.

***eligible***, for housing assistance—see section 8.

***housing***—

- (a) means residential housing and other forms of residential accommodation; and
- (b) includes the fences, outbuildings and other improvements and the connections for utilities and other services provided or reasonably required for the accommodation.

*housing assistance*—see section 7.

*housing assistance program*—see section 18.

*housing commissioner* means the Commissioner for Social Housing established under section 9.

*information* includes a document.

*protected information*, for part 5 (Protection of information)—see section 28.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 14 December 2006.

**2 Notification**

Notified under the Legislation Act on 10 May 2007.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Housing Assistance Bill 2007, which originated in the Legislative Assembly as the Housing Assistance Bill 2006 and was passed by the Assembly on 1 May 2007.

Clerk of the Legislative Assembly

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