



# Homeless Persons Assistance Act 1974

**Act No. 148 of 1974 as amended**

**[Note: This Act was repealed by Act No. 108 of 2006 on 27 September 2006]**

This Act was prepared on 24 March 2004  
taking into account amendments up to Act No. 70 of 1991

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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# **An Act to provide for Payments by the Commonwealth in respect of the Provision of Assistance for Homeless Persons and for certain other Persons**

## **1 Short title** [see Note 1]

This Act may be cited as the *Homeless Persons Assistance Act 1974*.

## **2 Commencement** [see Note 1]

This Act shall come into operation on the day on which it receives the Royal Assent.

## **3 Interpretation**

In this Act, unless the contrary intention appears:

***alteration***, in relation to a building or other improvement on land, includes an addition to the building or improvement.

***approved assistance*** means assistance by way of food, accommodation or a social welfare service.

***approved project*** means the purchase of land, or the construction or alteration of a building or other improvement on land, approved under section 4 or carried out in accordance with an approval under that section.

***building*** includes a part of a building and an addition to a building.

***committee*** means a committee established under section 15.

***eligible organization*** means:

- (a) an organization that is carried on otherwise than for the purpose of profit or gain and is approved by the Minister as an eligible organization for the purposes of this Act;
- (b) a local governing body; or
- (c) the trustees for the time being under a trust established for charitable or benevolent purposes, being a trust in relation to

which the Minister has determined that the trustees constitute an eligible organization for the purposes of this Act;

and includes:

- (d) the trustee or trustees under a trust established by an organization referred to in paragraph (a) or by a local governing body; and
- (e) a corporation established by such an organization or by a local governing body.

**homeless person** means:

- (a) a person who has attained the age of 16 years and:
  - (i) has no settled home and is in need of approved assistance; or
  - (ii) although having a settled home, is temporarily in urgent need of approved assistance; or
- (b) a person in respect of whom a person referred to in paragraph (a) is qualified to receive a family allowance under the *Social Security Act 1991*.

**homeless persons assistance centre** means a place where approved assistance is, or is proposed to be, provided either wholly or mainly for homeless persons and where any accommodation provided is provided by way of temporary assistance only.

**local governing body** means a local governing body established by or under a law of a State or Territory.

**organization** includes a society and an association.

**social welfare service** means a service or treatment provided by a social welfare worker.

**social welfare worker** means a social worker, welfare officer, psychologist, occupational therapist or other person who provides a service or treatment that:

- (a) is directed to promoting the welfare of persons; and
- (b) is of a kind for the time being approved by the Minister for the purposes of this Act.

#### 4 Approval of projects

Where the Minister is satisfied that:

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- (a) at any time after the commencement of this Act, an eligible organization:
    - (i) has purchased or proposes to purchase any land, including land on which buildings or other improvements are constructed; or
    - (ii) has constructed or altered or proposes to construct or alter a building or other improvement on any land; and
  - (b) the land purchased or proposed to be purchased, or the building or improvement constructed or altered or proposed to be constructed or altered is used or is proposed to be used permanently by or on behalf of that organization for or in connexion with a homeless persons assistance centre;
- the Minister may, in his discretion, approve, for the purposes of this Act, the purchase or proposed purchase or the construction or alteration or the proposed construction or alteration, as the case may be.

### **5 Grants in respect of approved projects**

- (1) Subject to this section, the Minister may, in his discretion, on behalf of the Commonwealth, pay to the eligible organization concerned an amount not exceeding the cost of an approved project.
- (2) A payment under this section in respect of an approved project shall not be made except to a corporation in which, or to trustees in whom, there is vested or is to be vested:
  - (a) where the approved project is the purchase or proposed purchase of land—that land; or
  - (b) where the approved project is the construction or alteration, or the proposed construction or alteration, of a building or other improvement—the land on which the building is to be constructed or is situated.

### **6 Grants in respect of rent of premises**

Where the Minister is satisfied that, during a period after the commencement of this Act, premises of which an eligible organization is the tenant are used or are proposed to be used for or in connexion with a homeless persons assistance centre that is operated or is proposed to be operated by or on behalf of that

organization, the Minister may, in his discretion, on behalf of the Commonwealth, pay to that organization:

- (a) an amount not exceeding the amount of rent paid by that organization in respect of those premises during so much of that period as the Minister, in his discretion, thinks fit;
- (b) an amount not exceeding the cost incurred during that period by that organization of any alteration of a building or other improvement that forms part of those premises and is used or is proposed to be used for or in connexion with that homeless persons assistance centre; and
- (c) if that organization became the tenant of those premises during that period, an amount not exceeding the cost incurred by that organization of obtaining the tenancy of those premises.

### **7 Grants in respect of fixtures etc.**

Where the Minister is satisfied that, during a period after the commencement of this Act, a homeless persons assistance centre is operated or is proposed to be operated on any land by or on behalf of an eligible organization, the Minister may, in his discretion, on behalf of the Commonwealth, pay to that organization:

- (a) an amount not exceeding the cost (including the cost of installation) incurred by that organization of any fixtures installed by or on behalf of that organization during that period in a building or other improvement on that land that is used or is proposed to be used for or in connexion with that homeless persons assistance centre; and
- (b) an amount not exceeding the cost of any furniture, furnishings or equipment purchased by or on behalf of that organization during that period and used or proposed to be used in connexion with that homeless persons assistance centre.

### **8 Grants in respect of staff**

- (1) Where a person is employed as a social welfare worker by or on behalf of an eligible organization to provide a social welfare service at a homeless persons assistance centre operated by or on behalf of that organization, the Minister may, in his discretion, on behalf of the Commonwealth, pay to that organization:



- (a) in respect of one such person who is so employed—an amount not exceeding the amount necessary to reimburse the organization in respect of the salary or wages paid by or on behalf of that organization to that person for the provision of a social welfare service at the centre during such period or periods after 1 January 1984 as the Minister, in his discretion, thinks fit; and
  - (b) in respect of each other such person (if any) who is so employed—an amount not exceeding the amount necessary to reimburse the organization in respect of an amount not exceeding 50% of the salary or wages paid by or on behalf of that organization to the person for the provision by him of a social welfare service at the centre during such period or periods after 1 January 1984 as the Minister, in his discretion, thinks fit.
- (2) A reference in this section to salary or wages paid to a person includes a reference to any allowance, gratuity or compensation paid in a lump sum to the person in consequence of the retirement, or the termination of employment, of the person, being an allowance, a gratuity or compensation paid in respect of accrued long service leave or other accrued leave.

## **9 Grants in respect of accommodation**

- (1) The Minister may, in his discretion, on behalf of the Commonwealth, pay to an eligible organization, in respect of a day (not being a day before 1 January 1984) on which accommodation is provided for homeless persons at a homeless persons assistance centre operated by or on behalf of that organization, not being accommodation provided in exchange for a ticket, voucher or token of the kind referred to in subsection (2), an amount calculated at the rate of \$1.50, or, if a higher rate is determined by the Minister by notice published in the *Gazette*, at that higher rate, for each homeless person for whom accommodation is so provided on that day.
- (2) A reference in subsection (1) to accommodation provided at a homeless persons assistance centre operated by or on behalf of an eligible organization includes a reference to the provision by the organization of a ticket, voucher or token that may be exchanged for accommodation provided by another person or organization.

## **10 Grants in respect of meals**

- (1) The Minister may, in his discretion, on behalf of the Commonwealth, pay to an eligible organization in respect of a day (not being a day before 1 January 1984) on which meals are provided for homeless persons at a homeless persons assistance centre operated by or on behalf of that organization, not being meals provided in exchange for a ticket, voucher or token of the kind referred to in subsection (2), an amount calculated at the rate of 50 cents, or, if a higher rate is determined by the Minister by notice published in the *Gazette*, at that higher rate, for each meal provided on that day for a homeless person.
- (2) A reference in subsection (1) to the provision of meals at a homeless persons assistance centre operated by or on behalf of an eligible organization includes a reference to the provision by the organization of a ticket, voucher or token that may be exchanged for meals provided by another person or organization.

## **11 Manner of making payments**

Payments under this Act shall be made at such times, or by such instalments at such times, as are determined by agreement between the Minister and the eligible organization concerned or, in the absence of such an agreement, by the Minister.

## **12 Advances**

The Minister may, at such times as he thinks fit, make advances of such amounts as he thinks fit to an eligible organization on account of a payment that may become payable under this Act.

## **13 Conditions relating to payments etc.**

- (1) A payment or advance under this Act may be made upon such terms and conditions, not inconsistent with this Act, as the Minister thinks fit.
- (2) Before a payment or advance is made under this Act, the Minister may require the eligible organization concerned to enter into an agreement with him with respect to the terms and conditions upon which the payment or advance is to be made.

- (3) Without limiting the generality of subsections (1) and (2), an agreement under subsection (2) may, if the Minister considers the circumstances so require, include provision for the repayment of the whole or part of the payment or advance to the Commonwealth in specified circumstances, and for the giving of security for the carrying out of the agreement.
- (4) Where a payment or advance under this Act to an eligible organization has, in accordance with this section, been made on terms and conditions, the Minister, with the agreement of the organization, may, by writing, vary those terms and conditions and, where there is an agreement under subsection (2) with respect to the terms and conditions so varied, that agreement shall be taken to be varied accordingly.

**13A Agreements may be entered into with transferees of buildings etc.**

- (1) Where:
  - (a) a payment or advance to an eligible organization under this Act has, in accordance with section 13, been made on terms and conditions with respect to land, or to a building or buildings; and
  - (b) the organization has transferred, or proposes to transfer, its interest in the land, or in the building or in one or more of the buildings, to another eligible organization;the Minister may enter into an agreement with that other organization under which that other organization is required to comply or will, upon the transfer being effected, be required to comply, with some or all of those terms and conditions in so far as they relate to the land, or the building or buildings, the subject of the transfer.
- (2) Where:
  - (a) an eligible organization has entered into an agreement under subsection (1) or this subsection under which it is required to comply with certain terms and conditions with respect to land, or to a building or buildings; and
  - (b) the organization has transferred, or proposes to transfer, its interest in the land, or in the building or in one or more of the buildings, to another eligible organization;

the Minister may enter into an agreement with that other organization under which that other organization is required to comply, or will, upon the transfer being effected, be required to comply, with some or all of those terms and conditions in so far as they relate to the land, or to the building or buildings, the subject of the transfer.

- (3) Where an agreement under subsection (1) or (2) between the Minister and an eligible organization is in force, the Minister, with the agreement of the organization, may, by writing, vary that agreement.

#### **14 Approvals to be in writing**

An approval or determination for the purposes of this Act shall be given or made in writing under the hand of the person giving the approval or making the determination.

#### **15 Advisory committees**

- (1) The Minister may establish such committees as he thinks fit for the purpose of giving advice to the Minister on such matters relating to the administration of this Act as the Minister directs and may appoint persons to be members of a committee so established.
- (2) A member of a committee shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.
- (3) A member of a committee shall be paid such allowances as are prescribed.
- (4) This section has effect subject to the *Remuneration Tribunals Act 1973*.

#### **16 Delegation**

- (1) The Minister may, by writing under his hand, delegate to an officer of the Department or to a person performing the duties of an office in the Department, either generally or otherwise, all or any of his powers and functions under this Act except this power of delegation.

- (2) A power or function so delegated may be exercised or performed by the delegate in accordance with the delegation.
- (3) A delegate of the Minister is, in the exercise of his powers and the performance of his functions under this Act, subject to the directions, if any, of the Minister.
- (4) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister.

### **17 Appropriation**

Payments under section 5, 6, 7 or 8, and advances on account of payments under that section, shall be made out of moneys appropriated from time to time by the Parliament for the purposes of that section.

### **18 Appropriation for payments under section 9 or 10**

Payments under section 9 or 10, and advances on account of payments under section 9 or 10, shall be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

### **19 Regulations**

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.



**Table of Acts****Notes to the *Homeless Persons Assistance Act 1974*****Note 1**

The *Homeless Persons Assistance Act 1974* as shown in this compilation comprises Act No. 148, 1974 amended as indicated in the Tables below.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Homeless Persons Assistance Act 1974</i>	148, 1974	13 Dec 1974	13 Dec 1974	
<i>Homeless Persons Assistance Amendment Act 1977</i>	142, 1977	10 Nov 1977	10 Nov 1977	—
<i>Homeless Persons Assistance Amendment Act 1978</i>	114, 1978	29 Sept 1978	29 Sept 1978	—
<i>Homeless Persons Assistance Amendment Act 1979</i>	130, 1979	19 Nov 1979	19 Nov 1979	—
<i>Statute Law (Miscellaneous Amendments) Act (No.2) 1982</i>	80, 1982	22 Sept 1982	Ss. 126–129: 20 Oct 1982 (a)	—
<i>Social Security Legislation Amendment Act 1983</i>	69, 1983	24 Oct 1983	Ss. 71–73: 1 Jan 1984 (b)	S. 72(2)
<i>National Welfare Fund Repeal Act 1985</i>	24, 1985	22 May 1985	Ss. 1, 2 and 5: Royal Assent Remainder: 1 July 1985 (see <i>Gazette</i> 1985, No. S232)	S. 5
<i>Social Security and Repatriation Legislation Amendment Act 1985</i>	95, 1985	5 Sept 1985	Ss. 57–59: Royal Assent (c)	—
<i>Community Services and Health Legislation Amendment Act (No.2) 1988</i>	155, 1988	26 Dec 1988	S. 4(1): Royal Assent (d)	—
<i>Social Security (Rewrite) Transition Act 1991</i>	70, 1991	25 June 1991	(e)	—

## Act Notes

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- (a) The *Homeless Persons Assistance Act 1974* was amended by sections 126–129 only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2(16) of which provides as follows:
  - (16) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.
- (b) The *Homeless Persons Assistance Act 1974* was amended by sections 71–73 only of the *Social Security Legislation Amendment Act 1983*, subsection 2(7) of which provides as follows:
  - (7) Parts III and V shall come into operation on 1 January 1984.
- (c) The *Homeless Persons Assistance Act 1974* was amended by sections 57–59 only of the *Social Security and Repatriation Legislation Amendment Act 1985*, subsection 2(1) of which provides as follows:
  - (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (d) The *Homeless Persons Assistance Act 1974* was amended by section 41(1) only of the *Community Services and Health Legislation Amendment Act (No. 2) 1988*, subsection 2(1) of which provides as follows:
  - (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (e) 2 This Act commences immediately after the *Social Security Act 1991* commences. The *Social Security Act 1991* commenced on 1 July 1991.



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**Table of Amendments**


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**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
Title .....	am. No. 130, 1979
S. 3.....	am. No. 142, 1977; No. 114, 1978; No. 130, 1979; No. 80, 1982; No. 70, 1991
S. 4.....	am. No. 130, 1979
S. 5.....	am. No. 142, 1977
Ss. 6, 7.....	am. No. 142, 1977; No. 130, 1979
Ss. 8–10.....	am. No. 142, 1977 rs. No. 69, 1983
S. 13.....	am. No. 142, 1977; No. 95, 1985
S. 13A .....	ad. No. 95, 1985
S. 15.....	am. No. 80, 1982
S. 16.....	am. No. 155, 1988
S. 18.....	am. No. 80, 1982 rs. No. 24, 1985