



Housing Assistance Act 1996

No. 24, 1996

**An Act to assist people to obtain access to housing
that is affordable and appropriate to their needs,
and for related purposes**

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An Act to assist people to obtain access to housing that is affordable and appropriate to their needs, and for related purposes

Preamble

This preamble sets out the matters taken into account by the Parliament in enacting this Act.

Housing and shelter are basic human needs.

Most Australian residents are able to obtain housing of an appropriate standard within their means.

However, people who are economically or socially disadvantaged may be less likely to obtain affordable, secure and appropriate housing. They may also be more likely to suffer discrimination in their efforts to obtain adequate housing and may be at a greater risk of homelessness.

The inability to obtain adequate and ecologically appropriate housing can have adverse effects on health and the quality of life

Preamble

and reduces the prospects of obtaining employment and other opportunities that would ordinarily arise for people during their lifetimes.

Australia has acted to protect the rights of all its citizens, including people who have inadequate housing, by recognising international standards for the protection of universal human rights and fundamental freedoms through:

- (a) the ratification of the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights; and
- (b) the ratification of the Conventions on the Elimination of all Forms of Racial Discrimination, on the Elimination of all Forms of Discrimination against Women and on the Rights of the Child; and
- (c) the acceptance of the Universal Declaration of Human Rights and of the Declaration on the Elimination of Violence Against Women; and
- (d) the enactment of legislation such as the *Human Rights and Equal Opportunity Commission Act 1986*.

Accordingly the Parliament considers that the provision, by the Governments of the Commonwealth, the States, the Australian Capital Territory and the Northern Territory, of housing assistance to people requiring access to affordable and appropriate housing is essential to reduce poverty and its effects on individuals and on the community as a whole.

The Parliament therefore intends that:

- (e) housing assistance should be directed towards people who are on low incomes or otherwise meet barriers in obtaining the housing they need; and
- (f) housing assistance will be provided in ways that reflect their needs and aspirations and will ensure that their rights are properly protected and due regard is had to their responsibilities; and
- (g) housing assistance will, as far as possible, offer a choice between different forms of assistance and between different providers of assistance and between different types of housing and between different areas in which housing is located and include the provision of targeted subsidies to home purchase aspirants; and
- (h) housing assistance for which money is provided under this Act will have as its express objective the obtaining of benefits by the people who receive the assistance in ways that

are effective and ensure that money provided is spent efficiently and is properly accounted for.

In giving effect to the above intentions, the Parliament recognises that it is desirable for the Governments of the Commonwealth, the States, the Australian Capital Territory and the Northern Territory to:

- (i) work together in providing access to affordable appropriate housing and work in cooperation with local governing bodies, as appropriate, in view of the regulatory and other functions of those bodies with respect to the design, planning and management of cities and towns; and
- (j) encourage private sector involvement in the provision of appropriate and affordable housing; and
- (k) work in cooperation with non-government organisations that provide housing and related assistance, including environmentally oriented groups concerned with conservation, transport and urban form, and organisations that provide community and rental housing for Aboriginal and Torres Strait Islander people and organisations that have responsibility for the provision of services for people who are homeless or at risk of homelessness, in view of the contribution of non-government organisations to the provision of housing assistance.

The Parliament regards it as essential that, in giving effect to these intentions, housing assistance funded under this Act will be planned and delivered so as to take full account of the range of factors that contribute to the quality of life of the people receiving the assistance.

These factors include the liveability of communities, and equality of opportunity, non-discrimination, and respect for dignity and self-esteem, for people receiving housing assistance.

The Parliament of Australia enacts:

[Assented to 28 June 1996]

1 Short title

This Act may be cited as the *Housing Assistance Act 1996*.

2 Commencement

- (1) Sections 1, 2, 3, 4, 5, 6, 12, 13, 14, 15 and 16 commence on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions commence on the day on which this Act receives the Royal Assent or 1 July 1996, whichever is the later.

3 Definitions

In this Act, unless the contrary intention appears,

assistance year means the financial year beginning on 1 July 1996 or any later financial year.

grant means a payment authorised under section 7.

housing assistance means housing assistance referred to in an inter-government housing agreement.

identified housing program, in relation to an inter-government housing agreement, means a program that:

- (a) is established for the purpose of providing housing assistance in accordance with the agreement; and
- (b) is to be carried out in accordance with financial, planning and operational guidelines established in accordance with the agreement.

inter-government housing agreement means an agreement made under subsection 6(2) or, if an agreement so made has been varied, the agreement as so varied.

local governing body has the same meaning as in the *Local Government (Financial Assistance) Act 1995*.

State includes the Australian Capital Territory and the Northern Territory.

State housing expenditure, in relation to a State and in respect of an assistance year, means the total amount that the State has spent, or proposes to spend, out of its own financial resources in respect

of that year in relation to housing in accordance with an inter-government housing agreement.

State Minister, in relation to a State with which the Commonwealth has made an inter-government housing agreement, has the same meaning as in the agreement.

tertiary institution means a tertiary institution established by or under a law of the Commonwealth or a State.

4 Objects

Funding of housing assistance

- (1) The objects of this Act are to provide financial assistance to the States for the purpose of ensuring that people can obtain housing that is affordable, secure and appropriate to their needs, and to make payments for the purposes of research, development, demonstration and evaluation in relation to housing.

Aim of Act

- (2) The overall aim of this Act is to provide housing assistance by which people can obtain affordable, secure and appropriate housing. Within this aim the goals are:
 - (a) to target housing assistance to those most in need, including the homeless and those discriminated against in the private rental market; and
 - (b) to make available to them a choice between different forms of housing assistance and different providers of that assistance, between different types of housing and between different areas in which housing is located; and
 - (c) to ensure that rental housing provided under inter-government housing agreements is of an adequate size, has adequate amenity, is of ecologically appropriate design and is appropriately located in relation to employment opportunities and necessary services and facilities.

How the aim is to be achieved

- (3) The aim of the housing assistance provided for under this Act is to be achieved by:
 - (a) identifying needs for which the provision of housing assistance is an appropriate response; and
 - (b) providing, or arranging for the provision of, housing assistance; and

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- (c) giving the assistance in ways that are effective and ensure that money provided is spent efficiently and is properly accounted for; and
- (d) encouraging the provision of different kinds of housing assistance; and
- (e) ensuring that the rights of people receiving assistance are properly protected and that due regard is had to their responsibilities.

Housing assistance to be implemented through inter-government agreements

- (4) A key feature of housing assistance provided under this Act is that the assistance is to be implemented through common-form agreements between the Commonwealth and the States.

5 Form of inter-government housing agreement

- (1) For the purposes of this Act, the Minister may determine a form of agreement dealing with the provision of housing assistance.
- (2) If the form is varied or revoked, the variation or revocation does not affect the validity of an inter-government housing agreement entered into before the variation or revocation took effect.
- (3) The form of agreement is to include provisions relating to the following matters:
 - (a) the making of grants to a State or States;
 - (b) the amounts, or the formula for determining the amounts, of the grants;
 - (c) the obligations of a State in relation to the spending of the grants;
 - (d) arrangements for the planning, funding and carrying out of identified housing programs;
 - (e) expenditure by a State from its own resources in accordance with subsection 9(1);
 - (f) the planning by a State of the housing assistance to be provided out of the grants and out of State housing expenditure;
 - (g) the rights and obligations of the people to whom the assistance is to be provided;
 - (h) the measurement of the performance of a State in the carrying out of its obligations under an agreement entered into by the State substantially in accordance with the form;

- (i) the reporting by a State of its operations under such an agreement;
 - (j) arrangements for the evaluation of such an agreement.
- (4) An instrument determining, varying or revoking a form of agreement under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

6 Inter-government housing agreements

- (1) This section applies if an instrument (the *disallowable instrument*) is in force under section 5.
- (2) The Commonwealth may make an agreement or agreements with a State or States substantially in accordance with the form set out in the disallowable instrument in so far as that form is applicable to the State or States concerned.
- (3) The Commonwealth may make, with the other party or parties to an inter-government housing agreement, a subsidiary agreement or subsidiary agreements for the purpose of giving effect to the inter-government housing agreement.
- (4) Subject to subsection (5), the Commonwealth may agree with the other party or parties to an inter-government housing agreement, or to a subsidiary agreement referred to in subsection (3), to vary the agreement or to revoke the agreement and make a new agreement under subsection (2) or (3), as the case may be, in place of the revoked agreement.
- (5) An inter-government housing agreement may not be varied if the agreement as varied would not be substantially in accordance with the form set out in the disallowable instrument so far as that form is applicable to the State or States that are parties to the agreement.

7 Grants to States for housing

- (1) Subject to sections 9 and 11, the Minister may authorise, in any assistance year in which an inter-government housing agreement with a State is in force, the payment to the State, by way of financial assistance, of any amounts that the Minister determines to be appropriate:
 - (a) for expenditure by the State in respect of the year for the purposes of an identified housing program referred to in the agreement; or

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- (b) for expenditure by the State in respect of the year for any other purpose relating to housing for which an amount paid to the State under the agreement may be spent.
- (2) Payments to a State are to be made on the terms and conditions set out in the agreement.

8 Payments for research, development, demonstration and evaluation

- (1) The Minister may authorise the making of payments in an assistance year of any amounts that the Minister determines for the purposes of research, development, demonstration and evaluation in relation to housing.
- (2) The payments may be made to any of the following:
 - (a) an incorporated society, or an incorporated association, that is carried on otherwise than for the purpose of profit or gain to its individual members;
 - (b) a local governing body;
 - (c) a tertiary institution;
 - (d) a member of the academic staff of a tertiary institution who the Minister is satisfied has recognised and relevant expertise;
 - (e) an incorporated research body whose staff the Minister is satisfied have recognised and relevant expertise;
 - (f) a Government Department of the Commonwealth or a State;
 - (g) an authority of the Commonwealth or a State;
 - (h) a research organisation established by or under a law of the Commonwealth or a State.
- (3) The payments are to be made on any terms and conditions that the Minister determines to be appropriate.

9 State expenditure from its own resources

- (1) The Minister must not authorise a payment to a State of financial assistance in respect of an assistance year unless the Minister and the State Minister have agreed, in accordance with the inter-government housing agreement made between the Commonwealth and the State, as to the amount of State housing expenditure in respect of the year.
- (2) If the Minister, after consulting a State Minister, believes that the State will not spend, in respect of a particular assistance year from its own financial resources, the total amount agreed under

subsection (1) to be so spent by the State, the Minister may reduce the amount that would otherwise be payable to the State under section 7 in respect of that assistance year by the amount of the shortfall.

- (3) If, under subsection (2), the Minister reduces the amount that would otherwise be payable to a State, the Minister may authorise the payment of an amount or amounts to another State or other States for the purposes of providing housing assistance, provided that the amount, or the total of the amounts, does not exceed the amount of the reduction.
- (4) An authorisation under subsection (3) of the payment of an amount to a State is to set out the way in which the amount is to be spent.
- (5) Payments under subsection (3) are to be made on any terms and conditions that the Minister determines to be appropriate.

10 Minister may authorise payments if no agreement in force in first assistance year

- (1) If a State has not made an inter-government housing agreement with the Commonwealth in respect of the first assistance year, the Minister may authorise the payment to the State in respect of that year, by way of financial assistance to meet the State's obligations to make payments for purposes related to housing, of any amount or amounts that the Minister determines to be appropriate.
- (2) A payment made by the Commonwealth to a State under subsection (1) is to be made on terms and conditions determined by the Minister having regard to the provisions which, if an inter-government housing agreement were made between the Commonwealth and the State, would be included in the agreement.
- (3) If, after a payment is made by the Commonwealth to a State under subsection (1), the State makes an inter-government housing agreement with the Commonwealth in respect of the first assistance year, the payment is taken to have been made to the State under the agreement and to have discharged, to the extent of the amount paid, the liability of the Commonwealth under the agreement to make payments to the State.

11 Payments to be made out of money appropriated

- (1) Grants or other payments under this Act are to be made out of money appropriated by the Parliament for the purpose of the making of the grants or payments.

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- (2) The Consolidated Revenue Fund is appropriated for the purpose of the making of grants or other payments under this Act (not exceeding, in total, \$1,067,863,000) in the financial year beginning on 1 July 1996.
- (3) An authorisation of a grant or other payment is subject to the appropriation of sufficient money to make the grant or payment.

12 Determinations to be in writing

A determination by the Minister under this Act must be in writing signed by the Minister.

13 Delegation

The Minister may, by signed writing, delegate to an officer of, or person employed in, the Australian Public Service all or any of the Minister's powers under this Act other than powers under section 5.

14 Annual report by Minister

As soon as practicable after the end of each assistance year, the Minister must cause to be laid before each House of the Parliament a report relating to:

- (a) the operation of inter-government housing agreements; and
- (b) any other matters that the Minister thinks relevant.

15 Regulations

The Governor-General may make regulations prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.

16 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Housing Assistance Act 1989

1 Section 3 (definition of *grant year*)

Omit “1999”, substitute “1996”.

*[Minister's second reading speech made in—
House of Representatives on 8 May 1996
Senate on 29 May 1996]*