

EXPLANATORY STATEMENT

Housing Assistance (Form of Agreement) Determination 2008

Background

The ***Housing Assistance Act 1996*** (the Act) authorises the Commonwealth to formulate and enter into inter-government housing agreements with the States and Territories with the intention and purpose of the States and Territories providing housing assistance so that people may achieve housing that is affordable, secure and appropriate to their needs.

Subsection 5(1) of the Act enables the Minister for Families, Housing, Community Services and Indigenous Affairs (the Minister) to determine a form of agreement dealing with the provision of that housing assistance by the States and Territories. Subsection 5(3) of the Act lists matters which must be dealt with in any such form of agreement.

Subsection 6(2) of the Act enables the Commonwealth to enter into inter-government housing agreements with the States and Territories substantially in accordance with the form of agreement.

Where such an inter-government housing agreement is in force between the Commonwealth and a State or Territory, section 7 of the Act enables the Minister to authorise payments to the State or Territory, by way of financial assistance, in accordance with that agreement.

Effect of this Determination

Pursuant to subsection 5(1) of the Act, this **Housing Assistance (Form of Agreement) Determination 2008** (Determination) determines, a new form of agreement for the inter-government housing agreements entered into between the Commonwealth and a State or Territory for the provision of housing assistance by that State or Territory.

This Determination revokes the **Housing Assistance (Form of Agreement) Determination 2003** made on 15 July 2003 and published in the Gazette on 17 July 2003 (Previous Determination).

The form of agreement included in the Previous Determination provided that the inter-government housing agreements between the Commonwealth and the States and Territories would expire on 30 June 2008.

This Determination contains a form of agreement that enables the Commonwealth and the States and Territories to agree to extend the operation of

their existing inter-government housing agreements (entered into substantially in accordance with the form of agreement contained in the Previous Determination) for an additional six month period, from 30 June 2008 until 31 December 2008, on the basis set out in the Determination.

At its meeting on 26 March 2008, COAG discussed a new framework for Commonwealth-State financial relations. Pending the development and agreement of a new National Affordable Housing Agreement (NAHA), which is proposed to commence on 1 January 2009, the Commonwealth is extend the 2003 CSHA to 31 December 2008. This extension is required to provide sufficient time to negotiate NAHA as a new form of agreement.

The *Determination* creates a clear distinction in the form of agreement between the already finalised years one to five of the 2003 Agreement and the 6 month extension. In doing this all the amendments have been made to the Multilateral Agreement of the 2003 CSHA and have not required the States and Territories to enter into renegotiations about their individual Bilateral Agreements, which would have been unnecessarily burdensome due to the timeframes involved.

For the six months extension to the 2003 CSHA (referred to as Grant Year six), States or Territories will continue to progress their Grant Year five housing assistance objectives and outcomes (and associated strategies, actions, activities and targets) as specified in or agreed under their Bilateral Agreements to the extent those obligations are ongoing or remain incomplete.

Funding arrangements will continue unchanged. Financial and outcome reporting requirements for the period of the six months extension are due by 31 March 2009.

Business Cost Calculator

This determination does not require a Regulatory Impact Statement (RIS) and/or a Business Cost Calculator Figure. This determination, being a mere form of intended agreement, is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.

Consultation

Prior to the Minister making this Determination, the Commonwealth Department for Families, Housing, Community Services and Indigenous Affairs conducted detailed consultations on the text of the Determination with the departments in each State and Territory that report to the State or Territory's Minister responsible for housing.

Retrospectivity

This Determination commences on the date it is made by the Minister, which is the date written on the front of the Determination.

This Determination, being a mere form of intended agreement, does not affect the rights of, or impose liabilities on, the States and Territories. Rather, it is the inter-government housing agreements, which are voluntarily entered into by the Commonwealth and the States and Territories, that affect the rights of, and impose obligations on, the States and Territories. The provisions of the form of agreement contained in this Determination have no effect in or of themselves. As a result, while this Determination has retrospective operation it does not offend against subsection 12(2) of the *Legislative Instruments Act 2003*.