

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

HOUSING ASSISTANCE BILL 1989

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Community Services and Health, the Honourable Neal Blewett MP)

HOUSING ASSISTANCE BILL 1989OUTLINE

The purpose of the Bill is to authorise a new Commonwealth/State Housing Agreement (CSHA) between the Commonwealth and the States relating to the provision by the States, with financial assistance from the Commonwealth, of housing assistance for rental housing and for home purchase. The form of agreement is Schedule 1 to the Bill.

The main features of the proposed arrangements are:

- . it will replace the existing agreement and will operate for ten years from 1 July 1989;
- . all Commonwealth funds will be provided in the form of grants rather than as a combination of grants and concessional Loan Council borrowings;
- . three year forward commitment of grant funds;
- . following a phase in period, grants previously provided as concessional Loan Council borrowings will be allocated between States on a per capita basis;
- . States will be required to match half the value of untied Commonwealth grants with State grants. Most Commonwealth funds, together with State matching grants, will be spent on construction or acquisition of rental stock;
- . the other half of States' matching requirement will be met through the provision of home purchase assistance loans;
- . a joint Commonwealth/State planning process will be established; and
- . independent appeal mechanisms to protect user rights will be introduced.

The Bill also provides authority for payments for research, development and evaluation in relation to housing assistance using a small portion of Commonwealth CSHA funds.

FINANCIAL IMPACT STATEMENT

The Bill appropriates from the Consolidated Revenue Fund for the four years 1989-90 to 1992-93, \$1,010.504 million for grants to the States and the Northern Territory under the CSHA. Funds for grants of \$17.772 million to the Australian Capital Territory are appropriated under Appropriation Act (No 2) 1989-90 for 1989-90 and by the Bill from the Consolidated Revenue Fund for the three years 1990-91 to

1992-93. Commonwealth grants to the States and Territories in respect of later years will be determined by the Minister in the Budget context.

In addition, the Bill appropriates from the Consolidated Revenue Fund for 1989-90:

- . \$9.834 million for specific grants to the States and the Northern Territory for housing assistance for young people as part of the Government's Social Justice Package for Young Australians; and
- . \$14.752 million for specific grants to the States and the Northern Territory for mortgage relief additional to funds provided through the Mortgage and Rent Relief Scheme.

HOUSING ASSISTANCE BILL 19891 - Short title

Provides for the short title of the Act.

Clause 2 - Commencement

Provides for commencement on the day the Act receives Royal Assent.

Clause 3 - Definitions

Defines certain terms used in subsequent clauses of the Bill.

Clause 4 - Agreements between Commonwealth and States

Authorises the making of an agreement between the Commonwealth and any State or States (including the Northern Territory and the Australian Capital Territory), substantially in accordance with the form in Schedule 1 to the Bill, including variations to that agreement and requires that any such variations be tabled in Parliament.

Clause 5 - Grants for housing

Empowers the Minister to authorise payments, on the terms and conditions specified in the agreement, to a State for specific housing assistance or any other purpose related to housing which is permitted under the agreement.

Clause 6 - Payments to be made out of money appropriated

Requires that payments under the Act be made out of money appropriated for that purpose.

Clause 7 - Principal appropriation

Appropriates \$1,010.504 million from the Consolidated Revenue Fund to the States in the first grant year (the year beginning 1 July 1989), other than grants for which an appropriation is made under clause 8 (housing assistance for young people) or clause 9 (mortgage relief) of the Act or payments to the Australian Capital Territory.

This amount is to be reduced by any amount appropriated by the Housing Assistance Act 1984 and paid to a State after 30 June 1989 but before the making of a housing agreement under this Act with that State.

Appropriates \$1,010.504 million from the Consolidated Revenue Fund to the States in each of the second, third and fourth grant years other than grants or advances to the Australian Capital Territory.

Enables reallocation provisions to operate so that grants may be made to the Australian Capital Territory out of money appropriated by this clause or by another Act for the purpose of making grants to other States.

Clause 8 - Appropriation for housing assistance for young people

Appropriates \$9.834 million from the Consolidated Revenue Fund for specific grants to the States, other than the Australian Capital Territory, in the first grant year for people under 26 years of age.

Clause 9 - Appropriation for mortgage relief

Appropriates \$14.752 million from the Consolidated Revenue Fund for specific grants to the States, other than the Australian Capital Territory, in the first grant year for mortgage relief.

Clause 10 - Appropriation for the Australian Capital Territory

Provides for certain moneys appropriated under Appropriation Act (No 2) 1989-90 in respect of the Australian Capital Territory to be taken to be appropriated for the purpose of grants, including advances, to the Australian Capital Territory.

Appropriates \$17.772 million from the Consolidated Revenue Fund to the Australian Capital Territory in each of the second, third and fourth grant years.

Enables reallocation provisions to operate so that grants may be made to the States out of money appropriated by this clause or by another Act for the purpose of making grants to the Australian Capital Territory.

Clause 11 - Allocation among the States of specific grants

Requires the Minister to ensure that specific grants are allocated among States in accordance with their needs as determined by the Minister.

Clause 12 - Allocation among the States of untied grants in first grant year

Describes the method by which untied grants are to be allocated in the first grant year among States (excluding the Australian Capital Territory) with whom an agreement is in force:

- . \$146.0 million is to be allocated among the States in proportions determined by the Minister with no State to be allocated less than \$7.3 million;

- . \$310.504 million is to be allocated among the States in accordance with Schedule 2 to the Bill; and
- . the balance of the untied grants to be allocated that year is to be allocated among the States in proportions determined by the Minister to be appropriate.

Describes the method by which grants that would have been made to a State in the first grant year may be be reallocated where there is no agreement in force with that State in that year.

Clause 13 - Allocation among the States of untied grants after first grant year

Describes the method by which untied grants are to be allocated after the first grant year among the States (excluding the Australian Capital Territory until 1 July 1993) with whom an agreement is in force:

- . in each grant year, \$146.0 million is to be allocated among the States, as far as practicable, on an equal per capita basis with no State to be allocated less than \$7.3 million;
- . in the second grant year, \$208.038 million is to be allocated among the States in accordance with Schedule 3 to the Bill;
- . in the third grant year, \$102.466 million is to be allocated among the States in accordance with Schedule 3 to the Bill;
- . where, because there is no agreement in force with a State or States, an amount set out in Schedule 3 to the Bill is unallocated in a grant year, this amount may be allocated in the year among those States with whom an agreement is in force in proportions which the Minister determines to be appropriate; and
- . the balance of the untied grants to be allocated in each grant year after the first grant year is to be allocated among the States as far as practicable on an equal per capital basis.

Clause 14 - Payments for research, development and evaluation

Empowers the Minister, where moneys appropriated for payments under the Act exceed \$456.504 million in a grant year, to approve payments in that year of amounts not exceeding \$100,000 in any grant year, for the purpose of research, development and evaluation in relation to housing assistance, such payments to be made on terms and conditions determined by the Minister.

Clause 15 - Grants to be matched by State

Requires the Minister to ensure that untied grants to a State in a grant year are matched, in accordance with the agreement with the State, by State expenditure for the year.

Clause 16 - Reallocation or retention of specific grants

Provides that where the Minister is satisfied that it would not be appropriate, having regard to the amounts that the State is able to expend in respect of that year for specific assistance, for specific grants which he has authorised to a State in a grant year to be paid in full, the Minister may:

- . authorise a reduction in the total amount of grants; or
- . so vary the authorisation and authorise additional specific grants, not exceeding the reduction, to other States.

Provides that where the Minister is satisfied that, in respect of specific grants which he has authorised to a State in a grant year, that that State has contravened or acted in a manner inconsistent with the agreement with the State and/or a guideline made under the agreement, the Minister may:

- . revoke the authorisation; or
- . reduce the amount authorised; or
- . revoke the authorisation and declare the amount revoked available for re-allocation; or
- . reduce the amount authorised and declare the amount of reduction available for reallocation.

Empowers the Minister, where he has declared an amount available for reallocation, to authorise additional specific grants, not exceeding the reduction, to such other of the States as the Minister determines to be appropriate.

Clause 17 - Advances

Enables advances to be made to a State, prior to the execution of an agreement, of grants that are expected to become payable to the State under the agreement during the first grant year.

Clause 18 - Payments under the 1984 Act

Provides for payments made to a State after 30 June 1989 under the 1984 Act to be taken to have been an advance to the State under this Act.

Clause 19 - Determinations to be in writing

Requires Ministerial determinations under the Act to be in writing.

Clause 20 - Annual report by Minister

Requires an annual report to be tabled in Parliament each year relating to the operation of housing agreements and any other matters the Minister considers relevant.

Clause 21 - Amendment of the 1984 Act

Amends the Housing Assistance Act 1984 to cease the appropriation by that Act for 1989-90 of \$700.0 million. Clause 7 of the Bill appropriates \$1,010.504 million for 1989-90.

SCHEDULE 1 TO BILL

(1989 Housing Agreement)

RECITALS

Recitals (A), (B) and (C) refer to the background to the agreement including earlier agreements.

Recital (D) sets out the principles of the agreement.

Recital (E) refers to links with broader housing policies.

Recital (F) indicates that the Commonwealth will provide financial assistance to the States under Section 96 of the Constitution and similar assistance to the Northern Territory and Australian Capital Territory on the terms and conditions set out in the agreement.

Recital (G) indicates that the 1984 agreement will cease to operate from 1 July 1989.

Recital (H) indicates that the Commonwealth Parliament has authorised the execution of the agreement.

PART 1 - OPERATION OF AGREEMENTClause 1

Provides for the agreement to be deemed to have come into effect on 1 July 1989 when it has been signed on behalf of the Commonwealth and a State and for the 1984 Housing Agreement to be deemed to have ceased to operate on 1 July 1989.

PART II - PARTIESClause 2

Stipulates parties to the agreement.

PART III - INTERPRETATIONClauses 3, 4 and 5

Define terms used throughout the agreement.

PART IV - OBJECTIVE OF AGREEMENTClause 6

Defines the objective of the agreement which is the provision by the States, with financial assistance from the Commonwealth, of housing assistance for rental housing and for home purchase in accordance with the principles at Recital (D).

PART V - FINANCIAL ASSISTANCEClause 7

Requires the Commonwealth to provide financial assistance for housing purposes by way of grants made out of moneys appropriated by the Parliament during the ten years of this agreement.

Clause 8

Requires the Commonwealth to provide financial assistance of \$1,010.404 million to the States and \$17.772 million to the Australian Capital Territory in each of the first four years of the agreement.

Requires the Commonwealth to provide in the second, third or fourth year of the agreement for which the Minister determines additional financial assistance, and in the remaining years of the agreement, an amount determined by the Minister.

Clause 9

Enables the Commonwealth to provide to the States financial assistance for home purchase assistance, rental housing assistance and specific housing assistance.

Clause 10

Defines "specific housing assistance grants" and "untied assistance" as used in the agreement.

Clause 11

Requires that financial assistance be allocated among States in accordance with the Act and makes the provision of untied assistance conditional upon the State matching such assistance from its own resources in accordance with with Part VI.

Clause 12

Requires that a State include in material for use by persons seeking or receiving housing assistance, an indication that such assistance is provided in whole or part by the Commonwealth.

PART VI - STATE MATCHING FUNDSClause 13

Requires that States provide matching funds equal to the amount of untied assistance provided to the State in that year and describes how State matching funds are to be determined.

Requires that at least half a State's matching funds be paid into the State's Rental Capital Account with the balance to be met from the value of home loans provided through home purchase assistance programs under Part VIII.

Describes how phasing in arrangements will operate in relation to State matching funds in the first four years of the agreement.

Requires the States to submit matching proposals each year for the Minister's agreement and defines matching funds.

Clause 14

Stipulates that the spending of a specific housing assistance grant in accordance with the Commonwealth/State plan for that year does not increase the matching funds required of that State in that year.

PART VII - FINANCIAL ASSISTANCE ARRANGEMENTSClause 15

Makes provision for financial assistance to be paid during a year in regular monthly instalments, or as otherwise agreed. Enables the Minister to withhold a payment of financial assistance to a State which fails to provide proposals on State matching funds or information required under Part XV.

PART VIII - HOME PURCHASE ASSISTANCEClause 16

Provides for the continuation of the States' Home Purchase Assistance Accounts established under previous housing agreements and for the Australian Capital Territory to open a Home Purchase Assistance Account for the purpose of this agreement.

Clause 17

Identifies funds to be credited and debited to the Account.

Clause 18

Requires that money in the Account be made available for use for home purchase assistance.

Clause 19

Sets out principles, in addition to those at Recital (D), to which States must have regard in developing and administering home purchase assistance programs.

Clause 20

Identifies the uses to which the moneys in the Home Purchase Assistance Accounts may be put. These include repayments of principal and interest due to the Commonwealth in respect of loan assistance under previous agreements, State expenditure in administering home purchase assistance, facilitating borrowings of private bodies for home purchase assistance, making loans and grants to lending organisations and home purchasers, construction and purchase of dwellings and housing advisory services.

PART IX - RENTAL HOUSING ASSISTANCEClause 21

Provides for the establishment and operation of a Rental Capital Account by each State.

Clause 22

Identifies sources of deposits to the Rental Capital Account.

Clause 23

Identifies permissible uses to which funds in the Rental Capital Accounts may be put. These include construction or

acquisition of public rental housing, upgrading of rental housing, allocation of funds to local government bodies for construction or purchase of rental housing, participation in joint ventures, direct costs of construction or purchase of dwellings for rental to participants in shared ownership schemes, and principal and interest on Commonwealth loans provided to the State under previous housing agreements. These latter payments will be phased in over three years.

Requires that the Minister determine a general allowance for a State in a year, being a percentage of untied assistance and grant matching funds, and defines the uses to which the allowance may be put. The latter include assistance to non-profit groups and local government bodies, leasing of rental housing, the provision of rental subsidies, limited payments to the Home Purchase Assistance Account and costs associated with consultation and the provision of information.

Clause 24

Requires that any cash surplus arising from rental operations in a year be applied to those operations or to the Rental Capital Account.

Clause 25

Requires that eligibility criteria for rental housing be determined in accordance with Recital (D) and so that priority is determined on the basis of need with no class of persons excluded from consideration.

Clause 26

Stipulates that in fixing rents for rental housing, a State shall give primary consideration to the cost of providing rental housing and the tenant's capacity to pay. Where the tenant has sufficient capacity to pay, the rent must not be less than market rent or that which would result from the application of the cost rent principles set out in the Schedule to the Agreement. In other cases, the rent must be set in accordance with the tenant's capacity to pay.

Identifies the factors to be taken into account in determining a tenant's capacity to pay rent.

Requires that rents be reviewed at least annually.

Provides commencement provisions for clause 26.

Clause 27

Stipulates the conditions attached to any sale by the State of rental housing. Such conditions include that sales must

be in accordance with Recital (D), at a price at least equal to market value or replacement cost, that the vendor must receive purchase price at or prior to the date of sale, and that net proceeds from sales of rental housing shall be used to construct or purchase replacement housing and associated land.

Requires that a State ensure that if any organisation acquires rental housing either with rental housing assistance funds or at other than market value or replacement cost, sells, disposes of or uses the housing for other than rental housing, that organisation repays to the State an amount equal to what would be the net proceeds from the sale at market value or replacement cost of that housing.

PART X - COMMONWEALTH/STATE HOUSING ASSISTANCE PLANS

Clause 28

Requires that there be a Commonwealth/State plan agreed by the Minister and State Minister in respect of each year of the agreement, excluding the first year, setting out the provision of housing assistance under the agreement. The plan is to be agreed prior to the commencement of the year to which it refers.

Identifies the items which must be included in the plan including an assessment of housing need, an assessment of available resources and resulting assistance, allocation priorities and targets and program delivery priorities and targets.

Stipulates that a State shall draft the plan for submission to a Joint Officers' Group which shall then consider and recommend the plan to the Minister through the State Minister for their mutual agreement.

Requires that a Joint Officers' Group, comprising Commonwealth and State members, be established in each State. The Group will be required to consult with relevant organisations, develop and agree on the plan's broad content and framework and consider and recommend the plan to the Commonwealth and State Ministers.

PART XI - USER RIGHTS AND PARTICIPATION

Clause 29

Requires States to ensure that applicants for, and recipients of, assistance have information about current policies, available assistance, tenancy conditions and appeal mechanisms and, by 31 August 1990, have access to an independent appeal mechanism from decisions by the State concerning housing assistance. States are also required to

ensure that recipients of assistance have maximum opportunity to participate in management of their dwellings and estates and in the development of public housing policies.

PART XII - SPECIFIC HOUSING ASSISTANCE

Clause 30

Enables the Minister to authorise grants for specific housing assistance to the States, subject to agreed guidelines, for expenditure on rental housing assistance for Aborigines and pensioners, crisis accommodation, mortgage and rent relief, local government and community housing and for any other program determined by the Minister.

Clause 31

Enables the sale of rental dwellings provided with specific housing assistance grants, but on the same conditions as apply to the sale of other rental housing.

PART XIII - OBSERVANCE OF AGREEMENT

Clause 32

Requires the Commonwealth and each of the States to secure the performance of their obligations under this agreement.

Clause 33

Provides for the State to determine agencies that will administer programs on its behalf.

Clause 34

Requires a State to repay any amount which the Minister considers has not been applied in accordance with the agreement.

Clause 35

Requires a State, on request by the Minister, to repay any moneys not matched by that State in accordance with the requirements of the agreement.

Clause 36

Enables the Minister, in specified circumstances, to determine that an amount of untied assistance in a year be expended on priorities and targets determined by the Minister, or that an amount which would otherwise be untied

assistance in a year becomes part of the specific housing assistance for that State in that year.

PART XIV - TRIENNIAL EVALUATION

Clause 37

Provides that the operation of the agreement be evaluated triennially.

PART XV - SUPPLY OF INFORMATION

Clause 38

Requires State Ministers to provide information to the Commonwealth relevant to the operation and achievement of objectives of the agreement, including estimates of financial resources and program outputs, certified statements on the operation of the Rental Capital and the Home Purchase Assistance Accounts, statements of expenditure on home purchase assistance program matching funds and grants for specific housing assistance and certified statements which set out the way in which the State has fixed rents and any cash surplus or deficit from rental operations.

PART XVI - VARIATION OF AGREEMENT

Clause 39

Enables the variation of the Agreement, other than the principles set out in Recital (D), Part IV ("Objective of Agreement"), Part VI ("State Matching Funds"), Part X ("Commonwealth/State Housing Assistance Plans") and Part XI ("User Rights and Participation"), after consultation between the Minister and other State Ministers.

Any variation is to be tabled in Parliament.

PART XVII - REPRESENTATION AND COMMUNICATIONS

Clauses 40, 41 and 42

These are formal clauses relating to notices and representations.

THE SCHEDULE TO AGREEMENT

Sets out basis for calculation of rents for rental housing.

SCHEDULE 2 to BILL

Sets out the allocation among States of amounts appropriated for untied grants in respect of the first grant year.

SCHEDULE 3 TO BILL

Sets out the allocation among States of amounts appropriated for untied grants in respect of second and third grant years.